LAWS

OF THE

STATE OF MARYLAND

ENACTED

At the Session of the General Assembly Begun and Held in the
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Chapter 501

(Senate Bill 257)

AN ACT concerning

Interstate Compact on Educational Opportunity for Military Children

FOR the purpose of establishing, through a certain Interstate Compact with certain other member states, the Interstate Compact on Educational Opportunity for Military Children for certain purposes; providing for the transfer of certain educational records and enrollment of certain children in certain schools; providing for the placement of certain children in certain courses, educational programs, and special education services on transfer; establishing certain eligibility criteria for certain school programs; establishing certain procedures to facilitate the graduation of certain students from high school; establishing a certain State Council for coordinating certain services; establishing the Interstate Commission on Educational Opportunity for Military Children; providing for the composition, meetings, and powers and duties of the Interstate Commission; providing for the organization and operation and the rulemaking functions of the Interstate Commission; providing for the oversight and enforcement of the Interstate Compact and the resolution of disputes between certain member states; providing for the financing of the Interstate Commission; establishing procedures for amending the Interstate Compact; establishing certain withdrawal and dissolution procedures for certain members of the Interstate Compact; defining certain terms; making this Act subject to a certain contingency; and generally relating to the Interstate Compact on Educational Opportunity for Military Children.

BY adding to
Article – Education
Section 7–1301 through 7–1303 to be under the new subtitle "Subtitle 13. Interstate Compact on Educational Opportunity for Military Children"
Annotated Code of Maryland
(2008 Replacement Volume)

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

Article – Education

SUBTITLE 13. INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN.

7–1301.

(A) THE DEFINITIONS IN § 1–101 OF THIS ARTICLE DO NOT APPLY TO THE INTERSTATE COMPACT SET FORTH IN § 7–1303 OF THIS SUBTITLE.

(B) IN THE INTERSTATE COMPACT SET FORTH IN § 7–1303 OF THIS SUBTITLE, UNLESS THE CONTEXT CLEARLY REQUIRES OTHERWISE, "ARTICLE", "SECTION", AND "SUBSECTION" MEAN AN ARTICLE, SECTION, AND SUBSECTION, RESPECTIVELY, OF THE INTERSTATE COMPACT.

7–1302.

ON BEHALF OF THIS STATE, THE GOVERNOR SHALL EXECUTE, WITH THE OTHER MEMBER STATES, THE INTERSTATE COMPACT SUBSTANTIALLY AS IT APPEARS IN § 7–1303 OF THIS SUBTITLE.

7–1303.

THE STATE OF MARYLAND AND OTHER STATES, HEREINAFTER "MEMBER STATES", HEREBY ENTER INTO AN INTERSTATE COMPACT, AS SET FORTH BELOW, FOR THE PURPOSE OF FACILITATING THE TIMELY ENROLLMENT AND TRANSFER OF CHILDREN OF MILITARY FAMILIES IN ELEMENTARY AND SECONDARY SCHOOLS DUE TO THE FREQUENT MOVEMENT AND DEPLOYMENT OF THEIR PARENTS. THIS INTERSTATE COMPACT SHALL BE KNOWN AND MAY BE CITED AS THE INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN.

ARTICLE I

PURPOSE

IT IS THE PURPOSE OF THIS COMPACT TO REMOVE BARRIERS TO EDUCATIONAL SUCCESS IMPOSED ON CHILDREN OF MILITARY FAMILIES BECAUSE OF FREQUENT MOVES AND DEPLOYMENT OF THEIR PARENTS BY:

A. FACILITATING THE TIMELY ENROLLMENT OF CHILDREN OF MILITARY FAMILIES AND ENSURING THAT THEY ARE NOT PLACED AT A DISADVANTAGE DUE TO DIFFICULTY IN THE TRANSFER OF EDUCATION RECORDS FROM THE PREVIOUS SCHOOL DISTRICT OR VARIATIONS IN ENTRANCE OR AGE REQUIREMENTS;

B. FACILITATING THE STUDENT PLACEMENT PROCESS THROUGH WHICH CHILDREN OF MILITARY FAMILIES ARE NOT DISADVANTAGED BY VARIATIONS IN ATTENDANCE REQUIREMENTS, SCHEDULING, SEQUENCING, GRADING, COURSE CONTENT, OR ASSESSMENT;

C. FACILITATING THE QUALIFICATION AND ELIGIBILITY FOR ENROLLMENT, EDUCATIONAL PROGRAMS, AND PARTICIPATION IN EXTRACURRICULAR ACADEMIC, ATHLETIC, AND SOCIAL ACTIVITIES;

D. FACILITATING THE ON–TIME GRADUATION OF CHILDREN OF MILITARY FAMILIES;

E. PROVIDING FOR THE PROMULGATION AND ENFORCEMENT OF ADMINISTRATIVE RULES IMPLEMENTING THE PROVISIONS OF THIS COMPACT;

F. PROVIDING FOR THE UNIFORM COLLECTION AND SHARING OF INFORMATION BETWEEN AND AMONG MEMBER STATES, SCHOOLS, AND MILITARY FAMILIES UNDER THIS COMPACT;

G. PROMOTING COORDINATION BETWEEN THIS COMPACT AND OTHER COMPACTS AFFECTING MILITARY CHILDREN; AND

H. PROMOTING FLEXIBILITY AND COOPERATION BETWEEN THE EDUCATIONAL SYSTEM, PARENTS, AND THE STUDENT IN ORDER TO ACHIEVE EDUCATIONAL SUCCESS FOR THE STUDENT.

ARTICLE II

DEFINITIONS

AS USED IN THIS COMPACT, UNLESS THE CONTEXT CLEARLY REQUIRES A DIFFERENT CONSTRUCTION:

A. "ACTIVE DUTY" MEANS FULL–TIME DUTY STATUS IN THE ACTIVE UNIFORMED SERVICE OF THE UNITED STATES, INCLUDING MEMBERS OF THE NATIONAL GUARD AND RESERVE ON ACTIVE DUTY ORDERS PURSUANT TO 10 U.S.C. SECTIONS 1209 AND 1211;

B. "CHILDREN OF MILITARY FAMILIES" MEANS SCHOOL–AGED CHILDREN, ENROLLED IN KINDERGARTEN THROUGH 12TH GRADE, IN THE HOUSEHOLD OF AN ACTIVE DUTY MEMBER;

C. "COMPACT COMMISSIONER" MEANS THE VOTING REPRESENTATIVE OF EACH COMPACTING STATE APPOINTED PURSUANT TO ARTICLE VIII OF THIS COMPACT;

D. "DEPLOYMENT" MEANS THE PERIOD 1 MONTH PRIOR TO THE SERVICE MEMBERS' DEPARTURE FROM THEIR HOME STATION ON MILITARY ORDERS THROUGH 6 MONTHS AFTER RETURN TO THEIR HOME STATION;

E. "EDUCATIONAL RECORDS" MEANS THOSE OFFICIAL RECORDS, FILES, AND DATA DIRECTLY RELATED TO A STUDENT AND MAINTAINED BY THE SCHOOL OR LOCAL EDUCATION AGENCY, INCLUDING BUT NOT LIMITED TO RECORDS ENCOMPASSING ALL THE MATERIAL KEPT IN THE STUDENT'S CUMULATIVE FOLDER SUCH AS GENERAL IDENTIFYING DATA, RECORDS OF ATTENDANCE AND OF ACADEMIC WORK COMPLETED, RECORDS OF ACHIEVEMENT AND RESULTS OF EVALUATIVE TESTS, HEALTH DATA, DISCIPLINARY STATUS, TEST PROTOCOLS, AND INDIVIDUALIZED EDUCATION PROGRAMS;

F. "EXTRACURRICULAR ACTIVITIES" MEANS A VOLUNTARY ACTIVITY SPONSORED BY THE SCHOOL OR LOCAL EDUCATION AGENCY OR AN ORGANIZATION SANCTIONED BY THE LOCAL EDUCATION AGENCY. EXTRACURRICULAR ACTIVITIES INCLUDE, BUT ARE NOT LIMITED TO, PREPARATION FOR AND INVOLVEMENT IN PUBLIC PERFORMANCES, CONTESTS, ATHLETIC COMPETITIONS, DEMONSTRATIONS, DISPLAYS, AND CLUB ACTIVITIES;

G. "INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN" MEANS THE COMMISSION THAT IS CREATED UNDER ARTICLE IX OF THIS COMPACT, WHICH IS GENERALLY REFERRED TO AS THE INTERSTATE COMMISSION;

H. "LOCAL EDUCATION AGENCY" MEANS A PUBLIC AUTHORITY LEGALLY CONSTITUTED BY THE STATE AS AN ADMINISTRATIVE AGENCY TO PROVIDE CONTROL OF AND DIRECTION FOR KINDERGARTEN THROUGH 12TH–GRADE PUBLIC EDUCATIONAL INSTITUTIONS;

I. "MEMBER STATE" MEANS A STATE THAT HAS ENACTED THIS COMPACT;

J. "MILITARY INSTALLATION" MEANS A BASE, CAMP, POST, 1 STATION, YARD, CENTER, HOME PORT FACILITY FOR ANY SHIP, OR OTHER ACTIVITY UNDER THE JURISDICTION OF THE DEPARTMENT OF DEFENSE, INCLUDING ANY LEASED FACILITY THAT IS LOCATED WITHIN ANY OF THE SEVERAL STATES, THE DISTRICT OF COLUMBIA, THE COMMONWEALTH OF PUERTO RICO, THE U.S. VIRGIN ISLANDS, GUAM, AMERICAN SAMOA, THE NORTHERN MARIANAS ISLANDS, AND ANY OTHER U.S. TERRITORY. SUCH TERM DOES NOT INCLUDE ANY FACILITY USED PRIMARILY FOR CIVIL WORKS, RIVERS, HARBOR PROJECTS, OR FLOOD CONTROL PROJECTS;

K. "NONMEMBER STATE" MEANS A STATE THAT HAS NOT ENACTED THIS COMPACT;

L. "RECEIVING STATE" MEANS THE STATE TO WHICH A CHILD OF A MILITARY FAMILY IS SENT, BROUGHT, OR CAUSED TO BE SENT OR BROUGHT;

M. "RULE" MEANS A WRITTEN STATEMENT BY THE INTERSTATE COMMISSION PROMULGATED PURSUANT TO ARTICLE XII OF THIS COMPACT THAT IS OF GENERAL APPLICABILITY, IMPLEMENTS, INTERPRETS, OR PRESCRIBES A POLICY OR PROVISION OF THE COMPACT, OR AN ORGANIZATIONAL, PROCEDURAL, OR PRACTICE REQUIREMENT OF THE INTERSTATE COMMISSION, AND HAS THE FORCE AND EFFECT OF STATUTORY LAW IN A MEMBER STATE, AND INCLUDES THE AMENDMENT, REPEAL, OR SUSPENSION OF AN EXISTING RULE;

N. "SENDING STATE" MEANS THE STATE FROM WHICH A CHILD OF A MILITARY FAMILY IS SENT, BROUGHT, OR CAUSED TO BE SENT OR BROUGHT;

O. "STATE" MEANS A STATE OF THE UNITED STATES, THE DISTRICT OF COLUMBIA, THE COMMONWEALTH OF PUERTO RICO, THE U.S. VIRGIN ISLANDS, GUAM, AMERICAN SAMOA, THE NORTHERN MARIANAS ISLANDS, AND ANY OTHER U.S. TERRITORY;

P. "STUDENT" MEANS THE CHILD OF A MILITARY FAMILY FOR WHOM THE LOCAL EDUCATION AGENCY RECEIVES PUBLIC FUNDING AND WHO IS FORMALLY ENROLLED IN KINDERGARTEN THROUGH 12TH GRADE;

Q. "TRANSITION" MEANS:

1. THE FORMAL AND PHYSICAL PROCESS OF TRANSFERRING FROM SCHOOL TO SCHOOL; OR

2. THE PERIOD OF TIME IN WHICH A STUDENT MOVES FROM ONE SCHOOL IN THE SENDING STATE TO ANOTHER SCHOOL IN THE RECEIVING STATE;

R. "UNIFORMED SERVICES" MEANS THE ARMY, NAVY, AIR FORCE, MARINE CORPS, COAST GUARD AS WELL AS THE COMMISSIONED CORPS OF THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, AND PUBLIC HEALTH SERVICES; AND

S. "VETERAN" MEANS A PERSON WHO SERVED IN THE UNIFORMED SERVICES AND WHO WAS DISCHARGED OR RELEASED THEREFROM UNDER CONDITIONS OTHER THAN DISHONORABLE.

ARTICLE III

APPLICABILITY

A. EXCEPT AS OTHERWISE PROVIDED IN SECTION B, THIS COMPACT SHALL APPLY TO THE CHILDREN OF:

1. ACTIVE DUTY MEMBERS OF THE UNIFORMED SERVICES AS DEFINED IN THIS COMPACT, INCLUDING MEMBERS OF THE NATIONAL GUARD AND RESERVE ON ACTIVE DUTY ORDERS PURSUANT TO 10 U.S.C. SECTIONS 1209 AND 1211;

2. MEMBERS OR VETERANS OF THE UNIFORMED SERVICES WHO ARE SEVERELY INJURED AND MEDICALLY DISCHARGED OR RETIRED FOR A PERIOD OF 1 YEAR AFTER MEDICAL DISCHARGE OR RETIREMENT; AND

3. MEMBERS OF THE UNIFORMED SERVICES WHO DIE ON ACTIVE DUTY OR AS A RESULT OF INJURIES SUSTAINED ON ACTIVE DUTY FOR A PERIOD OF 1 YEAR AFTER DEATH.

B. THE PROVISIONS OF THIS INTERSTATE COMPACT SHALL ONLY APPLY TO LOCAL EDUCATION AGENCIES AS DEFINED IN THIS COMPACT.

C. THE PROVISIONS OF THIS COMPACT SHALL NOT APPLY TO THE CHILDREN OF:

1. INACTIVE MEMBERS OF THE NATIONAL GUARD AND MILITARY RESERVES;

2. MEMBERS OF THE UNIFORMED SERVICES NOW RETIRED, EXCEPT AS PROVIDED IN SECTION A;

3. VETERANS OF THE UNIFORMED SERVICES, EXCEPT AS PROVIDED IN SECTION A; AND

4. OTHER U.S. DEPARTMENT OF DEFENSE PERSONNEL AND OTHER FEDERAL AGENCY CIVILIAN AND CONTRACT EMPLOYEES NOT DEFINED AS ACTIVE DUTY MEMBERS OF THE UNIFORMED SERVICES.

ARTICLE IV

EDUCATIONAL RECORDS AND ENROLLMENT

A. UNOFFICIAL OR "HAND–CARRIED" EDUCATIONAL RECORDS – IN THE EVENT THAT OFFICIAL EDUCATIONAL RECORDS CANNOT BE RELEASED TO

THE PARENTS FOR THE PURPOSE OF TRANSFER, THE CUSTODIAN OF THE RECORDS IN THE SENDING STATE SHALL PREPARE AND FURNISH TO THE PARENT A COMPLETE SET OF UNOFFICIAL EDUCATIONAL RECORDS CONTAINING UNIFORM INFORMATION AS DETERMINED BY THE INTERSTATE COMMISSION. UPON RECEIPT OF THE UNOFFICIAL EDUCATIONAL RECORDS BY A SCHOOL IN THE RECEIVING STATE, THE SCHOOL SHALL ENROLL AND APPROPRIATELY PLACE THE STUDENT BASED ON THE INFORMATION PROVIDED IN THE UNOFFICIAL EDUCATIONAL RECORDS PENDING VALIDATION BY THE OFFICIAL EDUCATIONAL RECORDS AS QUICKLY AS POSSIBLE.

B. OFFICIAL EDUCATIONAL RECORDS/TRANSCRIPTS – SIMULTANEOUS WITH THE ENROLLMENT AND CONDITIONAL PLACEMENT OF THE STUDENT, THE SCHOOL IN THE RECEIVING STATE SHALL REQUEST THE STUDENT'S OFFICIAL EDUCATIONAL RECORD FROM THE SCHOOL IN THE SENDING STATE. UPON RECEIPT OF THIS REQUEST, THE SCHOOL IN THE SENDING STATE WILL PROCESS AND FURNISH THE OFFICIAL EDUCATIONAL RECORDS TO THE SCHOOL IN THE RECEIVING STATE WITHIN 10 DAYS OR WITHIN SUCH TIME AS IS REASONABLY DETERMINED UNDER THE RULES PROMULGATED BY THE INTERSTATE COMMISSION.

C. IMMUNIZATIONS – COMPACTING STATES SHALL GIVE 30 DAYS FROM THE DATE OF ENROLLMENT OR WITHIN SUCH TIME AS IS REASONABLY DETERMINED UNDER THE RULES PROMULGATED BY THE INTERSTATE COMMISSION, FOR STUDENTS TO OBTAIN ANY IMMUNIZATION(S) REQUIRED BY THE RECEIVING STATE. FOR A SERIES OF IMMUNIZATIONS, INITIAL VACCINATIONS MUST BE OBTAINED WITHIN 30 DAYS OR WITHIN SUCH TIME AS IS REASONABLY DETERMINED UNDER THE RULES PROMULGATED BY THE INTERSTATE COMMISSION.

D. KINDERGARTEN AND FIRST–GRADE ENTRANCE AGE – STUDENTS SHALL BE ALLOWED TO CONTINUE THEIR ENROLLMENT AT GRADE LEVEL IN THE RECEIVING STATE COMMENSURATE WITH THEIR GRADE LEVEL (INCLUDING KINDERGARTEN) FROM A LOCAL EDUCATION AGENCY IN THE SENDING STATE AT THE TIME OF TRANSITION, REGARDLESS OF AGE. A STUDENT WHO HAS SATISFACTORILY COMPLETED THE PREREQUISITE GRADE LEVEL IN THE LOCAL EDUCATION AGENCY IN THE SENDING STATE SHALL BE ELIGIBLE FOR ENROLLMENT IN THE NEXT HIGHEST GRADE LEVEL IN THE RECEIVING STATE, REGARDLESS OF AGE. A STUDENT TRANSFERRING AFTER THE START OF THE SCHOOL YEAR IN THE RECEIVING STATE SHALL ENTER THE SCHOOL IN THE RECEIVING STATE ON THE STUDENT'S VALIDATED LEVEL FROM AN ACCREDITED SCHOOL IN THE SENDING STATE.

ARTICLE V

PLACEMENT AND ATTENDANCE

A. COURSE PLACEMENT – WHEN THE STUDENT TRANSFERS BEFORE OR DURING THE SCHOOL YEAR, THE RECEIVING STATE SCHOOL SHALL INITIALLY HONOR PLACEMENT OF THE STUDENT IN EDUCATIONAL COURSES BASED ON THE STUDENT'S ENROLLMENT IN THE SENDING STATE SCHOOL AND/OR EDUCATIONAL ASSESSMENTS CONDUCTED AT THE SCHOOL IN THE SENDING STATE IF THE COURSES ARE OFFERED. COURSE PLACEMENT INCLUDES BUT IS NOT LIMITED TO HONORS, INTERNATIONAL BACCALAUREATE, ADVANCED PLACEMENT, VOCATIONAL, TECHNICAL AND CAREER PATHWAYS COURSES. CONTINUING THE STUDENT'S ACADEMIC PROGRAM FROM THE PREVIOUS SCHOOL AND PROMOTING PLACEMENT IN ACADEMICALLY AND CAREER CHALLENGING COURSES SHOULD BE PARAMOUNT WHEN CONSIDERING PLACEMENT. THIS DOES NOT PRECLUDE THE SCHOOL IN THE RECEIVING STATE FROM PERFORMING SUBSEQUENT EVALUATIONS TO ENSURE APPROPRIATE PLACEMENT AND CONTINUED ENROLLMENT OF THE STUDENT IN THE COURSES.

B. EDUCATIONAL PROGRAM PLACEMENT – THE RECEIVING STATE SCHOOL SHALL INITIALLY HONOR PLACEMENT OF THE STUDENT IN EDUCATIONAL PROGRAMS BASED ON CURRENT EDUCATIONAL ASSESSMENTS CONDUCTED AT THE SCHOOL IN THE SENDING STATE OR PARTICIPATION/PLACEMENT IN LIKE PROGRAMS IN THE SENDING STATE. SUCH PROGRAMS INCLUDE, BUT ARE NOT LIMITED TO:

1. GIFTED AND TALENTED PROGRAMS; AND

2. ENGLISH AS A SECOND LANGUAGE (ESL).

THIS DOES NOT PRECLUDE THE SCHOOL IN THE RECEIVING STATE FROM PERFORMING SUBSEQUENT EVALUATIONS TO ENSURE APPROPRIATE PLACEMENT OF THE STUDENT.

C. SPECIAL EDUCATION SERVICES –

1. IN COMPLIANCE WITH THE FEDERAL REQUIREMENTS OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA), 20 U.S.C.A. SECTION 1400 ET SEQ., THE RECEIVING STATE SHALL INITIALLY PROVIDE COMPARABLE SERVICES TO A STUDENT WITH DISABILITIES BASED ON THE STUDENT'S CURRENT INDIVIDUALIZED EDUCATION PROGRAM (IEP).

2. IN COMPLIANCE WITH THE REQUIREMENTS OF SECTION 504 OF THE REHABILITATION ACT, 29 U.S.C.A. SECTION 794, AND WITH TITLE II OF THE AMERICANS WITH DISABILITIES ACT, 42 U.S.C.A. SECTIONS 12131–12165, THE RECEIVING STATE SHALL MAKE REASONABLE

ACCOMMODATIONS AND MODIFICATIONS TO ADDRESS THE NEEDS OF INCOMING STUDENTS WITH DISABILITIES, SUBJECT TO AN EXISTING 504 OR TITLE II PLAN, TO PROVIDE THE STUDENT WITH EQUAL ACCESS TO EDUCATION. THIS DOES NOT PRECLUDE THE SCHOOL IN THE RECEIVING STATE FROM PERFORMING SUBSEQUENT EVALUATIONS TO ENSURE APPROPRIATE PLACEMENT OF THE STUDENT.

D. PLACEMENT FLEXIBILITY – LOCAL EDUCATION AGENCY ADMINISTRATIVE OFFICIALS SHALL HAVE FLEXIBILITY IN WAIVING COURSE/PROGRAM PREREQUISITES OR OTHER PRECONDITIONS FOR PLACEMENT IN COURSES/PROGRAMS OFFERED UNDER THE JURISDICTION OF THE LOCAL EDUCATION AGENCY.

E. ABSENCE AS RELATED TO DEPLOYMENT ACTIVITIES – A STUDENT WHOSE PARENT OR LEGAL GUARDIAN IS AN ACTIVE DUTY MEMBER OF THE UNIFORMED SERVICES, AS DEFINED BY THE COMPACT, AND HAS BEEN CALLED TO DUTY FOR, IS ON LEAVE FROM, OR IMMEDIATELY RETURNED FROM DEPLOYMENT TO A COMBAT ZONE OR COMBAT SUPPORT POSTING, SHALL BE GRANTED ADDITIONAL EXCUSED ABSENCES AT THE DISCRETION OF THE LOCAL EDUCATION AGENCY SUPERINTENDENT TO VISIT WITH HIS OR HER PARENT OR LEGAL GUARDIAN RELATIVE TO SUCH LEAVE OR DEPLOYMENT OF THE PARENT OR GUARDIAN.

ARTICLE VI

ELIGIBILITY

A. ELIGIBILITY FOR ENROLLMENT –

1. SPECIAL POWER OF ATTORNEY RELATIVE TO THE GUARDIANSHIP OF A CHILD OF A MILITARY FAMILY AND EXECUTED UNDER APPLICABLE LAW SHALL BE SUFFICIENT FOR THE PURPOSES OF ENROLLMENT AND ALL OTHER ACTIONS REQUIRING PARENTAL PARTICIPATION AND CONSENT.

2. A LOCAL EDUCATION AGENCY SHALL BE PROHIBITED FROM CHARGING LOCAL TUITION TO A TRANSITIONING MILITARY CHILD PLACED IN THE CARE OF A NONCUSTODIAL PARENT OR OTHER PERSON STANDING IN LOCO PARENTIS WHO LIVES IN A JURISDICTION OTHER THAN THAT OF THE CUSTODIAL PARENT.

3. A TRANSITIONING MILITARY CHILD PLACED IN THE CARE OF A NONCUSTODIAL PARENT OR OTHER PERSON STANDING IN LOCO PARENTIS WHO LIVES IN A JURISDICTION OTHER THAN THAT OF THE CUSTODIAL PARENT MAY

CONTINUE TO ATTEND THE SCHOOL IN WHICH THE CHILD WAS ENROLLED WHILE RESIDING WITH THE CUSTODIAL PARENT.

B. ELIGIBILITY FOR EXTRACURRICULAR PARTICIPATION – STATE AND LOCAL EDUCATION AGENCIES SHALL FACILITATE THE OPPORTUNITY FOR TRANSITIONING MILITARY CHILDREN'S INCLUSION IN EXTRACURRICULAR ACTIVITIES, REGARDLESS OF APPLICATION DEADLINES, TO THE EXTENT THEY ARE OTHERWISE QUALIFIED.

ARTICLE VII

GRADUATION

IN ORDER TO FACILITATE THE ON–TIME GRADUATION OF CHILDREN OF MILITARY FAMILIES, STATES AND LOCAL EDUCATION AGENCIES SHALL INCORPORATE THE FOLLOWING PROCEDURES:

A. WAIVER REQUIREMENTS – LOCAL EDUCATION AGENCY ADMINISTRATIVE OFFICIALS SHALL WAIVE SPECIFIC COURSES REQUIRED FOR GRADUATION IF SIMILAR COURSE WORK HAS BEEN SATISFACTORILY COMPLETED IN ANOTHER LOCAL EDUCATION AGENCY OR SHALL PROVIDE REASONABLE JUSTIFICATION FOR DENIAL. SHOULD A WAIVER NOT BE GRANTED TO A STUDENT WHO WOULD QUALIFY TO GRADUATE FROM THE SENDING SCHOOL, THE LOCAL EDUCATION AGENCY SHALL PROVIDE AN ALTERNATIVE MEANS OF ACQUIRING REQUIRED COURSE WORK SO THAT GRADUATION MAY OCCUR ON TIME;

B. EXIT EXAMS –

1. STATES SHALL ACCEPT:

I. EXIT OR END–OF–COURSE EXAMS REQUIRED FOR GRADUATION FROM THE SENDING STATE;

II. NATIONAL NORM–REFERENCED ACHIEVEMENT TESTS; OR

III. ALTERNATIVE TESTING, IN LIEU OF TESTING REQUIREMENTS FOR GRADUATION IN THE RECEIVING STATE; AND

2. IN THE EVENT THE ABOVE ALTERNATIVES CANNOT BE ACCOMMODATED BY THE RECEIVING STATE FOR A STUDENT TRANSFERRING IN HIS OR HER SENIOR YEAR, THEN THE PROVISIONS OF ARTICLE VII, SECTION C SHALL APPLY; AND

C. TRANSFERS DURING SENIOR YEAR – SHOULD A MILITARY STUDENT TRANSFERRING AT THE BEGINNING OR DURING HIS OR HER SENIOR YEAR BE INELIGIBLE TO GRADUATE FROM THE RECEIVING LOCAL EDUCATION AGENCY AFTER ALL ALTERNATIVES HAVE BEEN CONSIDERED, THE SENDING AND RECEIVING LOCAL EDUCATION AGENCIES SHALL ENSURE THE RECEIPT OF A DIPLOMA FROM THE SENDING LOCAL EDUCATION AGENCY IF THE STUDENT MEETS THE GRADUATION REQUIREMENTS OF THE SENDING LOCAL EDUCATION AGENCY. IN THE EVENT THAT ONE OF THE STATES IN QUESTION IS NOT A MEMBER OF THIS COMPACT, THE MEMBER STATE SHALL USE BEST EFFORTS TO FACILITATE THE ON–TIME GRADUATION OF THE STUDENT IN ACCORDANCE WITH SECTIONS A AND B OF THIS ARTICLE.

ARTICLE VIII

STATE COORDINATION

A. EACH MEMBER STATE SHALL, THROUGH THE CREATION OF A STATE COUNCIL OR USE OF AN EXISTING BODY OR BOARD, PROVIDE FOR THE COORDINATION AMONG ITS AGENCIES OF GOVERNMENT, LOCAL EDUCATION AGENCIES, AND MILITARY INSTALLATIONS CONCERNING THE STATE'S PARTICIPATION IN AND COMPLIANCE WITH THIS COMPACT AND INTERSTATE COMMISSION ACTIVITIES. WHILE EACH MEMBER STATE MAY DETERMINE THE MEMBERSHIP OF ITS OWN STATE COUNCIL, ITS MEMBERSHIP MUST INCLUDE AT LEAST THE STATE SUPERINTENDENT OF SCHOOLS, A SUPERINTENDENT OF A SCHOOL DISTRICT WITH A HIGH CONCENTRATION OF MILITARY CHILDREN, A REPRESENTATIVE FROM A MILITARY INSTALLATION, ONE REPRESENTATIVE EACH FROM THE LEGISLATIVE AND EXECUTIVE BRANCHES OF GOVERNMENT, AND REPRESENTATIVES OF OTHER OFFICES AND STAKEHOLDER GROUPS THE STATE COUNCIL DEEMS APPROPRIATE. A MEMBER STATE THAT DOES NOT HAVE A SCHOOL DISTRICT DEEMED TO CONTAIN A HIGH CONCENTRATION OF MILITARY CHILDREN MAY APPOINT A SUPERINTENDENT FROM ANOTHER SCHOOL DISTRICT TO REPRESENT LOCAL EDUCATION AGENCIES ON THE STATE COUNCIL.

B. 1. THE STATE COUNCIL OF EACH MEMBER STATE SHALL APPOINT OR DESIGNATE A MILITARY FAMILY EDUCATION LIAISON ~~TO BE LOCATED IN THE MARYLAND STATE DEPARTMENT OF EDUCATION~~ TO ASSIST MILITARY FAMILIES AND THE STATE IN FACILITATING THE IMPLEMENTATION OF THIS COMPACT.

2. IN MARYLAND, THE MILITARY FAMILY EDUCATION LIAISON SHALL BE LOCATED IN THE MARYLAND STATE DEPARTMENT OF EDUCATION.

C. THE COMPACT COMMISSIONER RESPONSIBLE FOR THE ADMINISTRATION AND MANAGEMENT OF THE STATE'S PARTICIPATION IN THE COMPACT SHALL BE APPOINTED BY THE GOVERNOR IN CONSULTATION WITH THE STATE SUPERINTENDENT OF SCHOOLS.

D. THE COMPACT COMMISSIONER AND THE MILITARY FAMILY EDUCATION LIAISON DESIGNATED HEREIN SHALL BE EX OFFICIO MEMBERS OF THE STATE COUNCIL, UNLESS EITHER IS ALREADY A FULL VOTING MEMBER OF THE STATE COUNCIL.

ARTICLE IX

INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

A. THE MEMBER STATES HEREBY CREATE THE "INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN". THE ACTIVITIES OF THE INTERSTATE COMMISSION ARE THE FORMATION OF PUBLIC POLICY AND ARE A DISCRETIONARY STATE FUNCTION.

B. THE INTERSTATE COMMISSION SHALL:

1. BE A BODY CORPORATE AND JOINT AGENCY OF THE MEMBER STATES AND SHALL HAVE ALL THE RESPONSIBILITIES, POWERS, AND DUTIES SET FORTH HEREIN, AND SUCH ADDITIONAL POWERS AS MAY BE CONFERRED UPON IT BY A SUBSEQUENT CONCURRENT ACTION OF THE RESPECTIVE LEGISLATURES OF THE MEMBER STATES IN ACCORDANCE WITH THE TERMS OF THIS COMPACT; AND

2. CONSIST OF ONE INTERSTATE COMMISSION VOTING REPRESENTATIVE FROM EACH MEMBER STATE WHO SHALL BE THAT STATE'S COMPACT COMMISSIONER.

C. 1. EACH MEMBER STATE REPRESENTED AT A MEETING OF THE INTERSTATE COMMISSION IS ENTITLED TO ONE VOTE.

2. A MAJORITY OF THE TOTAL MEMBER STATES SHALL CONSTITUTE A QUORUM FOR THE TRANSACTION OF BUSINESS UNLESS A LARGER QUORUM IS REQUIRED BY THE BYLAWS OF THE INTERSTATE COMMISSION.

3. A REPRESENTATIVE SHALL NOT DELEGATE A VOTE TO ANOTHER MEMBER STATE. IN THE EVENT THE COMPACT COMMISSIONER IS UNABLE TO ATTEND A MEETING OF THE INTERSTATE COMMISSION, THE

GOVERNOR OR STATE COUNCIL MAY DELEGATE VOTING AUTHORITY TO ANOTHER PERSON FROM THEIR STATE FOR A SPECIFIED MEETING.

4. THE BYLAWS MAY PROVIDE FOR MEETINGS OF THE INTERSTATE COMMISSION TO BE CONDUCTED BY TELECOMMUNICATION OR ELECTRONIC COMMUNICATION.

D. THE INTERSTATE COMMISSION SHALL:

1. CONSIST OF EX OFFICIO, NONVOTING REPRESENTATIVES WHO ARE MEMBERS OF INTERESTED ORGANIZATIONS. SUCH EX OFFICIO MEMBERS, AS DEFINED IN THE BYLAWS, MAY INCLUDE BUT NOT BE LIMITED TO, MEMBERS OF THE REPRESENTATIVE ORGANIZATIONS OF MILITARY FAMILY ADVOCATES, LOCAL EDUCATION AGENCY OFFICIALS, PARENT AND TEACHER GROUPS, THE U.S. DEPARTMENT OF DEFENSE, THE EDUCATION COMMISSION OF THE STATES, THE INTERSTATE AGREEMENT ON THE QUALIFICATION OF EDUCATIONAL PERSONNEL, AND OTHER INTERSTATE COMPACTS AFFECTING THE EDUCATION OF CHILDREN OF MILITARY MEMBERS;

2. MEET AT LEAST ONCE EACH CALENDAR YEAR. THE CHAIRPERSON MAY CALL ADDITIONAL MEETINGS AND, UPON THE REQUEST OF A SIMPLE MAJORITY OF THE MEMBER STATES, SHALL CALL ADDITIONAL MEETINGS;

3. ESTABLISH AN EXECUTIVE COMMITTEE, WHOSE MEMBERS SHALL INCLUDE THE OFFICERS OF THE INTERSTATE COMMISSION AND SUCH OTHER MEMBERS OF THE INTERSTATE COMMISSION AS DETERMINED BY THE BYLAWS. MEMBERS OF THE EXECUTIVE COMMITTEE SHALL SERVE A 1–YEAR TERM. MEMBERS OF THE EXECUTIVE COMMITTEE SHALL BE ENTITLED TO ONE VOTE EACH. THE EXECUTIVE COMMITTEE SHALL HAVE THE POWER TO ACT ON BEHALF OF THE INTERSTATE COMMISSION, WITH THE EXCEPTION OF RULEMAKING, DURING PERIODS WHEN THE INTERSTATE COMMISSION IS NOT IN SESSION. THE EXECUTIVE COMMITTEE SHALL OVERSEE THE DAY–TO–DAY ACTIVITIES OF THE ADMINISTRATION OF THE COMPACT INCLUDING ENFORCEMENT AND COMPLIANCE WITH THE PROVISIONS OF THE COMPACT, ITS BYLAWS AND RULES, AND OTHER SUCH DUTIES AS DEEMED NECESSARY. THE U.S. DEPARTMENT OF DEFENSE SHALL SERVE AS AN EX OFFICIO, NONVOTING MEMBER OF THE EXECUTIVE COMMITTEE;

4. ESTABLISH BYLAWS AND RULES THAT PROVIDE FOR CONDITIONS AND PROCEDURES UNDER WHICH THE INTERSTATE COMMISSION SHALL MAKE ITS INFORMATION AND OFFICIAL RECORDS AVAILABLE TO THE PUBLIC FOR INSPECTION OR COPYING. THE INTERSTATE COMMISSION MAY EXEMPT FROM DISCLOSURE INFORMATION OR OFFICIAL RECORDS TO THE

EXTENT THEY WOULD ADVERSELY AFFECT PERSONAL PRIVACY RIGHTS OR PROPRIETARY INTERESTS;

5. GIVE PUBLIC NOTICE OF ALL MEETINGS AND ALL MEETINGS SHALL BE OPEN TO THE PUBLIC, EXCEPT AS SET FORTH IN THE RULES OR AS OTHERWISE PROVIDED IN THE COMPACT. THE INTERSTATE COMMISSION AND ITS COMMITTEES MAY CLOSE A MEETING, OR PORTION THEREOF, WHERE IT DETERMINES BY TWO–THIRDS VOTE THAT AN OPEN MEETING WOULD BE LIKELY TO:

I. RELATE SOLELY TO THE INTERSTATE COMMISSION'S INTERNAL PERSONNEL PRACTICES AND PROCEDURES;

II. DISCLOSE MATTERS SPECIFICALLY EXEMPTED FROM DISCLOSURE BY FEDERAL AND STATE STATUTE;

III. DISCLOSE TRADE SECRETS OR COMMERCIAL OR FINANCIAL INFORMATION WHICH IS PRIVILEGED OR CONFIDENTIAL;

IV. INVOLVE ACCUSING A PERSON OF A CRIME OR FORMALLY CENSURING A PERSON;

V. DISCLOSE INFORMATION OF A PERSONAL NATURE WHERE DISCLOSURE WOULD CONSTITUTE A CLEARLY UNWARRANTED INVASION OF PERSONAL PRIVACY;

VI. DISCLOSE INVESTIGATIVE RECORDS COMPILED FOR LAW ENFORCEMENT PURPOSES; OR

VII. SPECIFICALLY RELATE TO THE INTERSTATE COMMISSION'S PARTICIPATION IN A CIVIL ACTION OR OTHER LEGAL PROCEEDING;

6. CAUSE ITS LEGAL COUNSEL OR DESIGNEE TO CERTIFY THAT A MEETING MAY BE CLOSED AND SHALL REFERENCE EACH RELEVANT EXEMPTIBLE PROVISION FOR ANY MEETING, OR PORTION OF A MEETING, THAT IS CLOSED PURSUANT TO THIS PROVISION. THE INTERSTATE COMMISSION SHALL KEEP MINUTES THAT SHALL FULLY AND CLEARLY DESCRIBE ALL MATTERS DISCUSSED IN A MEETING AND SHALL PROVIDE A FULL AND ACCURATE SUMMARY OF ACTIONS TAKEN, AND THE REASONS THEREFOR, INCLUDING A DESCRIPTION OF THE VIEWS EXPRESSED AND THE RECORD OF A ROLL CALL VOTE. ALL DOCUMENTS CONSIDERED IN CONNECTION WITH AN ACTION SHALL BE IDENTIFIED IN SUCH MINUTES. ALL MINUTES AND

DOCUMENTS OF A CLOSED MEETING SHALL REMAIN UNDER SEAL, SUBJECT TO RELEASE BY A MAJORITY VOTE OF THE INTERSTATE COMMISSION;

7. COLLECT STANDARDIZED DATA WHEN POSSIBLE CONCERNING THE EDUCATIONAL TRANSITION OF THE CHILDREN OF MILITARY FAMILIES UNDER THIS COMPACT AS DIRECTED THROUGH ITS RULES THAT SHALL SPECIFY THE DATA TO BE COLLECTED, THE MEANS OF COLLECTION, AND DATA EXCHANGE AND REPORTING REQUIREMENTS. SUCH METHODS OF DATA COLLECTION, EXCHANGE, AND REPORTING SHALL, IN SO FAR AS IS REASONABLY POSSIBLE, CONFORM TO CURRENT TECHNOLOGY AND COORDINATE ITS INFORMATION FUNCTIONS WITH THE APPROPRIATE CUSTODIAN OF RECORDS AS IDENTIFIED IN THE BYLAWS AND RULES; AND

8. CREATE A PROCESS THAT PERMITS MILITARY OFFICIALS, EDUCATION OFFICIALS, AND PARENTS TO INFORM THE INTERSTATE COMMISSION IF AND WHEN THERE ARE ALLEGED VIOLATIONS OF THE COMPACT OR ITS RULES OR WHEN ISSUES SUBJECT TO THE JURISDICTION OF THE COMPACT OR ITS RULES ARE NOT ADDRESSED BY THE STATE OR LOCAL EDUCATION AGENCY. THIS SECTION SHALL NOT BE CONSTRUED TO CREATE A PRIVATE RIGHT OF ACTION AGAINST THE INTERSTATE COMMISSION OR ANY MEMBER STATE.

ARTICLE X

POWERS AND DUTIES OF THE INTERSTATE COMMISSION

THE INTERSTATE COMMISSION SHALL HAVE THE FOLLOWING POWERS:

A. TO PROVIDE FOR DISPUTE RESOLUTION AMONG MEMBER STATES;

B. TO PROMULGATE RULES AND TAKE ALL NECESSARY ACTIONS TO EFFECT THE GOALS, PURPOSES, AND OBLIGATIONS AS ENUMERATED IN THIS COMPACT. THE RULES SHALL HAVE THE FORCE AND EFFECT OF STATUTORY LAW AND SHALL BE BINDING IN THE COMPACT STATES TO THE EXTENT AND IN THE MANNER PROVIDED IN THIS COMPACT;

C. TO ISSUE, UPON REQUEST OF A MEMBER STATE, ADVISORY OPINIONS CONCERNING THE MEANING OR INTERPRETATION OF THE INTERSTATE COMPACT, ITS BYLAWS, RULES, AND ACTIONS;

D. TO ENFORCE COMPLIANCE WITH THE COMPACT PROVISIONS, THE RULES PROMULGATED BY THE INTERSTATE COMMISSION, AND THE BYLAWS, USING ALL NECESSARY AND PROPER MEANS, INCLUDING BUT NOT LIMITED TO THE USE OF JUDICIAL PROCESS;

E. TO ESTABLISH AND MAINTAIN OFFICES THAT SHALL BE LOCATED WITHIN ONE OR MORE OF THE MEMBER STATES;

F. TO PURCHASE AND MAINTAIN INSURANCE AND BONDS;

G. TO BORROW, ACCEPT, HIRE, OR CONTRACT FOR SERVICES OF PERSONNEL;

H. TO ESTABLISH AND APPOINT COMMITTEES, INCLUDING BUT NOT LIMITED TO AN EXECUTIVE COMMITTEE AS REQUIRED BY ARTICLE IX, SECTION D, THAT SHALL HAVE THE POWER TO ACT ON BEHALF OF THE INTERSTATE COMMISSION IN CARRYING OUT ITS POWERS AND DUTIES HEREUNDER;

I. TO ELECT OR APPOINT SUCH OFFICERS, ATTORNEYS, EMPLOYEES, AGENTS, OR CONSULTANTS, AND TO FIX THEIR COMPENSATION, DEFINE THEIR DUTIES, DETERMINE THEIR QUALIFICATIONS, AND TO ESTABLISH THE INTERSTATE COMMISSION'S PERSONNEL POLICIES AND PROGRAMS RELATING TO CONFLICTS OF INTEREST, RATES OF COMPENSATION, AND QUALIFICATIONS OF PERSONNEL;

J. TO ACCEPT ANY AND ALL DONATIONS AND GRANTS OF MONEY, EQUIPMENT, SUPPLIES, MATERIALS, AND SERVICES, AND TO RECEIVE, UTILIZE, AND DISPOSE OF THEM;

K. TO LEASE, PURCHASE, ACCEPT CONTRIBUTIONS OR DONATIONS OF, OR OTHERWISE TO OWN, HOLD, IMPROVE, OR USE ANY PROPERTY, REAL, PERSONAL, OR MIXED;

L. TO SELL, CONVEY, MORTGAGE, PLEDGE, LEASE, EXCHANGE, ABANDON, OR OTHERWISE DISPOSE OF ANY PROPERTY, REAL, PERSONAL, OR MIXED;

M. TO ESTABLISH A BUDGET AND MAKE EXPENDITURES;

N. TO ADOPT A SEAL AND BYLAWS GOVERNING THE MANAGEMENT AND OPERATION OF THE INTERSTATE COMMISSION;

O. TO REPORT ANNUALLY TO THE LEGISLATURES, GOVERNORS, JUDICIARY, AND STATE COUNCILS OF THE MEMBER STATES CONCERNING THE ACTIVITIES OF THE INTERSTATE COMMISSION DURING THE PRECEDING YEAR. SUCH REPORTS SHALL ALSO INCLUDE ANY RECOMMENDATIONS THAT MAY HAVE BEEN ADOPTED BY THE INTERSTATE COMMISSION;

P. TO COORDINATE EDUCATION, TRAINING, AND PUBLIC AWARENESS REGARDING THE COMPACT, ITS IMPLEMENTATION, AND OPERATION FOR OFFICIALS AND PARENTS INVOLVED IN SUCH ACTIVITY;

Q. TO ESTABLISH UNIFORM STANDARDS FOR THE REPORTING, COLLECTING, AND EXCHANGING OF DATA;

R. TO MAINTAIN CORPORATE BOOKS AND RECORDS IN ACCORDANCE WITH THE BYLAWS;

S. TO PERFORM SUCH FUNCTIONS AS MAY BE NECESSARY OR APPROPRIATE TO ACHIEVE THE PURPOSES OF THIS COMPACT; AND

T. TO PROVIDE FOR THE UNIFORM COLLECTION AND SHARING OF INFORMATION BETWEEN AND AMONG MEMBER STATES, SCHOOLS, AND MILITARY FAMILIES UNDER THIS COMPACT.

ARTICLE XI

ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

A. THE INTERSTATE COMMISSION SHALL, BY A MAJORITY OF THE MEMBERS PRESENT AND VOTING, WITHIN 12 MONTHS AFTER THE FIRST INTERSTATE COMMISSION MEETING, ADOPT BYLAWS TO GOVERN ITS CONDUCT AS MAY BE NECESSARY OR APPROPRIATE TO CARRY OUT THE PURPOSES OF THE COMPACT, INCLUDING BUT NOT LIMITED TO:

1. ESTABLISHING THE FISCAL YEAR OF THE INTERSTATE COMMISSION;

2. ESTABLISHING AN EXECUTIVE COMMITTEE AND SUCH OTHER COMMITTEES AS MAY BE NECESSARY;

3. PROVIDING FOR THE ESTABLISHMENT OF COMMITTEES AND FOR GOVERNING ANY GENERAL OR SPECIFIC DELEGATION OF AUTHORITY OR FUNCTION OF THE INTERSTATE COMMISSION;

4. PROVIDING REASONABLE PROCEDURES FOR CALLING AND CONDUCTING MEETINGS OF THE INTERSTATE COMMISSION AND ENSURING REASONABLE NOTICE OF EACH SUCH MEETING;

5. ESTABLISHING THE TITLES AND RESPONSIBILITIES OF THE OFFICERS AND STAFF OF THE INTERSTATE COMMISSION;

6. PROVIDING A MECHANISM FOR CONCLUDING THE OPERATIONS OF THE INTERSTATE COMMISSION AND THE RETURN OF SURPLUS FUNDS THAT MAY EXIST UPON THE TERMINATION OF THE COMPACT AFTER THE PAYMENT AND RESERVING OF ALL OF ITS DEBTS AND OBLIGATIONS; AND

7. PROVIDING "START–UP" RULES FOR INITIAL ADMINISTRATION OF THE COMPACT.

B. THE INTERSTATE COMMISSION SHALL, BY A MAJORITY OF THE MEMBERS, ELECT ANNUALLY FROM AMONG ITS MEMBERS A CHAIRPERSON, A VICE–CHAIRPERSON, AND A TREASURER, EACH OF WHOM SHALL HAVE SUCH AUTHORITY AND DUTIES AS MAY BE SPECIFIED IN THE BYLAWS. THE CHAIRPERSON OR, IN THE CHAIRPERSON'S ABSENCE OR DISABILITY, THE VICE–CHAIRPERSON, SHALL PRESIDE AT ALL MEETINGS OF THE INTERSTATE COMMISSION. THE OFFICERS SO ELECTED SHALL SERVE WITHOUT COMPENSATION OR REMUNERATION FROM THE INTERSTATE COMMISSION, PROVIDED THAT, SUBJECT TO THE AVAILABILITY OF BUDGETED FUNDS, THE OFFICERS SHALL BE REIMBURSED FOR ORDINARY AND NECESSARY COSTS AND EXPENSES INCURRED BY THEM IN THE PERFORMANCE OF THEIR RESPONSIBILITIES AS OFFICERS OF THE INTERSTATE COMMISSION.

C. EXECUTIVE COMMITTEE, OFFICERS, AND PERSONNEL –

1. THE EXECUTIVE COMMITTEE SHALL HAVE SUCH AUTHORITY AND DUTIES AS MAY BE SET FORTH IN THE BYLAWS, INCLUDING BUT NOT LIMITED TO:

I. MANAGING THE AFFAIRS OF THE INTERSTATE COMMISSION IN A MANNER CONSISTENT WITH THE BYLAWS AND PURPOSES OF THE INTERSTATE COMMISSION;

II. OVERSEEING AN ORGANIZATIONAL STRUCTURE WITHIN, AND APPROPRIATE PROCEDURES FOR THE INTERSTATE COMMISSION TO PROVIDE FOR THE CREATION OF RULES, OPERATING PROCEDURES, AND ADMINISTRATIVE AND TECHNICAL SUPPORT FUNCTIONS; AND

III. PLANNING, IMPLEMENTING, AND COORDINATING COMMUNICATIONS AND ACTIVITIES WITH OTHER STATE, FEDERAL, AND LOCAL GOVERNMENT ORGANIZATIONS IN ORDER TO ADVANCE THE GOALS OF THE INTERSTATE COMMISSION.

2. THE EXECUTIVE COMMITTEE MAY, SUBJECT TO THE APPROVAL OF THE INTERSTATE COMMISSION, APPOINT OR RETAIN AN

EXECUTIVE DIRECTOR FOR SUCH PERIOD, UPON SUCH TERMS AND CONDITIONS AND FOR SUCH COMPENSATION, AS THE INTERSTATE COMMISSION MAY DEEM APPROPRIATE. THE EXECUTIVE DIRECTOR SHALL SERVE AS SECRETARY TO THE INTERSTATE COMMISSION, BUT SHALL NOT BE A MEMBER OF THE INTERSTATE COMMISSION. THE EXECUTIVE DIRECTOR SHALL HIRE AND SUPERVISE SUCH OTHER PERSONS AS MAY BE AUTHORIZED BY THE INTERSTATE COMMISSION.

D. THE INTERSTATE COMMISSION'S EXECUTIVE DIRECTOR AND ITS EMPLOYEES SHALL BE IMMUNE FROM SUIT AND LIABILITY, EITHER PERSONALLY OR IN THEIR OFFICIAL CAPACITY, FOR A CLAIM FOR DAMAGE TO OR LOSS OF PROPERTY OR PERSONAL INJURY OR OTHER CIVIL LIABILITY CAUSED OR ARISING OUT OF OR RELATING TO AN ACTUAL OR ALLEGED ACT, ERROR, OR OMISSION THAT OCCURRED, OR THAT SUCH PERSON HAD A REASONABLE BASIS FOR BELIEVING OCCURRED, WITHIN THE SCOPE OF INTERSTATE COMMISSION EMPLOYMENT, DUTIES, OR RESPONSIBILITIES, PROVIDED THAT SUCH PERSON SHALL NOT BE PROTECTED FROM SUIT OR LIABILITY FOR DAMAGE, LOSS, INJURY, OR LIABILITY CAUSED BY THE INTENTIONAL OR WILLFUL AND WANTON MISCONDUCT OF SUCH PERSON.

1. THE LIABILITY OF THE INTERSTATE COMMISSION'S EXECUTIVE DIRECTOR AND EMPLOYEES OR INTERSTATE COMMISSION REPRESENTATIVES, ACTING WITHIN THE SCOPE OF SUCH PERSON'S EMPLOYMENT OR DUTIES FOR ACTS, ERRORS, OR OMISSIONS OCCURRING WITHIN SUCH PERSON'S STATE MAY NOT EXCEED THE LIMITS OF LIABILITY SET FORTH UNDER THE CONSTITUTION AND LAWS OF THAT STATE FOR STATE OFFICIALS, EMPLOYEES, AND AGENTS. THE INTERSTATE COMMISSION IS CONSIDERED TO BE AN INSTRUMENTALITY OF THE STATES FOR THE PURPOSES OF ANY SUCH ACTION. NOTHING IN THIS SUBSECTION SHALL BE CONSTRUED TO PROTECT SUCH PERSON FROM SUIT OR LIABILITY FOR DAMAGE, LOSS, INJURY, OR LIABILITY CAUSED BY THE INTENTIONAL OR WILLFUL AND WANTON MISCONDUCT OF SUCH PERSON.

2. THE INTERSTATE COMMISSION SHALL DEFEND THE EXECUTIVE DIRECTOR AND ITS EMPLOYEES AND, SUBJECT TO THE APPROVAL OF THE ATTORNEY GENERAL OR OTHER APPROPRIATE LEGAL COUNSEL OF THE MEMBER STATE REPRESENTED BY AN INTERSTATE COMMISSION REPRESENTATIVE, SHALL DEFEND SUCH INTERSTATE COMMISSION REPRESENTATIVE IN ANY CIVIL ACTION SEEKING TO IMPOSE LIABILITY ARISING OUT OF AN ACTUAL OR ALLEGED ACT, ERROR, OR OMISSION THAT OCCURRED WITHIN THE SCOPE OF INTERSTATE COMMISSION EMPLOYMENT, DUTIES, OR RESPONSIBILITIES, OR THAT THE DEFENDANT HAD A REASONABLE BASIS FOR BELIEVING OCCURRED WITHIN THE SCOPE OF INTERSTATE COMMISSION EMPLOYMENT, DUTIES, OR RESPONSIBILITIES, PROVIDED THAT THE ACTUAL OR

ALLEGED ACT, ERROR, OR OMISSION DID NOT RESULT FROM INTENTIONAL OR WILLFUL AND WANTON MISCONDUCT ON THE PART OF SUCH PERSON.

3. TO THE EXTENT NOT COVERED BY THE STATE INVOLVED, MEMBER STATE, OR THE INTERSTATE COMMISSION, THE REPRESENTATIVES OR EMPLOYEES OF THE INTERSTATE COMMISSION SHALL BE HELD HARMLESS IN THE AMOUNT OF A SETTLEMENT OR JUDGMENT, INCLUDING ATTORNEY'S FEES AND COSTS, OBTAINED AGAINST SUCH PERSONS ARISING OUT OF AN ACTUAL OR ALLEGED ACT, ERROR, OR OMISSION THAT OCCURRED WITHIN THE SCOPE OF INTERSTATE COMMISSION EMPLOYMENT, DUTIES, OR RESPONSIBILITIES, OR THAT SUCH PERSONS HAD A REASONABLE BASIS FOR BELIEVING OCCURRED WITHIN THE SCOPE OF INTERSTATE COMMISSION EMPLOYMENT, DUTIES, OR RESPONSIBILITIES, PROVIDED THAT THE ACTUAL OR ALLEGED ACT, ERROR, OR OMISSION DID NOT RESULT FROM INTENTIONAL OR WILLFUL AND WANTON MISCONDUCT ON THE PART OF SUCH PERSONS.

ARTICLE XII

RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

A. RULEMAKING AUTHORITY. THE INTERSTATE COMMISSION SHALL PROMULGATE REASONABLE RULES IN ORDER TO EFFECTIVELY AND EFFICIENTLY ACHIEVE THE PURPOSES OF THIS COMPACT. NOTWITHSTANDING THE FOREGOING, IN THE EVENT THE INTERSTATE COMMISSION EXERCISES ITS RULEMAKING AUTHORITY IN A MANNER THAT IS BEYOND THE SCOPE OF THE PURPOSES OF THIS ACT, OR THE POWERS GRANTED HEREUNDER, THEN SUCH AN ACTION BY THE INTERSTATE COMMISSION SHALL BE INVALID AND HAVE NO FORCE AND EFFECT.

B. RULEMAKING PROCEDURE. RULES SHALL BE MADE PURSUANT TO A RULEMAKING PROCESS THAT SUBSTANTIALLY CONFORMS TO THE "MODEL STATE ADMINISTRATIVE PROCEDURE ACT" OF 1981, UNIFORM LAWS ANNOTATED, VOL. 15, P.1 (2000), AS AMENDED, AS MAY BE APPROPRIATE TO THE OPERATIONS OF THE INTERSTATE COMMISSION.

C. JUDICIAL REVIEW. NOT LATER THAN 30 DAYS AFTER A RULE IS PROMULGATED, ANY PERSON MAY FILE A PETITION FOR JUDICIAL REVIEW OF THE RULE, PROVIDED THAT THE FILING OF SUCH A PETITION SHALL NOT STAY OR OTHERWISE PREVENT THE RULE FROM BECOMING EFFECTIVE UNLESS THE COURT FINDS THAT THE PETITIONER HAS A SUBSTANTIAL LIKELIHOOD OF SUCCESS. THE COURT SHALL GIVE DEFERENCE TO THE ACTIONS OF THE INTERSTATE COMMISSION CONSISTENT WITH APPLICABLE LAW AND SHALL NOT FIND THE RULE TO BE UNLAWFUL IF THE RULE REPRESENTS A REASONABLE EXERCISE OF THE INTERSTATE COMMISSION'S AUTHORITY.

D. REJECTION OF RULES. IF A MAJORITY OF THE LEGISLATURES OF THE COMPACTING STATES REJECTS A RULE BY ENACTMENT OF A STATUTE OR RESOLUTION IN THE SAME MANNER USED TO ADOPT THE COMPACT, THEN SUCH RULE SHALL HAVE NO FURTHER FORCE AND EFFECT IN ANY COMPACTING STATE.

ARTICLE XIII

OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

A. OVERSIGHT.

1. THE EXECUTIVE, LEGISLATIVE, AND JUDICIAL BRANCHES OF STATE GOVERNMENT IN EACH MEMBER STATE SHALL ENFORCE THIS COMPACT AND SHALL TAKE ALL ACTIONS NECESSARY AND APPROPRIATE TO EFFECTUATE THE COMPACT'S PURPOSES AND INTENT. THE PROVISIONS OF THIS COMPACT AND THE RULES PROMULGATED HEREUNDER SHALL HAVE STANDING AS STATUTORY LAW.

2. ALL COURTS SHALL TAKE JUDICIAL NOTICE OF THE COMPACT AND THE RULES IN ANY JUDICIAL OR ADMINISTRATIVE PROCEEDING IN A MEMBER STATE PERTAINING TO THE SUBJECT MATTER OF THIS COMPACT THAT MAY AFFECT THE POWERS, RESPONSIBILITIES, OR ACTIONS OF THE INTERSTATE COMMISSION.

3. THE INTERSTATE COMMISSION SHALL BE ENTITLED TO RECEIVE ALL SERVICE OF PROCESS IN ANY SUCH PROCEEDING AND SHALL HAVE STANDING TO INTERVENE IN THE PROCEEDING FOR ALL PURPOSES. FAILURE TO PROVIDE SERVICE OF PROCESS TO THE INTERSTATE COMMISSION SHALL RENDER A JUDGMENT OR ORDER VOID AS TO THE INTERSTATE COMMISSION, THIS COMPACT, OR ITS PROMULGATED RULES.

B. DEFAULT, TECHNICAL ASSISTANCE, SUSPENSION AND TERMINATION. IF THE INTERSTATE COMMISSION DETERMINES THAT A MEMBER STATE HAS DEFAULTED IN THE PERFORMANCE OF ITS OBLIGATIONS OR RESPONSIBILITIES UNDER THIS COMPACT OR ITS BYLAWS OR PROMULGATED RULES, THE INTERSTATE COMMISSION SHALL:

1. PROVIDE WRITTEN NOTICE TO THE DEFAULTING STATE AND OTHER MEMBER STATES OF THE NATURE OF THE DEFAULT, THE MEANS OF CURING THE DEFAULT, AND ANY ACTION TAKEN BY THE INTERSTATE COMMISSION. THE INTERSTATE COMMISSION SHALL SPECIFY THE CONDITIONS BY WHICH THE DEFAULTING STATE MUST CURE ITS DEFAULT; AND

2. PROVIDE REMEDIAL TRAINING AND SPECIFIC TECHNICAL ASSISTANCE REGARDING THE DEFAULT.

C. IF THE DEFAULTING STATE FAILS TO CURE THE DEFAULT, THE DEFAULTING STATE SHALL BE TERMINATED FROM THE COMPACT UPON AN AFFIRMATIVE VOTE OF A MAJORITY OF THE MEMBER STATES AND ALL RIGHTS, PRIVILEGES, AND BENEFITS CONFERRED BY THIS COMPACT SHALL BE TERMINATED FROM THE EFFECTIVE DATE OF TERMINATION. A CURE OF THE DEFAULT DOES NOT RELIEVE THE OFFENDING STATE OF OBLIGATIONS OR LIABILITIES INCURRED DURING THE PERIOD OF THE DEFAULT.

D. SUSPENSION OR TERMINATION OF MEMBERSHIP IN THE COMPACT SHALL BE IMPOSED ONLY AFTER ALL OTHER MEANS OF SECURING COMPLIANCE HAVE BEEN EXHAUSTED. NOTICE OF INTENT TO SUSPEND OR TERMINATE SHALL BE GIVEN BY THE INTERSTATE COMMISSION TO THE GOVERNOR, THE MAJORITY AND MINORITY LEADERS OF THE DEFAULTING STATE'S LEGISLATURE, AND EACH OF THE MEMBER STATES.

E. THE STATE THAT HAS BEEN SUSPENDED OR TERMINATED IS RESPONSIBLE FOR ALL ASSESSMENTS, OBLIGATIONS, AND LIABILITIES INCURRED THROUGH THE EFFECTIVE DATE OF SUSPENSION OR TERMINATION INCLUDING OBLIGATIONS, THE PERFORMANCE OF WHICH EXTENDS BEYOND THE EFFECTIVE DATE OF SUSPENSION OR TERMINATION.

F. THE INTERSTATE COMMISSION SHALL NOT BEAR ANY COSTS RELATING TO ANY STATE THAT HAS BEEN FOUND TO BE IN DEFAULT OR THAT HAS BEEN SUSPENDED OR TERMINATED FROM THE COMPACT, UNLESS OTHERWISE MUTUALLY AGREED UPON IN WRITING BETWEEN THE INTERSTATE COMMISSION AND THE DEFAULTING STATE.

G. THE DEFAULTING STATE MAY APPEAL THE ACTION OF THE INTERSTATE COMMISSION BY PETITIONING THE U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA OR THE FEDERAL DISTRICT WHERE THE INTERSTATE COMMISSION HAS ITS PRINCIPAL OFFICES. THE PREVAILING PARTY SHALL BE AWARDED ALL COSTS OF SUCH LITIGATION INCLUDING REASONABLE ATTORNEY'S FEES.

H. DISPUTE RESOLUTION.

1. THE INTERSTATE COMMISSION SHALL ATTEMPT, UPON THE REQUEST OF A MEMBER STATE, TO RESOLVE DISPUTES THAT ARE SUBJECT TO THE COMPACT AND THAT MAY ARISE AMONG MEMBER STATES AND BETWEEN MEMBER AND NONMEMBER STATES.

2. THE INTERSTATE COMMISSION SHALL PROMULGATE A RULE PROVIDING FOR BOTH MEDIATION AND BINDING DISPUTE RESOLUTION FOR DISPUTES AS APPROPRIATE.

I. ENFORCEMENT.

1. THE INTERSTATE COMMISSION, IN THE REASONABLE EXERCISE OF ITS DISCRETION, SHALL ENFORCE THE PROVISIONS AND RULES OF THIS COMPACT.

2. THE INTERSTATE COMMISSION MAY, BY MAJORITY VOTE OF THE MEMBERS, INITIATE LEGAL ACTION IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA OR, AT THE DISCRETION OF THE INTERSTATE COMMISSION, IN THE FEDERAL DISTRICT WHERE THE INTERSTATE COMMISSION HAS ITS PRINCIPAL OFFICES, TO ENFORCE COMPLIANCE WITH THE PROVISIONS OF THE COMPACT AND ITS PROMULGATED RULES AND BYLAWS, AGAINST A MEMBER STATE IN DEFAULT. THE RELIEF SOUGHT MAY INCLUDE BOTH INJUNCTIVE RELIEF AND DAMAGES. IN THE EVENT JUDICIAL ENFORCEMENT IS NECESSARY THE PREVAILING PARTY SHALL BE AWARDED ALL COSTS OF SUCH LITIGATION INCLUDING REASONABLE ATTORNEY'S FEES.

3. THE REMEDIES HEREIN SHALL NOT BE THE EXCLUSIVE REMEDIES OF THE INTERSTATE COMMISSION. THE INTERSTATE COMMISSION MAY AVAIL ITSELF OF ANY OTHER REMEDIES AVAILABLE UNDER STATE LAW OR THE REGULATION OF A PROFESSION.

ARTICLE XIV

FINANCING OF THE INTERSTATE COMMISSION

A. THE INTERSTATE COMMISSION SHALL PAY, OR PROVIDE FOR THE PAYMENT OF THE REASONABLE EXPENSES OF ITS ESTABLISHMENT, ORGANIZATION, AND ONGOING ACTIVITIES.

B. THE INTERSTATE COMMISSION MAY LEVY AND COLLECT AN ANNUAL ASSESSMENT FROM EACH MEMBER STATE TO COVER THE COST OF THE OPERATIONS AND ACTIVITIES OF THE INTERSTATE COMMISSION AND ITS STAFF THAT MUST BE IN A TOTAL AMOUNT SUFFICIENT TO COVER THE INTERSTATE COMMISSION'S ANNUAL BUDGET AS APPROVED EACH YEAR. THE AGGREGATE ANNUAL ASSESSMENT AMOUNT SHALL BE ALLOCATED BASED UPON A FORMULA TO BE DETERMINED BY THE INTERSTATE COMMISSION, WHICH SHALL PROMULGATE A RULE BINDING UPON ALL MEMBER STATES.

C. THE INTERSTATE COMMISSION SHALL NOT INCUR OBLIGATIONS OF ANY KIND PRIOR TO SECURING THE FUNDS ADEQUATE TO MEET THE SAME, NOR SHALL THE INTERSTATE COMMISSION PLEDGE THE CREDIT OF ANY OF THE MEMBER STATES, EXCEPT BY AND WITH THE AUTHORITY OF THE MEMBER STATE.

D. THE INTERSTATE COMMISSION SHALL KEEP ACCURATE ACCOUNTS OF ALL RECEIPTS AND DISBURSEMENTS. THE RECEIPTS AND DISBURSEMENTS OF THE INTERSTATE COMMISSION SHALL BE SUBJECT TO THE AUDIT AND ACCOUNTING PROCEDURES ESTABLISHED UNDER ITS BYLAWS. HOWEVER, ALL RECEIPTS AND DISBURSEMENTS OF FUNDS HANDLED BY THE INTERSTATE COMMISSION SHALL BE AUDITED YEARLY BY A CERTIFIED OR LICENSED PUBLIC ACCOUNTANT AND THE REPORT OF THE AUDIT SHALL BE INCLUDED IN AND BECOME PART OF THE ANNUAL REPORT OF THE INTERSTATE COMMISSION.

ARTICLE XV

MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

A. ANY STATE IS ELIGIBLE TO BECOME A MEMBER STATE.

B. THE COMPACT SHALL BECOME EFFECTIVE AND BINDING UPON LEGISLATIVE ENACTMENT OF THE COMPACT INTO LAW BY NO LESS THAN TEN OF THE STATES. THE EFFECTIVE DATE SHALL BE NO EARLIER THAN DECEMBER 1, 2007. THEREAFTER IT SHALL BECOME EFFECTIVE AND BINDING AS TO ANY OTHER MEMBER STATE UPON ENACTMENT OF THE COMPACT INTO LAW BY THAT STATE. THE GOVERNORS OF NONMEMBER STATES OR THEIR DESIGNEES SHALL BE INVITED TO PARTICIPATE IN THE ACTIVITIES OF THE INTERSTATE COMMISSION ON A NONVOTING BASIS PRIOR TO ADOPTION OF THE COMPACT BY ALL STATES.

C. THE INTERSTATE COMMISSION MAY PROPOSE AMENDMENTS TO THE COMPACT FOR ENACTMENT BY THE MEMBER STATES. NO AMENDMENT SHALL BECOME EFFECTIVE AND BINDING UPON THE INTERSTATE COMMISSION AND THE MEMBER STATES UNLESS AND UNTIL IT IS ENACTED INTO LAW BY UNANIMOUS CONSENT OF THE MEMBER STATES.

ARTICLE XVI

WITHDRAWAL AND DISSOLUTION

A. WITHDRAWAL.

1. ONCE EFFECTIVE, THE COMPACT SHALL CONTINUE IN FORCE AND REMAIN BINDING UPON EACH AND EVERY MEMBER STATE, PROVIDED THAT A MEMBER STATE MAY WITHDRAW FROM THE COMPACT BY SPECIFICALLY REPEALING THE STATUTE WHICH ENACTED THE COMPACT INTO LAW.

2. WITHDRAWAL FROM THIS COMPACT SHALL BE BY THE ENACTMENT OF A STATUTE REPEALING THE SAME, BUT SHALL NOT TAKE EFFECT UNTIL 1 YEAR AFTER THE EFFECTIVE DATE OF SUCH STATUTE AND UNTIL WRITTEN NOTICE OF THE WITHDRAWAL HAS BEEN GIVEN BY THE WITHDRAWING STATE TO THE GOVERNOR OF EACH OTHER MEMBER JURISDICTION.

3. THE WITHDRAWING STATE SHALL IMMEDIATELY NOTIFY THE CHAIRPERSON OF THE INTERSTATE COMMISSION IN WRITING UPON THE INTRODUCTION OF LEGISLATION REPEALING THIS COMPACT IN THE WITHDRAWING STATE. THE INTERSTATE COMMISSION SHALL NOTIFY THE OTHER MEMBER STATES OF THE WITHDRAWING STATE'S INTENT TO WITHDRAW WITHIN 60 DAYS OF ITS RECEIPT THEREOF.

4. THE WITHDRAWING STATE IS RESPONSIBLE FOR ALL ASSESSMENTS, OBLIGATIONS, AND LIABILITIES INCURRED THROUGH THE EFFECTIVE DATE OF WITHDRAWAL, INCLUDING OBLIGATIONS THE PERFORMANCE OF WHICH EXTEND BEYOND THE EFFECTIVE DATE OF WITHDRAWAL.

5. REINSTATEMENT FOLLOWING WITHDRAWAL OF A MEMBER STATE SHALL OCCUR UPON THE WITHDRAWING STATE REENACTING THE COMPACT OR UPON SUCH LATER DATE AS DETERMINED BY THE INTERSTATE COMMISSION.

B. DISSOLUTION OF COMPACT.

1. THIS COMPACT SHALL DISSOLVE EFFECTIVE UPON THE DATE OF THE WITHDRAWAL OR DEFAULT OF THE MEMBER STATE WHICH REDUCES THE MEMBERSHIP IN THE COMPACT TO ONE MEMBER STATE.

2. UPON THE DISSOLUTION OF THIS COMPACT, THE COMPACT BECOMES NULL AND VOID AND SHALL BE OF NO FURTHER FORCE AND EFFECT, AND THE BUSINESS AND AFFAIRS OF THE INTERSTATE COMMISSION SHALL BE CONCLUDED AND SURPLUS FUNDS SHALL BE DISTRIBUTED IN ACCORDANCE WITH THE BYLAWS.

ARTICLE XVII

SEVERABILITY AND CONSTRUCTION

A. THE PROVISIONS OF THIS COMPACT SHALL BE SEVERABLE AND, IF ANY PHRASE, CLAUSE, SENTENCE, OR PROVISION IS DEEMED UNENFORCEABLE, THE REMAINING PROVISIONS OF THE COMPACT SHALL BE ENFORCEABLE.

B. THE PROVISIONS OF THIS COMPACT SHALL BE LIBERALLY CONSTRUED TO EFFECTUATE ITS PURPOSES.

C. NOTHING IN THIS COMPACT SHALL BE CONSTRUED TO PROHIBIT THE APPLICABILITY OF OTHER INTERSTATE COMPACTS TO WHICH THE STATES ARE MEMBERS.

ARTICLE XVIII

BINDING EFFECT OF COMPACT AND OTHER LAWS

A. OTHER LAWS.

1. NOTHING HEREIN PREVENTS THE ENFORCEMENT OF ANY OTHER LAW OF A MEMBER STATE THAT IS NOT INCONSISTENT WITH THIS COMPACT.

2. ALL MEMBER STATES' LAWS CONFLICTING WITH THIS COMPACT ARE SUPERSEDED TO THE EXTENT OF THE CONFLICT.

B. BINDING EFFECT OF THE COMPACT.

1. ALL LAWFUL ACTIONS OF THE INTERSTATE COMMISSION, INCLUDING ALL RULES AND BYLAWS PROMULGATED BY THE INTERSTATE COMMISSION, ARE BINDING UPON THE MEMBER STATES.

2. ALL AGREEMENTS BETWEEN THE INTERSTATE COMMISSION AND THE MEMBER STATES ARE BINDING IN ACCORDANCE WITH THEIR TERMS.

3. IN THE EVENT ANY PROVISION OF THIS COMPACT EXCEEDS THE CONSTITUTIONAL LIMITS IMPOSED ON THE LEGISLATURE OF ANY MEMBER STATE, SUCH PROVISION SHALL BE INEFFECTIVE TO THE EXTENT OF THE CONFLICT WITH THE CONSTITUTIONAL PROVISION IN QUESTION IN THAT MEMBER STATE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not take effect until the enactment of a similar Act by no fewer than 10 of the states; that no fewer than 10 states are requested to concur in this Act of the General Assembly of Maryland by the passage of a similar Act; that the Department of Legislative Services

shall notify the appropriate officials of the passage of this Act; and that upon concurrence in this Act by no fewer than 10 states, 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 Director of the Department of Legislative Services.

SECTION 3. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section 2 of this Act, this Act shall take effect July 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 502

(House Bill 306)

AN ACT concerning

Interstate Compact on Educational Opportunity for Military Children

FOR the purpose of establishing, through a certain Interstate Compact with certain other member states, the Interstate Compact on Educational Opportunity for Military Children for certain purposes; providing for the transfer of certain educational records and enrollment of certain children in certain schools; providing for the placement of certain children in certain courses, educational programs, and special education services on transfer; establishing certain eligibility criteria for certain school programs; establishing certain procedures to facilitate the graduation of certain students from high school; establishing a certain State Council for coordinating certain services; establishing the Interstate Commission on Educational Opportunity for Military Children; providing for the composition, meetings, and powers and duties of the Interstate Commission; providing for the organization and operation and the rulemaking functions of the Interstate Commission; providing for the oversight and enforcement of the Interstate Compact and the resolution of disputes between certain member states; providing for the financing of the Interstate Commission; establishing procedures for amending the Interstate Compact; establishing certain withdrawal and dissolution procedures for certain members of the Interstate Compact; defining certain terms; making this Act subject to a certain contingency; and generally relating to the Interstate Compact on Educational Opportunity for Military Children.

BY adding to
Article – Education
Section 7–1301 through 7–1303 to be under the new subtitle "Subtitle 13. Interstate Compact on Educational Opportunity for Military Children"

Annotated Code of Maryland
(2008 Replacement Volume)

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

Article – Education

SUBTITLE 13. INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN.

7–1301.

(A) THE DEFINITIONS IN § 1–101 OF THIS ARTICLE DO NOT APPLY TO THE INTERSTATE COMPACT SET FORTH IN § 7–1303 OF THIS SUBTITLE.

(B) IN THE INTERSTATE COMPACT SET FORTH IN § 7–1303 OF THIS SUBTITLE, UNLESS THE CONTEXT CLEARLY REQUIRES OTHERWISE, "ARTICLE", "SECTION", AND "SUBSECTION" MEAN AN ARTICLE, SECTION, AND SUBSECTION, RESPECTIVELY, OF THE INTERSTATE COMPACT.

7–1302.

ON BEHALF OF THIS STATE, THE GOVERNOR SHALL EXECUTE, WITH THE OTHER MEMBER STATES, THE INTERSTATE COMPACT SUBSTANTIALLY AS IT APPEARS IN § 7–1303 OF THIS SUBTITLE.

7–1303.

THE STATE OF MARYLAND AND OTHER STATES, HEREINAFTER "MEMBER STATES", HEREBY ENTER INTO AN INTERSTATE COMPACT, AS SET FORTH BELOW, FOR THE PURPOSE OF FACILITATING THE TIMELY ENROLLMENT AND TRANSFER OF CHILDREN OF MILITARY FAMILIES IN ELEMENTARY AND SECONDARY SCHOOLS DUE TO THE FREQUENT MOVEMENT AND DEPLOYMENT OF THEIR PARENTS. THIS INTERSTATE COMPACT SHALL BE KNOWN AND MAY BE CITED AS THE INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN.

ARTICLE I

PURPOSE

IT IS THE PURPOSE OF THIS COMPACT TO REMOVE BARRIERS TO EDUCATIONAL SUCCESS IMPOSED ON CHILDREN OF MILITARY FAMILIES BECAUSE OF FREQUENT MOVES AND DEPLOYMENT OF THEIR PARENTS BY:

A. FACILITATING THE TIMELY ENROLLMENT OF CHILDREN OF MILITARY FAMILIES AND ENSURING THAT THEY ARE NOT PLACED AT A DISADVANTAGE DUE TO DIFFICULTY IN THE TRANSFER OF EDUCATION RECORDS FROM THE PREVIOUS SCHOOL DISTRICT OR VARIATIONS IN ENTRANCE OR AGE REQUIREMENTS;

B. FACILITATING THE STUDENT PLACEMENT PROCESS THROUGH WHICH CHILDREN OF MILITARY FAMILIES ARE NOT DISADVANTAGED BY VARIATIONS IN ATTENDANCE REQUIREMENTS, SCHEDULING, SEQUENCING, GRADING, COURSE CONTENT, OR ASSESSMENT;

C. FACILITATING THE QUALIFICATION AND ELIGIBILITY FOR ENROLLMENT, EDUCATIONAL PROGRAMS, AND PARTICIPATION IN EXTRACURRICULAR ACADEMIC, ATHLETIC, AND SOCIAL ACTIVITIES;

D. FACILITATING THE ON–TIME GRADUATION OF CHILDREN OF MILITARY FAMILIES;

E. PROVIDING FOR THE PROMULGATION AND ENFORCEMENT OF ADMINISTRATIVE RULES IMPLEMENTING THE PROVISIONS OF THIS COMPACT;

F. PROVIDING FOR THE UNIFORM COLLECTION AND SHARING OF INFORMATION BETWEEN AND AMONG MEMBER STATES, SCHOOLS, AND MILITARY FAMILIES UNDER THIS COMPACT;

G. PROMOTING COORDINATION BETWEEN THIS COMPACT AND OTHER COMPACTS AFFECTING MILITARY CHILDREN; AND

H. PROMOTING FLEXIBILITY AND COOPERATION BETWEEN THE EDUCATIONAL SYSTEM, PARENTS, AND THE STUDENT IN ORDER TO ACHIEVE EDUCATIONAL SUCCESS FOR THE STUDENT.

ARTICLE II

DEFINITIONS

AS USED IN THIS COMPACT, UNLESS THE CONTEXT CLEARLY REQUIRES A DIFFERENT CONSTRUCTION:

A. "ACTIVE DUTY" MEANS FULL–TIME DUTY STATUS IN THE ACTIVE UNIFORMED SERVICE OF THE UNITED STATES, INCLUDING MEMBERS OF THE NATIONAL GUARD AND RESERVE ON ACTIVE DUTY ORDERS PURSUANT TO 10 U.S.C. SECTIONS 1209 AND 1211;

B. "CHILDREN OF MILITARY FAMILIES" MEANS SCHOOL–AGED CHILDREN, ENROLLED IN KINDERGARTEN THROUGH 12TH GRADE, IN THE HOUSEHOLD OF AN ACTIVE DUTY MEMBER;

C. "COMPACT COMMISSIONER" MEANS THE VOTING REPRESENTATIVE OF EACH COMPACTING STATE APPOINTED PURSUANT TO ARTICLE VIII OF THIS COMPACT;

D. "DEPLOYMENT" MEANS THE PERIOD 1 MONTH PRIOR TO THE SERVICE MEMBERS' DEPARTURE FROM THEIR HOME STATION ON MILITARY ORDERS THROUGH 6 MONTHS AFTER RETURN TO THEIR HOME STATION;

E. "EDUCATIONAL RECORDS" MEANS THOSE OFFICIAL RECORDS, FILES, AND DATA DIRECTLY RELATED TO A STUDENT AND MAINTAINED BY THE SCHOOL OR LOCAL EDUCATION AGENCY, INCLUDING BUT NOT LIMITED TO RECORDS ENCOMPASSING ALL THE MATERIAL KEPT IN THE STUDENT'S CUMULATIVE FOLDER SUCH AS GENERAL IDENTIFYING DATA, RECORDS OF ATTENDANCE AND OF ACADEMIC WORK COMPLETED, RECORDS OF ACHIEVEMENT AND RESULTS OF EVALUATIVE TESTS, HEALTH DATA, DISCIPLINARY STATUS, TEST PROTOCOLS, AND INDIVIDUALIZED EDUCATION PROGRAMS;

F. "EXTRACURRICULAR ACTIVITIES" MEANS A VOLUNTARY ACTIVITY SPONSORED BY THE SCHOOL OR LOCAL EDUCATION AGENCY OR AN ORGANIZATION SANCTIONED BY THE LOCAL EDUCATION AGENCY. EXTRACURRICULAR ACTIVITIES INCLUDE, BUT ARE NOT LIMITED TO, PREPARATION FOR AND INVOLVEMENT IN PUBLIC PERFORMANCES, CONTESTS, ATHLETIC COMPETITIONS, DEMONSTRATIONS, DISPLAYS, AND CLUB ACTIVITIES;

G. "INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN" MEANS THE COMMISSION THAT IS CREATED UNDER ARTICLE IX OF THIS COMPACT, WHICH IS GENERALLY REFERRED TO AS THE INTERSTATE COMMISSION;

H. "LOCAL EDUCATION AGENCY" MEANS A PUBLIC AUTHORITY LEGALLY CONSTITUTED BY THE STATE AS AN ADMINISTRATIVE AGENCY TO PROVIDE CONTROL OF AND DIRECTION FOR KINDERGARTEN THROUGH 12TH–GRADE PUBLIC EDUCATIONAL INSTITUTIONS;

I. "MEMBER STATE" MEANS A STATE THAT HAS ENACTED THIS COMPACT;

J. "MILITARY INSTALLATION" MEANS A BASE, CAMP, POST, 1 STATION, YARD, CENTER, HOME PORT FACILITY FOR ANY SHIP, OR OTHER ACTIVITY UNDER THE JURISDICTION OF THE DEPARTMENT OF DEFENSE, INCLUDING ANY LEASED FACILITY THAT IS LOCATED WITHIN ANY OF THE SEVERAL STATES, THE DISTRICT OF COLUMBIA, THE COMMONWEALTH OF PUERTO RICO, THE U.S. VIRGIN ISLANDS, GUAM, AMERICAN SAMOA, THE NORTHERN MARIANAS ISLANDS, AND ANY OTHER U.S. TERRITORY. SUCH TERM DOES NOT INCLUDE ANY FACILITY USED PRIMARILY FOR CIVIL WORKS, RIVERS, HARBOR PROJECTS, OR FLOOD CONTROL PROJECTS;

K. "NONMEMBER STATE" MEANS A STATE THAT HAS NOT ENACTED THIS COMPACT;

L. "RECEIVING STATE" MEANS THE STATE TO WHICH A CHILD OF A MILITARY FAMILY IS SENT, BROUGHT, OR CAUSED TO BE SENT OR BROUGHT;

M. "RULE" MEANS A WRITTEN STATEMENT BY THE INTERSTATE COMMISSION PROMULGATED PURSUANT TO ARTICLE XII OF THIS COMPACT THAT IS OF GENERAL APPLICABILITY, IMPLEMENTS, INTERPRETS, OR PRESCRIBES A POLICY OR PROVISION OF THE COMPACT, OR AN ORGANIZATIONAL, PROCEDURAL, OR PRACTICE REQUIREMENT OF THE INTERSTATE COMMISSION, AND HAS THE FORCE AND EFFECT OF STATUTORY LAW IN A MEMBER STATE, AND INCLUDES THE AMENDMENT, REPEAL, OR SUSPENSION OF AN EXISTING RULE;

N. "SENDING STATE" MEANS THE STATE FROM WHICH A CHILD OF A MILITARY FAMILY IS SENT, BROUGHT, OR CAUSED TO BE SENT OR BROUGHT;

O. "STATE" MEANS A STATE OF THE UNITED STATES, THE DISTRICT OF COLUMBIA, THE COMMONWEALTH OF PUERTO RICO, THE U.S. VIRGIN ISLANDS, GUAM, AMERICAN SAMOA, THE NORTHERN MARIANAS ISLANDS, AND ANY OTHER U.S. TERRITORY;

P. "STUDENT" MEANS THE CHILD OF A MILITARY FAMILY FOR WHOM THE LOCAL EDUCATION AGENCY RECEIVES PUBLIC FUNDING AND WHO IS FORMALLY ENROLLED IN KINDERGARTEN THROUGH 12TH GRADE;

Q. "TRANSITION" MEANS:

1. THE FORMAL AND PHYSICAL PROCESS OF TRANSFERRING FROM SCHOOL TO SCHOOL; OR

2. THE PERIOD OF TIME IN WHICH A STUDENT MOVES FROM ONE SCHOOL IN THE SENDING STATE TO ANOTHER SCHOOL IN THE RECEIVING STATE;

R. "UNIFORMED SERVICES" MEANS THE ARMY, NAVY, AIR FORCE, MARINE CORPS, COAST GUARD AS WELL AS THE COMMISSIONED CORPS OF THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, AND PUBLIC HEALTH SERVICES; AND

S. "VETERAN" MEANS A PERSON WHO SERVED IN THE UNIFORMED SERVICES AND WHO WAS DISCHARGED OR RELEASED THEREFROM UNDER CONDITIONS OTHER THAN DISHONORABLE.

ARTICLE III

APPLICABILITY

A. EXCEPT AS OTHERWISE PROVIDED IN SECTION B, THIS COMPACT SHALL APPLY TO THE CHILDREN OF:

1. ACTIVE DUTY MEMBERS OF THE UNIFORMED SERVICES AS DEFINED IN THIS COMPACT, INCLUDING MEMBERS OF THE NATIONAL GUARD AND RESERVE ON ACTIVE DUTY ORDERS PURSUANT TO 10 U.S.C. SECTIONS 1209 AND 1211;

2. MEMBERS OR VETERANS OF THE UNIFORMED SERVICES WHO ARE SEVERELY INJURED AND MEDICALLY DISCHARGED OR RETIRED FOR A PERIOD OF 1 YEAR AFTER MEDICAL DISCHARGE OR RETIREMENT; AND

3. MEMBERS OF THE UNIFORMED SERVICES WHO DIE ON ACTIVE DUTY OR AS A RESULT OF INJURIES SUSTAINED ON ACTIVE DUTY FOR A PERIOD OF 1 YEAR AFTER DEATH.

B. THE PROVISIONS OF THIS INTERSTATE COMPACT SHALL ONLY APPLY TO LOCAL EDUCATION AGENCIES AS DEFINED IN THIS COMPACT.

C. THE PROVISIONS OF THIS COMPACT SHALL NOT APPLY TO THE CHILDREN OF:

1. INACTIVE MEMBERS OF THE NATIONAL GUARD AND MILITARY RESERVES;

2. MEMBERS OF THE UNIFORMED SERVICES NOW RETIRED, EXCEPT AS PROVIDED IN SECTION A;

3. VETERANS OF THE UNIFORMED SERVICES, EXCEPT AS PROVIDED IN SECTION A; AND

4. OTHER U.S. DEPARTMENT OF DEFENSE PERSONNEL AND OTHER FEDERAL AGENCY CIVILIAN AND CONTRACT EMPLOYEES NOT DEFINED AS ACTIVE DUTY MEMBERS OF THE UNIFORMED SERVICES.

ARTICLE IV

EDUCATIONAL RECORDS AND ENROLLMENT

A. UNOFFICIAL OR "HAND–CARRIED" EDUCATIONAL RECORDS – IN THE EVENT THAT OFFICIAL EDUCATIONAL RECORDS CANNOT BE RELEASED TO THE PARENTS FOR THE PURPOSE OF TRANSFER, THE CUSTODIAN OF THE RECORDS IN THE SENDING STATE SHALL PREPARE AND FURNISH TO THE PARENT A COMPLETE SET OF UNOFFICIAL EDUCATIONAL RECORDS CONTAINING UNIFORM INFORMATION AS DETERMINED BY THE INTERSTATE COMMISSION. UPON RECEIPT OF THE UNOFFICIAL EDUCATIONAL RECORDS BY A SCHOOL IN THE RECEIVING STATE, THE SCHOOL SHALL ENROLL AND APPROPRIATELY PLACE THE STUDENT BASED ON THE INFORMATION PROVIDED IN THE UNOFFICIAL EDUCATIONAL RECORDS PENDING VALIDATION BY THE OFFICIAL EDUCATIONAL RECORDS AS QUICKLY AS POSSIBLE.

B. OFFICIAL EDUCATIONAL RECORDS/TRANSCRIPTS – SIMULTANEOUS WITH THE ENROLLMENT AND CONDITIONAL PLACEMENT OF THE STUDENT, THE SCHOOL IN THE RECEIVING STATE SHALL REQUEST THE STUDENT'S OFFICIAL EDUCATIONAL RECORD FROM THE SCHOOL IN THE SENDING STATE. UPON RECEIPT OF THIS REQUEST, THE SCHOOL IN THE SENDING STATE WILL PROCESS AND FURNISH THE OFFICIAL EDUCATIONAL RECORDS TO THE SCHOOL IN THE RECEIVING STATE WITHIN 10 DAYS OR WITHIN SUCH TIME AS IS REASONABLY DETERMINED UNDER THE RULES PROMULGATED BY THE INTERSTATE COMMISSION.

C. IMMUNIZATIONS – COMPACTING STATES SHALL GIVE 30 DAYS FROM THE DATE OF ENROLLMENT OR WITHIN SUCH TIME AS IS REASONABLY DETERMINED UNDER THE RULES PROMULGATED BY THE INTERSTATE COMMISSION, FOR STUDENTS TO OBTAIN ANY IMMUNIZATION(S) REQUIRED BY THE RECEIVING STATE. FOR A SERIES OF IMMUNIZATIONS, INITIAL VACCINATIONS MUST BE OBTAINED WITHIN 30 DAYS OR WITHIN SUCH TIME AS IS REASONABLY DETERMINED UNDER THE RULES PROMULGATED BY THE INTERSTATE COMMISSION.

D. KINDERGARTEN AND FIRST–GRADE ENTRANCE AGE – STUDENTS SHALL BE ALLOWED TO CONTINUE THEIR ENROLLMENT AT GRADE LEVEL IN THE RECEIVING STATE COMMENSURATE WITH THEIR GRADE LEVEL (INCLUDING KINDERGARTEN) FROM A LOCAL EDUCATION AGENCY IN THE SENDING STATE AT THE TIME OF TRANSITION, REGARDLESS OF AGE. A STUDENT WHO HAS SATISFACTORILY COMPLETED THE PREREQUISITE GRADE LEVEL IN THE LOCAL EDUCATION AGENCY IN THE SENDING STATE SHALL BE ELIGIBLE FOR ENROLLMENT IN THE NEXT HIGHEST GRADE LEVEL IN THE RECEIVING STATE, REGARDLESS OF AGE. A STUDENT TRANSFERRING AFTER THE START OF THE SCHOOL YEAR IN THE RECEIVING STATE SHALL ENTER THE SCHOOL IN THE RECEIVING STATE ON THE STUDENT'S VALIDATED LEVEL FROM AN ACCREDITED SCHOOL IN THE SENDING STATE.

ARTICLE V

PLACEMENT AND ATTENDANCE

A. COURSE PLACEMENT – WHEN THE STUDENT TRANSFERS BEFORE OR DURING THE SCHOOL YEAR, THE RECEIVING STATE SCHOOL SHALL INITIALLY HONOR PLACEMENT OF THE STUDENT IN EDUCATIONAL COURSES BASED ON THE STUDENT'S ENROLLMENT IN THE SENDING STATE SCHOOL AND/OR EDUCATIONAL ASSESSMENTS CONDUCTED AT THE SCHOOL IN THE SENDING STATE IF THE COURSES ARE OFFERED. COURSE PLACEMENT INCLUDES BUT IS NOT LIMITED TO HONORS, INTERNATIONAL BACCALAUREATE, ADVANCED PLACEMENT, VOCATIONAL, TECHNICAL AND CAREER PATHWAYS COURSES. CONTINUING THE STUDENT'S ACADEMIC PROGRAM FROM THE PREVIOUS SCHOOL AND PROMOTING PLACEMENT IN ACADEMICALLY AND CAREER CHALLENGING COURSES SHOULD BE PARAMOUNT WHEN CONSIDERING PLACEMENT. THIS DOES NOT PRECLUDE THE SCHOOL IN THE RECEIVING STATE FROM PERFORMING SUBSEQUENT EVALUATIONS TO ENSURE APPROPRIATE PLACEMENT AND CONTINUED ENROLLMENT OF THE STUDENT IN THE COURSES.

B. EDUCATIONAL PROGRAM PLACEMENT – THE RECEIVING STATE SCHOOL SHALL INITIALLY HONOR PLACEMENT OF THE STUDENT IN EDUCATIONAL PROGRAMS BASED ON CURRENT EDUCATIONAL ASSESSMENTS CONDUCTED AT THE SCHOOL IN THE SENDING STATE OR PARTICIPATION/PLACEMENT IN LIKE PROGRAMS IN THE SENDING STATE. SUCH PROGRAMS INCLUDE, BUT ARE NOT LIMITED TO:

1. GIFTED AND TALENTED PROGRAMS; AND

2. ENGLISH AS A SECOND LANGUAGE (ESL).

THIS DOES NOT PRECLUDE THE SCHOOL IN THE RECEIVING STATE FROM PERFORMING SUBSEQUENT EVALUATIONS TO ENSURE APPROPRIATE PLACEMENT OF THE STUDENT.

C. SPECIAL EDUCATION SERVICES –

1. IN COMPLIANCE WITH THE FEDERAL REQUIREMENTS OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA), 20 U.S.C.A. SECTION 1400 ET SEQ., THE RECEIVING STATE SHALL INITIALLY PROVIDE COMPARABLE SERVICES TO A STUDENT WITH DISABILITIES BASED ON THE STUDENT'S CURRENT INDIVIDUALIZED EDUCATION PROGRAM (IEP).

2. IN COMPLIANCE WITH THE REQUIREMENTS OF SECTION 504 OF THE REHABILITATION ACT, 29 U.S.C.A. SECTION 794, AND WITH TITLE II OF THE AMERICANS WITH DISABILITIES ACT, 42 U.S.C.A. SECTIONS 12131–12165, THE RECEIVING STATE SHALL MAKE REASONABLE ACCOMMODATIONS AND MODIFICATIONS TO ADDRESS THE NEEDS OF INCOMING STUDENTS WITH DISABILITIES, SUBJECT TO AN EXISTING 504 OR TITLE II PLAN, TO PROVIDE THE STUDENT WITH EQUAL ACCESS TO EDUCATION. THIS DOES NOT PRECLUDE THE SCHOOL IN THE RECEIVING STATE FROM PERFORMING SUBSEQUENT EVALUATIONS TO ENSURE APPROPRIATE PLACEMENT OF THE STUDENT.

D. PLACEMENT FLEXIBILITY – LOCAL EDUCATION AGENCY ADMINISTRATIVE OFFICIALS SHALL HAVE FLEXIBILITY IN WAIVING COURSE/PROGRAM PREREQUISITES OR OTHER PRECONDITIONS FOR PLACEMENT IN COURSES/PROGRAMS OFFERED UNDER THE JURISDICTION OF THE LOCAL EDUCATION AGENCY.

E. ABSENCE AS RELATED TO DEPLOYMENT ACTIVITIES – A STUDENT WHOSE PARENT OR LEGAL GUARDIAN IS AN ACTIVE DUTY MEMBER OF THE UNIFORMED SERVICES, AS DEFINED BY THE COMPACT, AND HAS BEEN CALLED TO DUTY FOR, IS ON LEAVE FROM, OR IMMEDIATELY RETURNED FROM DEPLOYMENT TO A COMBAT ZONE OR COMBAT SUPPORT POSTING, SHALL BE GRANTED ADDITIONAL EXCUSED ABSENCES AT THE DISCRETION OF THE LOCAL EDUCATION AGENCY SUPERINTENDENT TO VISIT WITH HIS OR HER PARENT OR LEGAL GUARDIAN RELATIVE TO SUCH LEAVE OR DEPLOYMENT OF THE PARENT OR GUARDIAN.

ARTICLE VI

ELIGIBILITY

A. ELIGIBILITY FOR ENROLLMENT –

1. SPECIAL POWER OF ATTORNEY RELATIVE TO THE GUARDIANSHIP OF A CHILD OF A MILITARY FAMILY AND EXECUTED UNDER APPLICABLE LAW SHALL BE SUFFICIENT FOR THE PURPOSES OF ENROLLMENT AND ALL OTHER ACTIONS REQUIRING PARENTAL PARTICIPATION AND CONSENT.

2. A LOCAL EDUCATION AGENCY SHALL BE PROHIBITED FROM CHARGING LOCAL TUITION TO A TRANSITIONING MILITARY CHILD PLACED IN THE CARE OF A NONCUSTODIAL PARENT OR OTHER PERSON STANDING IN LOCO PARENTIS WHO LIVES IN A JURISDICTION OTHER THAN THAT OF THE CUSTODIAL PARENT.

3. A TRANSITIONING MILITARY CHILD PLACED IN THE CARE OF A NONCUSTODIAL PARENT OR OTHER PERSON STANDING IN LOCO PARENTIS WHO LIVES IN A JURISDICTION OTHER THAN THAT OF THE CUSTODIAL PARENT MAY CONTINUE TO ATTEND THE SCHOOL IN WHICH THE CHILD WAS ENROLLED WHILE RESIDING WITH THE CUSTODIAL PARENT.

B. ELIGIBILITY FOR EXTRACURRICULAR PARTICIPATION – STATE AND LOCAL EDUCATION AGENCIES SHALL FACILITATE THE OPPORTUNITY FOR TRANSITIONING MILITARY CHILDREN'S INCLUSION IN EXTRACURRICULAR ACTIVITIES, REGARDLESS OF APPLICATION DEADLINES, TO THE EXTENT THEY ARE OTHERWISE QUALIFIED.

ARTICLE VII

GRADUATION

IN ORDER TO FACILITATE THE ON–TIME GRADUATION OF CHILDREN OF MILITARY FAMILIES, STATES AND LOCAL EDUCATION AGENCIES SHALL INCORPORATE THE FOLLOWING PROCEDURES:

A. WAIVER REQUIREMENTS – LOCAL EDUCATION AGENCY ADMINISTRATIVE OFFICIALS SHALL WAIVE SPECIFIC COURSES REQUIRED FOR GRADUATION IF SIMILAR COURSE WORK HAS BEEN SATISFACTORILY COMPLETED IN ANOTHER LOCAL EDUCATION AGENCY OR SHALL PROVIDE REASONABLE JUSTIFICATION FOR DENIAL. SHOULD A WAIVER NOT BE GRANTED TO A STUDENT WHO WOULD QUALIFY TO GRADUATE FROM THE SENDING SCHOOL, THE LOCAL EDUCATION AGENCY SHALL PROVIDE AN ALTERNATIVE MEANS OF ACQUIRING REQUIRED COURSE WORK SO THAT GRADUATION MAY OCCUR ON TIME;

B. EXIT EXAMS –

1. STATES SHALL ACCEPT:

I. EXIT OR END–OF–COURSE EXAMS REQUIRED FOR GRADUATION FROM THE SENDING STATE;

II. NATIONAL NORM–REFERENCED ACHIEVEMENT TESTS; OR

III. ALTERNATIVE TESTING, IN LIEU OF TESTING REQUIREMENTS FOR GRADUATION IN THE RECEIVING STATE; AND

2. IN THE EVENT THE ABOVE ALTERNATIVES CANNOT BE ACCOMMODATED BY THE RECEIVING STATE FOR A STUDENT TRANSFERRING IN HIS OR HER SENIOR YEAR, THEN THE PROVISIONS OF ARTICLE VII, SECTION C SHALL APPLY; AND

C. TRANSFERS DURING SENIOR YEAR – SHOULD A MILITARY STUDENT TRANSFERRING AT THE BEGINNING OR DURING HIS OR HER SENIOR YEAR BE INELIGIBLE TO GRADUATE FROM THE RECEIVING LOCAL EDUCATION AGENCY AFTER ALL ALTERNATIVES HAVE BEEN CONSIDERED, THE SENDING AND RECEIVING LOCAL EDUCATION AGENCIES SHALL ENSURE THE RECEIPT OF A DIPLOMA FROM THE SENDING LOCAL EDUCATION AGENCY IF THE STUDENT MEETS THE GRADUATION REQUIREMENTS OF THE SENDING LOCAL EDUCATION AGENCY. IN THE EVENT THAT ONE OF THE STATES IN QUESTION IS NOT A MEMBER OF THIS COMPACT, THE MEMBER STATE SHALL USE BEST EFFORTS TO FACILITATE THE ON–TIME GRADUATION OF THE STUDENT IN ACCORDANCE WITH SECTIONS A AND B OF THIS ARTICLE.

ARTICLE VIII

STATE COORDINATION

A. EACH MEMBER STATE SHALL, THROUGH THE CREATION OF A STATE COUNCIL OR USE OF AN EXISTING BODY OR BOARD, PROVIDE FOR THE COORDINATION AMONG ITS AGENCIES OF GOVERNMENT, LOCAL EDUCATION AGENCIES, AND MILITARY INSTALLATIONS CONCERNING THE STATE'S PARTICIPATION IN AND COMPLIANCE WITH THIS COMPACT AND INTERSTATE COMMISSION ACTIVITIES. WHILE EACH MEMBER STATE MAY DETERMINE THE MEMBERSHIP OF ITS OWN STATE COUNCIL, ITS MEMBERSHIP MUST INCLUDE AT LEAST THE STATE SUPERINTENDENT OF SCHOOLS, A SUPERINTENDENT OF A SCHOOL DISTRICT WITH A HIGH CONCENTRATION OF MILITARY CHILDREN, A REPRESENTATIVE FROM A MILITARY INSTALLATION, ONE REPRESENTATIVE EACH FROM THE LEGISLATIVE AND EXECUTIVE BRANCHES OF GOVERNMENT,

AND REPRESENTATIVES OF OTHER OFFICES AND STAKEHOLDER GROUPS THE STATE COUNCIL DEEMS APPROPRIATE. A MEMBER STATE THAT DOES NOT HAVE A SCHOOL DISTRICT DEEMED TO CONTAIN A HIGH CONCENTRATION OF MILITARY CHILDREN MAY APPOINT A SUPERINTENDENT FROM ANOTHER SCHOOL DISTRICT TO REPRESENT LOCAL EDUCATION AGENCIES ON THE STATE COUNCIL.

B. 1. THE STATE COUNCIL OF EACH MEMBER STATE SHALL APPOINT OR DESIGNATE A MILITARY FAMILY EDUCATION LIAISON ~~TO BE LOCATED IN THE MARYLAND STATE DEPARTMENT OF EDUCATION~~ TO ASSIST MILITARY FAMILIES AND THE STATE IN FACILITATING THE IMPLEMENTATION OF THIS COMPACT.

2. IN MARYLAND, THE MILITARY FAMILY EDUCATION LIAISON SHALL BE LOCATED IN THE MARYLAND STATE DEPARTMENT OF EDUCATION.

C. THE COMPACT COMMISSIONER RESPONSIBLE FOR THE ADMINISTRATION AND MANAGEMENT OF THE STATE'S PARTICIPATION IN THE COMPACT SHALL BE APPOINTED BY THE GOVERNOR IN CONSULTATION WITH THE STATE SUPERINTENDENT OF SCHOOLS.

D. THE COMPACT COMMISSIONER AND THE MILITARY FAMILY EDUCATION LIAISON DESIGNATED HEREIN SHALL BE EX OFFICIO MEMBERS OF THE STATE COUNCIL, UNLESS EITHER IS ALREADY A FULL VOTING MEMBER OF THE STATE COUNCIL.

ARTICLE IX

INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

A. THE MEMBER STATES HEREBY CREATE THE "INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN". THE ACTIVITIES OF THE INTERSTATE COMMISSION ARE THE FORMATION OF PUBLIC POLICY AND ARE A DISCRETIONARY STATE FUNCTION.

B. THE INTERSTATE COMMISSION SHALL:

1. BE A BODY CORPORATE AND JOINT AGENCY OF THE MEMBER STATES AND SHALL HAVE ALL THE RESPONSIBILITIES, POWERS, AND DUTIES SET FORTH HEREIN, AND SUCH ADDITIONAL POWERS AS MAY BE CONFERRED UPON IT BY A SUBSEQUENT CONCURRENT ACTION OF THE RESPECTIVE LEGISLATURES OF THE MEMBER STATES IN ACCORDANCE WITH THE TERMS OF THIS COMPACT; AND

2. CONSIST OF ONE INTERSTATE COMMISSION VOTING REPRESENTATIVE FROM EACH MEMBER STATE WHO SHALL BE THAT STATE'S COMPACT COMMISSIONER.

C. 1. EACH MEMBER STATE REPRESENTED AT A MEETING OF THE INTERSTATE COMMISSION IS ENTITLED TO ONE VOTE.

2. A MAJORITY OF THE TOTAL MEMBER STATES SHALL CONSTITUTE A QUORUM FOR THE TRANSACTION OF BUSINESS UNLESS A LARGER QUORUM IS REQUIRED BY THE BYLAWS OF THE INTERSTATE COMMISSION.

3. A REPRESENTATIVE SHALL NOT DELEGATE A VOTE TO ANOTHER MEMBER STATE. IN THE EVENT THE COMPACT COMMISSIONER IS UNABLE TO ATTEND A MEETING OF THE INTERSTATE COMMISSION, THE GOVERNOR OR STATE COUNCIL MAY DELEGATE VOTING AUTHORITY TO ANOTHER PERSON FROM THEIR STATE FOR A SPECIFIED MEETING.

4. THE BYLAWS MAY PROVIDE FOR MEETINGS OF THE INTERSTATE COMMISSION TO BE CONDUCTED BY TELECOMMUNICATION OR ELECTRONIC COMMUNICATION.

D. THE INTERSTATE COMMISSION SHALL:

1. CONSIST OF EX OFFICIO, NONVOTING REPRESENTATIVES WHO ARE MEMBERS OF INTERESTED ORGANIZATIONS. SUCH EX OFFICIO MEMBERS, AS DEFINED IN THE BYLAWS, MAY INCLUDE BUT NOT BE LIMITED TO, MEMBERS OF THE REPRESENTATIVE ORGANIZATIONS OF MILITARY FAMILY ADVOCATES, LOCAL EDUCATION AGENCY OFFICIALS, PARENT AND TEACHER GROUPS, THE U.S. DEPARTMENT OF DEFENSE, THE EDUCATION COMMISSION OF THE STATES, THE INTERSTATE AGREEMENT ON THE QUALIFICATION OF EDUCATIONAL PERSONNEL, AND OTHER INTERSTATE COMPACTS AFFECTING THE EDUCATION OF CHILDREN OF MILITARY MEMBERS;

2. MEET AT LEAST ONCE EACH CALENDAR YEAR. THE CHAIRPERSON MAY CALL ADDITIONAL MEETINGS AND, UPON THE REQUEST OF A SIMPLE MAJORITY OF THE MEMBER STATES, SHALL CALL ADDITIONAL MEETINGS;

3. ESTABLISH AN EXECUTIVE COMMITTEE, WHOSE MEMBERS SHALL INCLUDE THE OFFICERS OF THE INTERSTATE COMMISSION AND SUCH OTHER MEMBERS OF THE INTERSTATE COMMISSION AS DETERMINED BY THE BYLAWS. MEMBERS OF THE EXECUTIVE COMMITTEE SHALL SERVE A 1–YEAR

TERM. MEMBERS OF THE EXECUTIVE COMMITTEE SHALL BE ENTITLED TO ONE VOTE EACH. THE EXECUTIVE COMMITTEE SHALL HAVE THE POWER TO ACT ON BEHALF OF THE INTERSTATE COMMISSION, WITH THE EXCEPTION OF RULEMAKING, DURING PERIODS WHEN THE INTERSTATE COMMISSION IS NOT IN SESSION. THE EXECUTIVE COMMITTEE SHALL OVERSEE THE DAY–TO–DAY ACTIVITIES OF THE ADMINISTRATION OF THE COMPACT INCLUDING ENFORCEMENT AND COMPLIANCE WITH THE PROVISIONS OF THE COMPACT, ITS BYLAWS AND RULES, AND OTHER SUCH DUTIES AS DEEMED NECESSARY. THE U.S. DEPARTMENT OF DEFENSE SHALL SERVE AS AN EX OFFICIO, NONVOTING MEMBER OF THE EXECUTIVE COMMITTEE;

4. ESTABLISH BYLAWS AND RULES THAT PROVIDE FOR CONDITIONS AND PROCEDURES UNDER WHICH THE INTERSTATE COMMISSION SHALL MAKE ITS INFORMATION AND OFFICIAL RECORDS AVAILABLE TO THE PUBLIC FOR INSPECTION OR COPYING. THE INTERSTATE COMMISSION MAY EXEMPT FROM DISCLOSURE INFORMATION OR OFFICIAL RECORDS TO THE EXTENT THEY WOULD ADVERSELY AFFECT PERSONAL PRIVACY RIGHTS OR PROPRIETARY INTERESTS;

5. GIVE PUBLIC NOTICE OF ALL MEETINGS AND ALL MEETINGS SHALL BE OPEN TO THE PUBLIC, EXCEPT AS SET FORTH IN THE RULES OR AS OTHERWISE PROVIDED IN THE COMPACT. THE INTERSTATE COMMISSION AND ITS COMMITTEES MAY CLOSE A MEETING, OR PORTION THEREOF, WHERE IT DETERMINES BY TWO–THIRDS VOTE THAT AN OPEN MEETING WOULD BE LIKELY TO:

I. RELATE SOLELY TO THE INTERSTATE COMMISSION'S INTERNAL PERSONNEL PRACTICES AND PROCEDURES;

II. DISCLOSE MATTERS SPECIFICALLY EXEMPTED FROM DISCLOSURE BY FEDERAL AND STATE STATUTE;

III. DISCLOSE TRADE SECRETS OR COMMERCIAL OR FINANCIAL INFORMATION WHICH IS PRIVILEGED OR CONFIDENTIAL;

IV. INVOLVE ACCUSING A PERSON OF A CRIME OR FORMALLY CENSURING A PERSON;

V. DISCLOSE INFORMATION OF A PERSONAL NATURE WHERE DISCLOSURE WOULD CONSTITUTE A CLEARLY UNWARRANTED INVASION OF PERSONAL PRIVACY;

VI. DISCLOSE INVESTIGATIVE RECORDS COMPILED FOR LAW ENFORCEMENT PURPOSES; OR

VII. SPECIFICALLY RELATE TO THE INTERSTATE COMMISSION'S PARTICIPATION IN A CIVIL ACTION OR OTHER LEGAL PROCEEDING;

6. CAUSE ITS LEGAL COUNSEL OR DESIGNEE TO CERTIFY THAT A MEETING MAY BE CLOSED AND SHALL REFERENCE EACH RELEVANT EXEMPTIBLE PROVISION FOR ANY MEETING, OR PORTION OF A MEETING, THAT IS CLOSED PURSUANT TO THIS PROVISION. THE INTERSTATE COMMISSION SHALL KEEP MINUTES THAT SHALL FULLY AND CLEARLY DESCRIBE ALL MATTERS DISCUSSED IN A MEETING AND SHALL PROVIDE A FULL AND ACCURATE SUMMARY OF ACTIONS TAKEN, AND THE REASONS THEREFOR, INCLUDING A DESCRIPTION OF THE VIEWS EXPRESSED AND THE RECORD OF A ROLL CALL VOTE. ALL DOCUMENTS CONSIDERED IN CONNECTION WITH AN ACTION SHALL BE IDENTIFIED IN SUCH MINUTES. ALL MINUTES AND DOCUMENTS OF A CLOSED MEETING SHALL REMAIN UNDER SEAL, SUBJECT TO RELEASE BY A MAJORITY VOTE OF THE INTERSTATE COMMISSION;

7. COLLECT STANDARDIZED DATA WHEN POSSIBLE CONCERNING THE EDUCATIONAL TRANSITION OF THE CHILDREN OF MILITARY FAMILIES UNDER THIS COMPACT AS DIRECTED THROUGH ITS RULES THAT SHALL SPECIFY THE DATA TO BE COLLECTED, THE MEANS OF COLLECTION, AND DATA EXCHANGE AND REPORTING REQUIREMENTS. SUCH METHODS OF DATA COLLECTION, EXCHANGE, AND REPORTING SHALL, IN SO FAR AS IS REASONABLY POSSIBLE, CONFORM TO CURRENT TECHNOLOGY AND COORDINATE ITS INFORMATION FUNCTIONS WITH THE APPROPRIATE CUSTODIAN OF RECORDS AS IDENTIFIED IN THE BYLAWS AND RULES; AND

8. CREATE A PROCESS THAT PERMITS MILITARY OFFICIALS, EDUCATION OFFICIALS, AND PARENTS TO INFORM THE INTERSTATE COMMISSION IF AND WHEN THERE ARE ALLEGED VIOLATIONS OF THE COMPACT OR ITS RULES OR WHEN ISSUES SUBJECT TO THE JURISDICTION OF THE COMPACT OR ITS RULES ARE NOT ADDRESSED BY THE STATE OR LOCAL EDUCATION AGENCY. THIS SECTION SHALL NOT BE CONSTRUED TO CREATE A PRIVATE RIGHT OF ACTION AGAINST THE INTERSTATE COMMISSION OR ANY MEMBER STATE.

ARTICLE X

POWERS AND DUTIES OF THE INTERSTATE COMMISSION

THE INTERSTATE COMMISSION SHALL HAVE THE FOLLOWING POWERS:

A. TO PROVIDE FOR DISPUTE RESOLUTION AMONG MEMBER STATES;

B. TO PROMULGATE RULES AND TAKE ALL NECESSARY ACTIONS TO EFFECT THE GOALS, PURPOSES, AND OBLIGATIONS AS ENUMERATED IN THIS COMPACT. THE RULES SHALL HAVE THE FORCE AND EFFECT OF STATUTORY LAW AND SHALL BE BINDING IN THE COMPACT STATES TO THE EXTENT AND IN THE MANNER PROVIDED IN THIS COMPACT;

C. TO ISSUE, UPON REQUEST OF A MEMBER STATE, ADVISORY OPINIONS CONCERNING THE MEANING OR INTERPRETATION OF THE INTERSTATE COMPACT, ITS BYLAWS, RULES, AND ACTIONS;

D. TO ENFORCE COMPLIANCE WITH THE COMPACT PROVISIONS, THE RULES PROMULGATED BY THE INTERSTATE COMMISSION, AND THE BYLAWS, USING ALL NECESSARY AND PROPER MEANS, INCLUDING BUT NOT LIMITED TO THE USE OF JUDICIAL PROCESS;

E. TO ESTABLISH AND MAINTAIN OFFICES THAT SHALL BE LOCATED WITHIN ONE OR MORE OF THE MEMBER STATES;

F. TO PURCHASE AND MAINTAIN INSURANCE AND BONDS;

G. TO BORROW, ACCEPT, HIRE, OR CONTRACT FOR SERVICES OF PERSONNEL;

H. TO ESTABLISH AND APPOINT COMMITTEES, INCLUDING BUT NOT LIMITED TO AN EXECUTIVE COMMITTEE AS REQUIRED BY ARTICLE IX, SECTION D, THAT SHALL HAVE THE POWER TO ACT ON BEHALF OF THE INTERSTATE COMMISSION IN CARRYING OUT ITS POWERS AND DUTIES HEREUNDER;

I. TO ELECT OR APPOINT SUCH OFFICERS, ATTORNEYS, EMPLOYEES, AGENTS, OR CONSULTANTS, AND TO FIX THEIR COMPENSATION, DEFINE THEIR DUTIES, DETERMINE THEIR QUALIFICATIONS, AND TO ESTABLISH THE INTERSTATE COMMISSION'S PERSONNEL POLICIES AND PROGRAMS RELATING TO CONFLICTS OF INTEREST, RATES OF COMPENSATION, AND QUALIFICATIONS OF PERSONNEL;

J. TO ACCEPT ANY AND ALL DONATIONS AND GRANTS OF MONEY, EQUIPMENT, SUPPLIES, MATERIALS, AND SERVICES, AND TO RECEIVE, UTILIZE, AND DISPOSE OF THEM;

K. TO LEASE, PURCHASE, ACCEPT CONTRIBUTIONS OR DONATIONS OF, OR OTHERWISE TO OWN, HOLD, IMPROVE, OR USE ANY PROPERTY, REAL, PERSONAL, OR MIXED;

L. TO SELL, CONVEY, MORTGAGE, PLEDGE, LEASE, EXCHANGE, ABANDON, OR OTHERWISE DISPOSE OF ANY PROPERTY, REAL, PERSONAL, OR MIXED;

M. TO ESTABLISH A BUDGET AND MAKE EXPENDITURES;

N. TO ADOPT A SEAL AND BYLAWS GOVERNING THE MANAGEMENT AND OPERATION OF THE INTERSTATE COMMISSION;

O. TO REPORT ANNUALLY TO THE LEGISLATURES, GOVERNORS, JUDICIARY, AND STATE COUNCILS OF THE MEMBER STATES CONCERNING THE ACTIVITIES OF THE INTERSTATE COMMISSION DURING THE PRECEDING YEAR. SUCH REPORTS SHALL ALSO INCLUDE ANY RECOMMENDATIONS THAT MAY HAVE BEEN ADOPTED BY THE INTERSTATE COMMISSION;

P. TO COORDINATE EDUCATION, TRAINING, AND PUBLIC AWARENESS REGARDING THE COMPACT, ITS IMPLEMENTATION, AND OPERATION FOR OFFICIALS AND PARENTS INVOLVED IN SUCH ACTIVITY;

Q. TO ESTABLISH UNIFORM STANDARDS FOR THE REPORTING, COLLECTING, AND EXCHANGING OF DATA;

R. TO MAINTAIN CORPORATE BOOKS AND RECORDS IN ACCORDANCE WITH THE BYLAWS;

S. TO PERFORM SUCH FUNCTIONS AS MAY BE NECESSARY OR APPROPRIATE TO ACHIEVE THE PURPOSES OF THIS COMPACT; AND

T. TO PROVIDE FOR THE UNIFORM COLLECTION AND SHARING OF INFORMATION BETWEEN AND AMONG MEMBER STATES, SCHOOLS, AND MILITARY FAMILIES UNDER THIS COMPACT.

ARTICLE XI

ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

A. THE INTERSTATE COMMISSION SHALL, BY A MAJORITY OF THE MEMBERS PRESENT AND VOTING, WITHIN 12 MONTHS AFTER THE FIRST INTERSTATE COMMISSION MEETING, ADOPT BYLAWS TO GOVERN ITS CONDUCT AS MAY BE NECESSARY OR APPROPRIATE TO CARRY OUT THE PURPOSES OF THE COMPACT, INCLUDING BUT NOT LIMITED TO:

1. ESTABLISHING THE FISCAL YEAR OF THE INTERSTATE COMMISSION;

2. ESTABLISHING AN EXECUTIVE COMMITTEE AND SUCH OTHER COMMITTEES AS MAY BE NECESSARY;

3. PROVIDING FOR THE ESTABLISHMENT OF COMMITTEES AND FOR GOVERNING ANY GENERAL OR SPECIFIC DELEGATION OF AUTHORITY OR FUNCTION OF THE INTERSTATE COMMISSION;

4. PROVIDING REASONABLE PROCEDURES FOR CALLING AND CONDUCTING MEETINGS OF THE INTERSTATE COMMISSION AND ENSURING REASONABLE NOTICE OF EACH SUCH MEETING;

5. ESTABLISHING THE TITLES AND RESPONSIBILITIES OF THE OFFICERS AND STAFF OF THE INTERSTATE COMMISSION;

6. PROVIDING A MECHANISM FOR CONCLUDING THE OPERATIONS OF THE INTERSTATE COMMISSION AND THE RETURN OF SURPLUS FUNDS THAT MAY EXIST UPON THE TERMINATION OF THE COMPACT AFTER THE PAYMENT AND RESERVING OF ALL OF ITS DEBTS AND OBLIGATIONS; AND

7. PROVIDING "START–UP" RULES FOR INITIAL ADMINISTRATION OF THE COMPACT.

B. THE INTERSTATE COMMISSION SHALL, BY A MAJORITY OF THE MEMBERS, ELECT ANNUALLY FROM AMONG ITS MEMBERS A CHAIRPERSON, A VICE–CHAIRPERSON, AND A TREASURER, EACH OF WHOM SHALL HAVE SUCH AUTHORITY AND DUTIES AS MAY BE SPECIFIED IN THE BYLAWS. THE CHAIRPERSON OR, IN THE CHAIRPERSON'S ABSENCE OR DISABILITY, THE VICE–CHAIRPERSON, SHALL PRESIDE AT ALL MEETINGS OF THE INTERSTATE COMMISSION. THE OFFICERS SO ELECTED SHALL SERVE WITHOUT COMPENSATION OR REMUNERATION FROM THE INTERSTATE COMMISSION, PROVIDED THAT, SUBJECT TO THE AVAILABILITY OF BUDGETED FUNDS, THE OFFICERS SHALL BE REIMBURSED FOR ORDINARY AND NECESSARY COSTS AND EXPENSES INCURRED BY THEM IN THE PERFORMANCE OF THEIR RESPONSIBILITIES AS OFFICERS OF THE INTERSTATE COMMISSION.

C. EXECUTIVE COMMITTEE, OFFICERS, AND PERSONNEL –

1. THE EXECUTIVE COMMITTEE SHALL HAVE SUCH AUTHORITY AND DUTIES AS MAY BE SET FORTH IN THE BYLAWS, INCLUDING BUT NOT LIMITED TO:

I. MANAGING THE AFFAIRS OF THE INTERSTATE COMMISSION IN A MANNER CONSISTENT WITH THE BYLAWS AND PURPOSES OF THE INTERSTATE COMMISSION;

II. OVERSEEING AN ORGANIZATIONAL STRUCTURE WITHIN, AND APPROPRIATE PROCEDURES FOR THE INTERSTATE COMMISSION TO PROVIDE FOR THE CREATION OF RULES, OPERATING PROCEDURES, AND ADMINISTRATIVE AND TECHNICAL SUPPORT FUNCTIONS; AND

III. PLANNING, IMPLEMENTING, AND COORDINATING COMMUNICATIONS AND ACTIVITIES WITH OTHER STATE, FEDERAL, AND LOCAL GOVERNMENT ORGANIZATIONS IN ORDER TO ADVANCE THE GOALS OF THE INTERSTATE COMMISSION.

2. THE EXECUTIVE COMMITTEE MAY, SUBJECT TO THE APPROVAL OF THE INTERSTATE COMMISSION, APPOINT OR RETAIN AN EXECUTIVE DIRECTOR FOR SUCH PERIOD, UPON SUCH TERMS AND CONDITIONS AND FOR SUCH COMPENSATION, AS THE INTERSTATE COMMISSION MAY DEEM APPROPRIATE. THE EXECUTIVE DIRECTOR SHALL SERVE AS SECRETARY TO THE INTERSTATE COMMISSION, BUT SHALL NOT BE A MEMBER OF THE INTERSTATE COMMISSION. THE EXECUTIVE DIRECTOR SHALL HIRE AND SUPERVISE SUCH OTHER PERSONS AS MAY BE AUTHORIZED BY THE INTERSTATE COMMISSION.

D. THE INTERSTATE COMMISSION'S EXECUTIVE DIRECTOR AND ITS EMPLOYEES SHALL BE IMMUNE FROM SUIT AND LIABILITY, EITHER PERSONALLY OR IN THEIR OFFICIAL CAPACITY, FOR A CLAIM FOR DAMAGE TO OR LOSS OF PROPERTY OR PERSONAL INJURY OR OTHER CIVIL LIABILITY CAUSED OR ARISING OUT OF OR RELATING TO AN ACTUAL OR ALLEGED ACT, ERROR, OR OMISSION THAT OCCURRED, OR THAT SUCH PERSON HAD A REASONABLE BASIS FOR BELIEVING OCCURRED, WITHIN THE SCOPE OF INTERSTATE COMMISSION EMPLOYMENT, DUTIES, OR RESPONSIBILITIES, PROVIDED THAT SUCH PERSON SHALL NOT BE PROTECTED FROM SUIT OR LIABILITY FOR DAMAGE, LOSS, INJURY, OR LIABILITY CAUSED BY THE INTENTIONAL OR WILLFUL AND WANTON MISCONDUCT OF SUCH PERSON.

1. THE LIABILITY OF THE INTERSTATE COMMISSION'S EXECUTIVE DIRECTOR AND EMPLOYEES OR INTERSTATE COMMISSION REPRESENTATIVES, ACTING WITHIN THE SCOPE OF SUCH PERSON'S EMPLOYMENT OR DUTIES FOR ACTS, ERRORS, OR OMISSIONS OCCURRING WITHIN SUCH PERSON'S STATE MAY NOT EXCEED THE LIMITS OF LIABILITY SET FORTH UNDER THE CONSTITUTION AND LAWS OF THAT STATE FOR STATE OFFICIALS, EMPLOYEES, AND AGENTS. THE INTERSTATE COMMISSION IS CONSIDERED TO BE AN INSTRUMENTALITY OF THE STATES FOR THE PURPOSES OF ANY SUCH ACTION. NOTHING IN THIS SUBSECTION SHALL BE CONSTRUED TO

PROTECT SUCH PERSON FROM SUIT OR LIABILITY FOR DAMAGE, LOSS, INJURY, OR LIABILITY CAUSED BY THE INTENTIONAL OR WILLFUL AND WANTON MISCONDUCT OF SUCH PERSON.

2. THE INTERSTATE COMMISSION SHALL DEFEND THE EXECUTIVE DIRECTOR AND ITS EMPLOYEES AND, SUBJECT TO THE APPROVAL OF THE ATTORNEY GENERAL OR OTHER APPROPRIATE LEGAL COUNSEL OF THE MEMBER STATE REPRESENTED BY AN INTERSTATE COMMISSION REPRESENTATIVE, SHALL DEFEND SUCH INTERSTATE COMMISSION REPRESENTATIVE IN ANY CIVIL ACTION SEEKING TO IMPOSE LIABILITY ARISING OUT OF AN ACTUAL OR ALLEGED ACT, ERROR, OR OMISSION THAT OCCURRED WITHIN THE SCOPE OF INTERSTATE COMMISSION EMPLOYMENT, DUTIES, OR RESPONSIBILITIES, OR THAT THE DEFENDANT HAD A REASONABLE BASIS FOR BELIEVING OCCURRED WITHIN THE SCOPE OF INTERSTATE COMMISSION EMPLOYMENT, DUTIES, OR RESPONSIBILITIES, PROVIDED THAT THE ACTUAL OR ALLEGED ACT, ERROR, OR OMISSION DID NOT RESULT FROM INTENTIONAL OR WILLFUL AND WANTON MISCONDUCT ON THE PART OF SUCH PERSON.

3. TO THE EXTENT NOT COVERED BY THE STATE INVOLVED, MEMBER STATE, OR THE INTERSTATE COMMISSION, THE REPRESENTATIVES OR EMPLOYEES OF THE INTERSTATE COMMISSION SHALL BE HELD HARMLESS IN THE AMOUNT OF A SETTLEMENT OR JUDGMENT, INCLUDING ATTORNEY'S FEES AND COSTS, OBTAINED AGAINST SUCH PERSONS ARISING OUT OF AN ACTUAL OR ALLEGED ACT, ERROR, OR OMISSION THAT OCCURRED WITHIN THE SCOPE OF INTERSTATE COMMISSION EMPLOYMENT, DUTIES, OR RESPONSIBILITIES, OR THAT SUCH PERSONS HAD A REASONABLE BASIS FOR BELIEVING OCCURRED WITHIN THE SCOPE OF INTERSTATE COMMISSION EMPLOYMENT, DUTIES, OR RESPONSIBILITIES, PROVIDED THAT THE ACTUAL OR ALLEGED ACT, ERROR, OR OMISSION DID NOT RESULT FROM INTENTIONAL OR WILLFUL AND WANTON MISCONDUCT ON THE PART OF SUCH PERSONS.

ARTICLE XII

RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

A. RULEMAKING AUTHORITY. THE INTERSTATE COMMISSION SHALL PROMULGATE REASONABLE RULES IN ORDER TO EFFECTIVELY AND EFFICIENTLY ACHIEVE THE PURPOSES OF THIS COMPACT. NOTWITHSTANDING THE FOREGOING, IN THE EVENT THE INTERSTATE COMMISSION EXERCISES ITS RULEMAKING AUTHORITY IN A MANNER THAT IS BEYOND THE SCOPE OF THE PURPOSES OF THIS ACT, OR THE POWERS GRANTED HEREUNDER, THEN SUCH AN ACTION BY THE INTERSTATE COMMISSION SHALL BE INVALID AND HAVE NO FORCE AND EFFECT.

B. RULEMAKING PROCEDURE. RULES SHALL BE MADE PURSUANT TO A RULEMAKING PROCESS THAT SUBSTANTIALLY CONFORMS TO THE "MODEL STATE ADMINISTRATIVE PROCEDURE ACT" OF 1981, UNIFORM LAWS ANNOTATED, VOL. 15, P.1 (2000), AS AMENDED, AS MAY BE APPROPRIATE TO THE OPERATIONS OF THE INTERSTATE COMMISSION.

C. JUDICIAL REVIEW. NOT LATER THAN 30 DAYS AFTER A RULE IS PROMULGATED, ANY PERSON MAY FILE A PETITION FOR JUDICIAL REVIEW OF THE RULE, PROVIDED THAT THE FILING OF SUCH A PETITION SHALL NOT STAY OR OTHERWISE PREVENT THE RULE FROM BECOMING EFFECTIVE UNLESS THE COURT FINDS THAT THE PETITIONER HAS A SUBSTANTIAL LIKELIHOOD OF SUCCESS. THE COURT SHALL GIVE DEFERENCE TO THE ACTIONS OF THE INTERSTATE COMMISSION CONSISTENT WITH APPLICABLE LAW AND SHALL NOT FIND THE RULE TO BE UNLAWFUL IF THE RULE REPRESENTS A REASONABLE EXERCISE OF THE INTERSTATE COMMISSION'S AUTHORITY.

D. REJECTION OF RULES. IF A MAJORITY OF THE LEGISLATURES OF THE COMPACTING STATES REJECTS A RULE BY ENACTMENT OF A STATUTE OR RESOLUTION IN THE SAME MANNER USED TO ADOPT THE COMPACT, THEN SUCH RULE SHALL HAVE NO FURTHER FORCE AND EFFECT IN ANY COMPACTING STATE.

ARTICLE XIII

OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

A. OVERSIGHT.

1. THE EXECUTIVE, LEGISLATIVE, AND JUDICIAL BRANCHES OF STATE GOVERNMENT IN EACH MEMBER STATE SHALL ENFORCE THIS COMPACT AND SHALL TAKE ALL ACTIONS NECESSARY AND APPROPRIATE TO EFFECTUATE THE COMPACT'S PURPOSES AND INTENT. THE PROVISIONS OF THIS COMPACT AND THE RULES PROMULGATED HEREUNDER SHALL HAVE STANDING AS STATUTORY LAW.

2. ALL COURTS SHALL TAKE JUDICIAL NOTICE OF THE COMPACT AND THE RULES IN ANY JUDICIAL OR ADMINISTRATIVE PROCEEDING IN A MEMBER STATE PERTAINING TO THE SUBJECT MATTER OF THIS COMPACT THAT MAY AFFECT THE POWERS, RESPONSIBILITIES, OR ACTIONS OF THE INTERSTATE COMMISSION.

3. THE INTERSTATE COMMISSION SHALL BE ENTITLED TO RECEIVE ALL SERVICE OF PROCESS IN ANY SUCH PROCEEDING AND SHALL HAVE STANDING TO INTERVENE IN THE PROCEEDING FOR ALL PURPOSES. FAILURE

TO PROVIDE SERVICE OF PROCESS TO THE INTERSTATE COMMISSION SHALL RENDER A JUDGMENT OR ORDER VOID AS TO THE INTERSTATE COMMISSION, THIS COMPACT, OR ITS PROMULGATED RULES.

B. DEFAULT, TECHNICAL ASSISTANCE, SUSPENSION AND TERMINATION. IF THE INTERSTATE COMMISSION DETERMINES THAT A MEMBER STATE HAS DEFAULTED IN THE PERFORMANCE OF ITS OBLIGATIONS OR RESPONSIBILITIES UNDER THIS COMPACT OR ITS BYLAWS OR PROMULGATED RULES, THE INTERSTATE COMMISSION SHALL:

1. PROVIDE WRITTEN NOTICE TO THE DEFAULTING STATE AND OTHER MEMBER STATES OF THE NATURE OF THE DEFAULT, THE MEANS OF CURING THE DEFAULT, AND ANY ACTION TAKEN BY THE INTERSTATE COMMISSION. THE INTERSTATE COMMISSION SHALL SPECIFY THE CONDITIONS BY WHICH THE DEFAULTING STATE MUST CURE ITS DEFAULT; AND

2. PROVIDE REMEDIAL TRAINING AND SPECIFIC TECHNICAL ASSISTANCE REGARDING THE DEFAULT.

C. IF THE DEFAULTING STATE FAILS TO CURE THE DEFAULT, THE DEFAULTING STATE SHALL BE TERMINATED FROM THE COMPACT UPON AN AFFIRMATIVE VOTE OF A MAJORITY OF THE MEMBER STATES AND ALL RIGHTS, PRIVILEGES, AND BENEFITS CONFERRED BY THIS COMPACT SHALL BE TERMINATED FROM THE EFFECTIVE DATE OF TERMINATION. A CURE OF THE DEFAULT DOES NOT RELIEVE THE OFFENDING STATE OF OBLIGATIONS OR LIABILITIES INCURRED DURING THE PERIOD OF THE DEFAULT.

D. SUSPENSION OR TERMINATION OF MEMBERSHIP IN THE COMPACT SHALL BE IMPOSED ONLY AFTER ALL OTHER MEANS OF SECURING COMPLIANCE HAVE BEEN EXHAUSTED. NOTICE OF INTENT TO SUSPEND OR TERMINATE SHALL BE GIVEN BY THE INTERSTATE COMMISSION TO THE GOVERNOR, THE MAJORITY AND MINORITY LEADERS OF THE DEFAULTING STATE'S LEGISLATURE, AND EACH OF THE MEMBER STATES.

E. THE STATE THAT HAS BEEN SUSPENDED OR TERMINATED IS RESPONSIBLE FOR ALL ASSESSMENTS, OBLIGATIONS, AND LIABILITIES INCURRED THROUGH THE EFFECTIVE DATE OF SUSPENSION OR TERMINATION INCLUDING OBLIGATIONS, THE PERFORMANCE OF WHICH EXTENDS BEYOND THE EFFECTIVE DATE OF SUSPENSION OR TERMINATION.

F. THE INTERSTATE COMMISSION SHALL NOT BEAR ANY COSTS RELATING TO ANY STATE THAT HAS BEEN FOUND TO BE IN DEFAULT OR THAT HAS BEEN SUSPENDED OR TERMINATED FROM THE COMPACT, UNLESS

OTHERWISE MUTUALLY AGREED UPON IN WRITING BETWEEN THE INTERSTATE COMMISSION AND THE DEFAULTING STATE.

G. THE DEFAULTING STATE MAY APPEAL THE ACTION OF THE INTERSTATE COMMISSION BY PETITIONING THE U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA OR THE FEDERAL DISTRICT WHERE THE INTERSTATE COMMISSION HAS ITS PRINCIPAL OFFICES. THE PREVAILING PARTY SHALL BE AWARDED ALL COSTS OF SUCH LITIGATION INCLUDING REASONABLE ATTORNEY'S FEES.

H. DISPUTE RESOLUTION.

1. THE INTERSTATE COMMISSION SHALL ATTEMPT, UPON THE REQUEST OF A MEMBER STATE, TO RESOLVE DISPUTES THAT ARE SUBJECT TO THE COMPACT AND THAT MAY ARISE AMONG MEMBER STATES AND BETWEEN MEMBER AND NONMEMBER STATES.

2. THE INTERSTATE COMMISSION SHALL PROMULGATE A RULE PROVIDING FOR BOTH MEDIATION AND BINDING DISPUTE RESOLUTION FOR DISPUTES AS APPROPRIATE.

I. ENFORCEMENT.

1. THE INTERSTATE COMMISSION, IN THE REASONABLE EXERCISE OF ITS DISCRETION, SHALL ENFORCE THE PROVISIONS AND RULES OF THIS COMPACT.

2. THE INTERSTATE COMMISSION MAY, BY MAJORITY VOTE OF THE MEMBERS, INITIATE LEGAL ACTION IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA OR, AT THE DISCRETION OF THE INTERSTATE COMMISSION, IN THE FEDERAL DISTRICT WHERE THE INTERSTATE COMMISSION HAS ITS PRINCIPAL OFFICES, TO ENFORCE COMPLIANCE WITH THE PROVISIONS OF THE COMPACT AND ITS PROMULGATED RULES AND BYLAWS, AGAINST A MEMBER STATE IN DEFAULT. THE RELIEF SOUGHT MAY INCLUDE BOTH INJUNCTIVE RELIEF AND DAMAGES. IN THE EVENT JUDICIAL ENFORCEMENT IS NECESSARY THE PREVAILING PARTY SHALL BE AWARDED ALL COSTS OF SUCH LITIGATION INCLUDING REASONABLE ATTORNEY'S FEES.

3. THE REMEDIES HEREIN SHALL NOT BE THE EXCLUSIVE REMEDIES OF THE INTERSTATE COMMISSION. THE INTERSTATE COMMISSION MAY AVAIL ITSELF OF ANY OTHER REMEDIES AVAILABLE UNDER STATE LAW OR THE REGULATION OF A PROFESSION.

ARTICLE XIV

FINANCING OF THE INTERSTATE COMMISSION

A. THE INTERSTATE COMMISSION SHALL PAY, OR PROVIDE FOR THE PAYMENT OF THE REASONABLE EXPENSES OF ITS ESTABLISHMENT, ORGANIZATION, AND ONGOING ACTIVITIES.

B. THE INTERSTATE COMMISSION MAY LEVY AND COLLECT AN ANNUAL ASSESSMENT FROM EACH MEMBER STATE TO COVER THE COST OF THE OPERATIONS AND ACTIVITIES OF THE INTERSTATE COMMISSION AND ITS STAFF THAT MUST BE IN A TOTAL AMOUNT SUFFICIENT TO COVER THE INTERSTATE COMMISSION'S ANNUAL BUDGET AS APPROVED EACH YEAR. THE AGGREGATE ANNUAL ASSESSMENT AMOUNT SHALL BE ALLOCATED BASED UPON A FORMULA TO BE DETERMINED BY THE INTERSTATE COMMISSION, WHICH SHALL PROMULGATE A RULE BINDING UPON ALL MEMBER STATES.

C. THE INTERSTATE COMMISSION SHALL NOT INCUR OBLIGATIONS OF ANY KIND PRIOR TO SECURING THE FUNDS ADEQUATE TO MEET THE SAME, NOR SHALL THE INTERSTATE COMMISSION PLEDGE THE CREDIT OF ANY OF THE MEMBER STATES, EXCEPT BY AND WITH THE AUTHORITY OF THE MEMBER STATE.

D. THE INTERSTATE COMMISSION SHALL KEEP ACCURATE ACCOUNTS OF ALL RECEIPTS AND DISBURSEMENTS. THE RECEIPTS AND DISBURSEMENTS OF THE INTERSTATE COMMISSION SHALL BE SUBJECT TO THE AUDIT AND ACCOUNTING PROCEDURES ESTABLISHED UNDER ITS BYLAWS. HOWEVER, ALL RECEIPTS AND DISBURSEMENTS OF FUNDS HANDLED BY THE INTERSTATE COMMISSION SHALL BE AUDITED YEARLY BY A CERTIFIED OR LICENSED PUBLIC ACCOUNTANT AND THE REPORT OF THE AUDIT SHALL BE INCLUDED IN AND BECOME PART OF THE ANNUAL REPORT OF THE INTERSTATE COMMISSION.

ARTICLE XV

MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

A. ANY STATE IS ELIGIBLE TO BECOME A MEMBER STATE.

B. THE COMPACT SHALL BECOME EFFECTIVE AND BINDING UPON LEGISLATIVE ENACTMENT OF THE COMPACT INTO LAW BY NO LESS THAN TEN OF THE STATES. THE EFFECTIVE DATE SHALL BE NO EARLIER THAN DECEMBER 1, 2007. THEREAFTER IT SHALL BECOME EFFECTIVE AND BINDING AS TO ANY OTHER MEMBER STATE UPON ENACTMENT OF THE COMPACT INTO LAW BY THAT STATE. THE GOVERNORS OF NONMEMBER STATES OR THEIR DESIGNEES SHALL BE INVITED TO PARTICIPATE IN THE ACTIVITIES OF THE INTERSTATE

COMMISSION ON A NONVOTING BASIS PRIOR TO ADOPTION OF THE COMPACT BY ALL STATES.

C. THE INTERSTATE COMMISSION MAY PROPOSE AMENDMENTS TO THE COMPACT FOR ENACTMENT BY THE MEMBER STATES. NO AMENDMENT SHALL BECOME EFFECTIVE AND BINDING UPON THE INTERSTATE COMMISSION AND THE MEMBER STATES UNLESS AND UNTIL IT IS ENACTED INTO LAW BY UNANIMOUS CONSENT OF THE MEMBER STATES.

ARTICLE XVI

WITHDRAWAL AND DISSOLUTION

A. WITHDRAWAL.

1. ONCE EFFECTIVE, THE COMPACT SHALL CONTINUE IN FORCE AND REMAIN BINDING UPON EACH AND EVERY MEMBER STATE, PROVIDED THAT A MEMBER STATE MAY WITHDRAW FROM THE COMPACT BY SPECIFICALLY REPEALING THE STATUTE WHICH ENACTED THE COMPACT INTO LAW.

2. WITHDRAWAL FROM THIS COMPACT SHALL BE BY THE ENACTMENT OF A STATUTE REPEALING THE SAME, BUT SHALL NOT TAKE EFFECT UNTIL 1 YEAR AFTER THE EFFECTIVE DATE OF SUCH STATUTE AND UNTIL WRITTEN NOTICE OF THE WITHDRAWAL HAS BEEN GIVEN BY THE WITHDRAWING STATE TO THE GOVERNOR OF EACH OTHER MEMBER JURISDICTION.

3. THE WITHDRAWING STATE SHALL IMMEDIATELY NOTIFY THE CHAIRPERSON OF THE INTERSTATE COMMISSION IN WRITING UPON THE INTRODUCTION OF LEGISLATION REPEALING THIS COMPACT IN THE WITHDRAWING STATE. THE INTERSTATE COMMISSION SHALL NOTIFY THE OTHER MEMBER STATES OF THE WITHDRAWING STATE'S INTENT TO WITHDRAW WITHIN 60 DAYS OF ITS RECEIPT THEREOF.

4. THE WITHDRAWING STATE IS RESPONSIBLE FOR ALL ASSESSMENTS, OBLIGATIONS, AND LIABILITIES INCURRED THROUGH THE EFFECTIVE DATE OF WITHDRAWAL, INCLUDING OBLIGATIONS THE PERFORMANCE OF WHICH EXTEND BEYOND THE EFFECTIVE DATE OF WITHDRAWAL.

5. REINSTATEMENT FOLLOWING WITHDRAWAL OF A MEMBER STATE SHALL OCCUR UPON THE WITHDRAWING STATE REENACTING THE COMPACT OR UPON SUCH LATER DATE AS DETERMINED BY THE INTERSTATE COMMISSION.

B. DISSOLUTION OF COMPACT.

1. THIS COMPACT SHALL DISSOLVE EFFECTIVE UPON THE DATE OF THE WITHDRAWAL OR DEFAULT OF THE MEMBER STATE WHICH REDUCES THE MEMBERSHIP IN THE COMPACT TO ONE MEMBER STATE.

2. UPON THE DISSOLUTION OF THIS COMPACT, THE COMPACT BECOMES NULL AND VOID AND SHALL BE OF NO FURTHER FORCE AND EFFECT, AND THE BUSINESS AND AFFAIRS OF THE INTERSTATE COMMISSION SHALL BE CONCLUDED AND SURPLUS FUNDS SHALL BE DISTRIBUTED IN ACCORDANCE WITH THE BYLAWS.

ARTICLE XVII

SEVERABILITY AND CONSTRUCTION

A. THE PROVISIONS OF THIS COMPACT SHALL BE SEVERABLE AND, IF ANY PHRASE, CLAUSE, SENTENCE, OR PROVISION IS DEEMED UNENFORCEABLE, THE REMAINING PROVISIONS OF THE COMPACT SHALL BE ENFORCEABLE.

B. THE PROVISIONS OF THIS COMPACT SHALL BE LIBERALLY CONSTRUED TO EFFECTUATE ITS PURPOSES.

C. NOTHING IN THIS COMPACT SHALL BE CONSTRUED TO PROHIBIT THE APPLICABILITY OF OTHER INTERSTATE COMPACTS TO WHICH THE STATES ARE MEMBERS.

ARTICLE XVIII

BINDING EFFECT OF COMPACT AND OTHER LAWS

A. OTHER LAWS.

1. NOTHING HEREIN PREVENTS THE ENFORCEMENT OF ANY OTHER LAW OF A MEMBER STATE THAT IS NOT INCONSISTENT WITH THIS COMPACT.

2. ALL MEMBER STATES' LAWS CONFLICTING WITH THIS COMPACT ARE SUPERSEDED TO THE EXTENT OF THE CONFLICT.

B. BINDING EFFECT OF THE COMPACT.

1. ALL LAWFUL ACTIONS OF THE INTERSTATE COMMISSION, INCLUDING ALL RULES AND BYLAWS PROMULGATED BY THE INTERSTATE COMMISSION, ARE BINDING UPON THE MEMBER STATES.

2. ALL AGREEMENTS BETWEEN THE INTERSTATE COMMISSION AND THE MEMBER STATES ARE BINDING IN ACCORDANCE WITH THEIR TERMS.

3. IN THE EVENT ANY PROVISION OF THIS COMPACT EXCEEDS THE CONSTITUTIONAL LIMITS IMPOSED ON THE LEGISLATURE OF ANY MEMBER STATE, SUCH PROVISION SHALL BE INEFFECTIVE TO THE EXTENT OF THE CONFLICT WITH THE CONSTITUTIONAL PROVISION IN QUESTION IN THAT MEMBER STATE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not take effect until the enactment of a similar Act by no fewer than 10 of the states; that no fewer than 10 states are requested to concur in this Act of the General Assembly of Maryland by the passage of a similar Act; that the Department of Legislative Services shall notify the appropriate officials of the passage of this Act; and that upon concurrence in this Act by no fewer than 10 states, 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 Director of the Department of Legislative Services.

SECTION 3. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section 2 of this Act, this Act shall take effect July 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 503

(Senate Bill 303)

AN ACT concerning

Silver Alert Program – Establishment

FOR the purpose of requiring the Department of State Police to establish a Silver Alert Program to disseminate information to assist in locating certain missing persons who suffer certain impairments; requiring the Department to adopt guidelines and develop procedures for issuing a Silver Alert for a certain missing person; requiring the Department to provide training to local law enforcement agencies on the guidelines and procedures to be used to handle a report of a certain missing person; requiring the Department to provide assistance to a local law enforcement agency as necessary to assist in the safe

recovery of certain missing persons; requiring the Department to recruit certain persons to assist in developing and implementing the Silver Alert Program; requiring the Department to consult with the State Highway Administration to establish a certain plan for providing information to the public; requiring the Department to consult with the State ~~Board~~ Department of Education to develop a program ~~to allow high school students to assist in the search for a missing person and receive student service credit~~ that meets certain requirements; requiring a certain person to notify a certain local law enforcement agency and the Department regarding certain information under certain circumstances; defining certain terms; making this Act subject to a certain contingency; and generally relating to the establishment of a Silver Alert Program.

BY adding to
Article – Public Safety
Section 3–604
Annotated Code of Maryland
(2003 Volume and 2008 Supplement)

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

Article – Public Safety

3–604.

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

(2) "CAREGIVER" MEANS A PARENT, SPOUSE, GUARDIAN, LEGAL CUSTODIAN, OR PERSON RESPONSIBLE FOR THE SUPERVISION OF ANOTHER ADULT.

(3) "LAW ENFORCEMENT AGENCY" MEANS A STATE, COUNTY, OR MUNICIPAL POLICE DEPARTMENT OR AGENCY, OR A SHERIFF'S DEPARTMENT.

(4) "MISSING PERSON" MEANS AN INDIVIDUAL:

(I) WHOSE WHEREABOUTS ARE UNKNOWN;

(II) WHO SUFFERS A COGNITIVE IMPAIRMENT INCLUDING A DIAGNOSIS OF ALZHEIMER'S DISEASE OR DEMENTIA TO THE EXTENT THAT THE INDIVIDUAL REQUIRES ASSISTANCE FROM A CAREGIVER; AND

(III) WHOSE DISAPPEARANCE POSES A CREDIBLE THREAT TO THE HEALTH AND SAFETY OF THE INDIVIDUAL DUE TO AGE, HEALTH, MENTAL

OR PHYSICAL DISABILITY, ENVIRONMENT, OR WEATHER CONDITIONS, AS DETERMINED BY A LAW ENFORCEMENT AGENCY.

(B) (1) THE DEPARTMENT OF STATE POLICE SHALL ESTABLISH A SILVER ALERT PROGRAM TO PROVIDE A SYSTEM FOR RAPID DISSEMINATION OF INFORMATION TO ASSIST IN LOCATING A MISSING PERSON.

(2) THE DEPARTMENT OF STATE POLICE SHALL:

(I) ADOPT GUIDELINES AND DEVELOP PROCEDURES FOR ISSUING A SILVER ALERT FOR A MISSING PERSON;

(II) PROVIDE TRAINING TO LOCAL LAW ENFORCEMENT AGENCIES ON THE GUIDELINES AND PROCEDURES TO BE USED TO HANDLE A REPORT OF A MISSING PERSON;

(III) PROVIDE ASSISTANCE TO A LOCAL LAW ENFORCEMENT AGENCY, AS NECESSARY, TO ASSIST IN THE SAFE RECOVERY OF A MISSING ADULT;

(IV) RECRUIT PUBLIC AND COMMERCIAL TELEVISION AND RADIO BROADCASTERS, LOCAL VOLUNTEER GROUPS, AND OTHER MEMBERS OF THE PUBLIC TO ASSIST IN DEVELOPING AND IMPLEMENTING A SILVER ALERT;

(V) CONSULT WITH THE STATE HIGHWAY ADMINISTRATION TO ESTABLISH A PLAN FOR PROVIDING INFORMATION RELEVANT TO A SILVER ALERT TO THE PUBLIC THROUGH THE DYNAMIC MESSAGE SIGN SYSTEM LOCATED ACROSS THE STATE; AND

(VI) CONSULT WITH THE STATE ~~BOARD~~ DEPARTMENT OF EDUCATION TO DEVELOP A PROGRAM ~~TO ALLOW~~ THAT:

1. ALLOWS HIGH SCHOOL STUDENTS TO ASSIST IN THE SEARCH FOR A MISSING PERSON UNDER THIS SECTION ~~AND TO RECEIVE STUDENT SERVICE CREDIT~~;

2. COMPLIES WITH COMAR 13A.03.02.06; AND

3. IS CONSISTENT WITH THE STUDENT SERVICE–LEARNING GUIDELINES DEVELOPED BY THE STATE DEPARTMENT OF EDUCATION.

(C) A CAREGIVER OR PERSON FILING A REPORT REGARDING A MISSING PERSON SHALL IMMEDIATELY NOTIFY THE LOCAL LAW ENFORCEMENT AGENCY

WITH WHICH THE REPORT WAS FILED AND THE DEPARTMENT OF STATE POLICE IF:

(1) THE MISSING PERSON WHO WAS THE SUBJECT OF THE REPORT IS LOCATED; AND

(2) IT IS UNLIKELY THAT THE LOCAL LAW ENFORCEMENT AGENCY OR THE DEPARTMENT OF STATE POLICE HAS KNOWLEDGE THAT THE MISSING PERSON HAS BEEN LOCATED.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009, contingent on the ability of the Department of State Police to implement the Silver Alert Program with existing budgeted resources and, if the Secretary of State Police determines by July 1, 2009, that the Department of State Police cannot implement the program with existing budgeted resources, the Secretary shall promptly notify the Executive Director of the Department of Legislative Services of that determination and, upon receipt of that notice, this Act shall be null and void without the necessity of further action by the General Assembly.

Approved by the Governor, May 19, 2009.

Chapter 504

(House Bill 317)

AN ACT concerning

Silver Alert Program – Establishment

FOR the purpose of requiring the Department of State Police to establish a Silver Alert Program to disseminate information to assist in locating certain missing persons who suffer certain impairments; requiring the Department to adopt guidelines and develop procedures for issuing a Silver Alert for a certain missing person; requiring the Department to provide training to local law enforcement agencies on the guidelines and procedures to be used to handle a report of a certain missing person; requiring the Department to provide assistance to a local law enforcement agency as necessary to assist in the safe recovery of certain missing persons; requiring the Department to recruit certain persons to assist in developing and implementing the Silver Alert Program; requiring the Department to consult with the State Highway Administration to establish a certain plan for providing information to the public; requiring the Department to consult with the State ~~Board~~ Department of Education to develop a program ~~to allow high school students to assist in the search for a missing person and receive student service credit~~ that meets certain

requirements; requiring a certain person to notify a certain local law enforcement agency and the Department regarding certain information under certain circumstances; defining certain terms; making this Act subject to a certain contingency; and generally relating to the establishment of a Silver Alert Program.

BY adding to
Article – Public Safety
Section 3–604
Annotated Code of Maryland
(2003 Volume and 2008 Supplement)

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

Article – Public Safety

3–604.

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

(2) "CAREGIVER" MEANS A PARENT, SPOUSE, GUARDIAN, LEGAL CUSTODIAN, OR PERSON RESPONSIBLE FOR THE SUPERVISION OF ANOTHER ADULT.

(3) "LAW ENFORCEMENT AGENCY" MEANS A STATE, COUNTY, OR MUNICIPAL POLICE DEPARTMENT OR AGENCY, OR A SHERIFF'S DEPARTMENT.

(4) "MISSING PERSON" MEANS AN INDIVIDUAL:

(I) WHOSE WHEREABOUTS ARE UNKNOWN;

(II) WHO SUFFERS A COGNITIVE IMPAIRMENT INCLUDING A DIAGNOSIS OF ALZHEIMER'S DISEASE OR DEMENTIA TO THE EXTENT THAT THE INDIVIDUAL REQUIRES ASSISTANCE FROM A CAREGIVER; AND

(III) WHOSE DISAPPEARANCE POSES A CREDIBLE THREAT TO THE HEALTH AND SAFETY OF THE INDIVIDUAL DUE TO AGE, HEALTH, MENTAL OR PHYSICAL DISABILITY, ENVIRONMENT, OR WEATHER CONDITIONS, AS DETERMINED BY A LAW ENFORCEMENT AGENCY.

(B) (1) THE DEPARTMENT OF STATE POLICE SHALL ESTABLISH A SILVER ALERT PROGRAM TO PROVIDE A SYSTEM FOR RAPID DISSEMINATION OF INFORMATION TO ASSIST IN LOCATING A MISSING PERSON.

(2) THE DEPARTMENT OF STATE POLICE SHALL:

(I) ADOPT GUIDELINES AND DEVELOP PROCEDURES FOR ISSUING A SILVER ALERT FOR A MISSING PERSON;

(II) PROVIDE TRAINING TO LOCAL LAW ENFORCEMENT AGENCIES ON THE GUIDELINES AND PROCEDURES TO BE USED TO HANDLE A REPORT OF A MISSING PERSON;

(III) PROVIDE ASSISTANCE TO A LOCAL LAW ENFORCEMENT AGENCY, AS NECESSARY, TO ASSIST IN THE SAFE RECOVERY OF A MISSING PERSON;

(IV) RECRUIT PUBLIC AND COMMERCIAL TELEVISION AND RADIO BROADCASTERS, LOCAL VOLUNTEER GROUPS, AND OTHER MEMBERS OF THE PUBLIC TO ASSIST IN DEVELOPING AND IMPLEMENTING A SILVER ALERT;

(V) CONSULT WITH THE STATE HIGHWAY ADMINISTRATION TO ESTABLISH A PLAN FOR PROVIDING INFORMATION RELEVANT TO A SILVER ALERT TO THE PUBLIC THROUGH THE DYNAMIC MESSAGE SIGN SYSTEM LOCATED ACROSS THE STATE; AND

(VI) CONSULT WITH THE STATE ~~BOARD~~ DEPARTMENT OF EDUCATION TO DEVELOP A PROGRAM ~~TO ALLOW~~ THAT:

1. ALLOWS HIGH SCHOOL STUDENTS TO ASSIST IN THE SEARCH FOR A MISSING PERSON UNDER THIS SECTION ~~AND TO RECEIVE STUDENT SERVICE CREDIT~~;

2. COMPLIES WITH COMAR 13A.03.02.06; AND

3. IS CONSISTENT WITH THE STUDENT SERVICE–LEARNING GUIDELINES DEVELOPED BY THE STATE DEPARTMENT OF EDUCATION.

(C) A CAREGIVER OR PERSON FILING A REPORT REGARDING A MISSING PERSON IMMEDIATELY SHALL NOTIFY THE LOCAL LAW ENFORCEMENT AGENCY WITH WHICH THE REPORT WAS FILED AND THE DEPARTMENT OF STATE POLICE IF:

(1) THE MISSING PERSON WHO WAS THE SUBJECT OF THE REPORT IS LOCATED; AND

(2) IT IS UNLIKELY THAT THE LOCAL LAW ENFORCEMENT AGENCY OR THE DEPARTMENT OF STATE POLICE HAS KNOWLEDGE THAT THE MISSING PERSON HAS BEEN LOCATED.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009, contingent on the ability of the Department of State Police to implement the Silver Alert Program with existing budgeted resources and, if the Secretary of State Police determines by July 1, 2009, that the Department of State Police cannot implement the Program with existing budgeted resources, the Secretary shall promptly notify the Executive Director of the Department of Legislative Services of that determination and, upon receipt of that notice, this Act shall be null and void without the necessity of further action by the General Assembly.

Approved by the Governor, May 19, 2009.

Chapter 505

(Senate Bill 11)

AN ACT concerning

Anne Arundel County Tourism and Economic Development Promotion Act of 2009

FOR the purpose of ~~requiring Anne Arundel County to impose a hotel tax at a certain rate;~~ *repealing a requirement that the City of Annapolis collect and retain the revenue generated within the city from a certain hotel tax;* requiring Anne Arundel County to distribute certain revenue from the hotel tax to *the City of Annapolis and* certain organizations and to the county's general fund; requiring certain organizations to report to the Anne Arundel County Executive and to the members of the General Assembly representing Anne Arundel County; ~~making a technical correction;~~ repealing an obsolete provision; and generally relating to the Anne Arundel County hotel tax.

BY repealing and reenacting, with amendments,
Article 24 – Political Subdivisions – Miscellaneous Provisions
Section 9–602
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

Preamble

WHEREAS, The enactment of Chapter 181 of the Acts of the General Assembly of 2008, the Tourism Promotion Act of 2008, made clear the State's intention of

securing a market share of the burgeoning multibillion dollar travel and tourism industry by increasing its investment in attracting visitors to Maryland; and

WHEREAS, Maryland's $11 billion travel and tourism industry represents the State's fourth largest industry, employing over 100,000 people; but neighboring states have been outspending Maryland in a successful effort to capture a regional market share of visitor spending, especially by baby boomers who, with their disposable income, are moving into the 45– to 54–year age group; and

WHEREAS, Studies indicate that every dollar spent on destination marketing yields a $28.24 return on investment, testimony not only to the fiercely competitive nature of the hospitality industry but also to the rationale behind the enactment of the Tourism Promotion Act of 2008; and

WHEREAS, There is a direct correlation between the intent of the Tourism Promotion Act of 2008 and the intent of this Act, both seeking to increase public revenues through a greater investment in the marketing of unique natural, cultural, and historical amenities for discovery by visitors; and

WHEREAS, The General Assembly understands the importance of ensuring the delivery of timely and quality public services to the citizens of the State, but it also realizes there is an obligation to finance these services not only through special fees and general taxes but also through innovative ways such as those provided for in this Act; and

WHEREAS, This Act capitalizes on revenues generated by visitor spending, not residential–taxpayer dollars, by annually dedicating a percentage of hotel tax revenue to the Annapolis and Anne Arundel County Conference and Visitors Bureau ~~and the Anne Arundel Economic Development Corporation~~, in order to underwrite a 21st–century visitor marketing strategy and other economic development opportunities with the single–minded purpose of generating additional revenues for the public treasuries of the City of Annapolis and Anne Arundel County; now, therefore,

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

9–602.

(a) Anne Arundel County may impose, by ordinance, and collect a sales or use tax on:

(1) Fuels and utilities used by commercial and industrial businesses;

(2) Residential, commercial, and industrial telephone service; and

(3) Space rentals.

(b) (1) ~~Except as provided in paragraph (2) of this subsection, any~~ ***ANY*** revenues collected under the authority of ***SUBSECTION (A)(1) AND (2) OF*** this section within the boundaries of the City of Annapolis shall be allocated and distributed in equal amounts to the City of Annapolis and to Anne Arundel County.

(2) ~~Any~~ ***EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, ANY*** revenue generated within the boundaries of the City of Annapolis from the tax on space rentals~~, including [the tax on] the room or building rental tax for transients,~~ shall be collected and retained by the City of Annapolis.

(3) ANY REVENUE GENERATED WITHIN THE BOUNDARIES OF THE CITY OF ANNAPOLIS FROM THE HOTEL TAX SHALL BE COLLECTED BY ANNE ARUNDEL COUNTY.

(4) FROM ANY REVENUE GENERATED WITHIN THE BOUNDARIES OF THE CITY OF ANNAPOLIS FROM THE HOTEL TAX, ANNE ARUNDEL COUNTY SHALL DISTRIBUTE:

(I) IN FISCAL YEAR 2012:

1. 2% TO THE ARTS COUNCIL OF ANNE ARUNDEL COUNTY, INC.; AND

2. 8% TO THE ANNAPOLIS AND ANNE ARUNDEL COUNTY CONFERENCE AND VISITORS BUREAU;

(II) IN FISCAL YEAR 2013:

1. 2.5% TO THE ARTS COUNCIL OF ANNE ARUNDEL COUNTY, INC.; AND

2. 12.5% TO THE ANNAPOLIS AND ANNE ARUNDEL COUNTY CONFERENCE AND VISITORS BUREAU; AND

(III) IN FISCAL YEAR 2014 AND EACH FISCAL YEAR THEREAFTER:

1. 3% TO THE ARTS COUNCIL OF ANNE ARUNDEL COUNTY, INC.; AND

2. 17% TO THE ANNAPOLIS AND ANNE ARUNDEL COUNTY CONFERENCE AND VISITORS BUREAU.

(5) AFTER MAKING THE DISTRIBUTIONS REQUIRED UNDER PARAGRAPH (4) OF THIS SUBSECTION, THE BALANCE OF THE REVENUE GENERATED WITHIN THE BOUNDARIES OF THE CITY OF ANNAPOLIS FROM THE HOTEL TAX SHALL BE DISTRIBUTED TO THE CITY OF ANNAPOLIS.

(c) [On or after July 1, 1997,] Anne Arundel County may not impose a sales and use tax on space rentals for the docking or storage of boats.

(D) (1) ~~**ANNE ARUNDEL COUNTY SHALL IMPOSE, BY ORDINANCE, A HOTEL TAX AT A RATE OF 7%.**~~

~~**(2)**~~ **ANNE ARUNDEL COUNTY, FROM THE COUNTY'S SHARE OF ANY REVENUE FROM THE HOTEL TAX, SHALL DISTRIBUTE:**

(I) ***IN FISCAL YEARS 2010 AND 2011, 7% TO THE ANNAPOLIS AND ANNE ARUNDEL COUNTY CONFERENCE AND VISITORS BUREAU;*** ~~**25% OF THE COUNTY'S SHARE OF ANY REVENUE FROM A HOTEL TAX TO THE ANNAPOLIS AND ANNE ARUNDEL COUNTY CONFERENCE AND VISITORS BUREAU; AND**~~

~~**(II) 7% OF THE COUNTY'S SHARE OF ANY REVENUE FROM A HOTEL TAX TO THE ANNE ARUNDEL ECONOMIC DEVELOPMENT CORPORATION;**~~

(II) IN FISCAL YEAR ~~**2011**~~ ***2012,:*** ~~**15% TO THE ANNAPOLIS AND ANNE ARUNDEL COUNTY CONFERENCE AND VISITORS BUREAU;**~~

1. 2% TO THE ARTS COUNCIL OF ANNE ARUNDEL COUNTY, INC.; AND

2. 8% TO THE ANNAPOLIS AND ANNE ARUNDEL COUNTY CONFERENCE AND VISITORS BUREAU;

(III) IN FISCAL YEAR ~~**2012**~~ ***2013,:*** ~~**20% TO THE ANNAPOLIS AND ANNE ARUNDEL COUNTY CONFERENCE AND VISITORS BUREAU**~~

1. 2.5% TO THE ARTS COUNCIL OF ANNE ARUNDEL COUNTY, INC.; AND

***2. 12.5% TO THE ANNAPOLIS AND ANNE ARUNDEL COUNTY CONFERENCE AND VISITORS BUREAU*; AND**

(IV) IN FISCAL YEAR ~~2013~~ *2014* AND EACH FISCAL YEAR THEREAFTER~~,~~*:* ~~25% TO THE ANNAPOLIS AND ANNE ARUNDEL COUNTY CONFERENCE AND VISITORS BUREAU~~

1. 3% TO THE ARTS COUNCIL OF ANNE ARUNDEL COUNTY, INC.; AND

***2. 17% TO THE ANNAPOLIS AND ANNE ARUNDEL COUNTY CONFERENCE AND VISITORS BUREAU*.**

~~(3)~~ *(2)* AFTER THE DISTRIBUTIONS REQUIRED UNDER PARAGRAPH ~~(2)~~ *(1)* OF THIS SUBSECTION, THE BALANCE OF THE COUNTY'S SHARE OF REVENUE FROM A HOTEL TAX SHALL BE CREDITED TO THE GENERAL FUND OF THE COUNTY.

(E) THE ~~ANNE ARUNDEL ECONOMIC DEVELOPMENT CORPORATION~~ *ARTS COUNCIL OF ANNE ARUNDEL COUNTY, INC.* AND THE ANNAPOLIS AND ANNE ARUNDEL COUNTY CONFERENCE AND VISITORS BUREAU SHALL REPORT TO THE ANNE ARUNDEL COUNTY EXECUTIVE AND THE MEMBERS OF THE GENERAL ASSEMBLY REPRESENTING ANNE ARUNDEL COUNTY ON THEIR USE OF HOTEL TAX REVENUE DURING THE PRECEDING FISCAL YEAR.

SECTION 2. AND BE IT FURTHER ENACTED, That in fiscal years 2010 and 2011, from the county's share of any revenue from the hotel tax, Anne Arundel County shall distribute $260,000 to the Arts Council of Anne Arundel County, Inc.

SECTION ~~2.~~ *3.* AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 506

(Senate Bill 44)

AN ACT concerning

Sales and Use Tax – Exemption – Veterans' Organizations

FOR the purpose of extending a certain termination provision applicable to a sales and use tax exemption for sales to certain veterans' organizations; and generally relating to a sales and use tax exemption for certain sales to certain veterans' organizations.

BY repealing and reenacting, without amendments,
Article – Tax – General
Section 11–204(a)(8)
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Chapter 217 of the Acts of the General Assembly of 2006
Section 2

BY repealing and reenacting, with amendments,
Chapter 218 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:

Article – Tax – General

11–204.

(a) The sales and use tax does not apply to:

(8) a sale to a bona fide nationally organized and recognized organization of veterans of the armed forces of the United States or an auxiliary of the organization or one of its units, if the organization is qualified as tax exempt under § 501(c)(19) of the Internal Revenue Code.

Chapter 217 of the Acts of 2006

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2006. It shall remain effective for a period of **[**3**] 6** years and, at the end of June 30, **[**2009**] 2012**, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Chapter 218 of the Acts of 2006

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2006. It shall remain effective for a period of **[**3**] 6** years and, at the end of June 30, **[**2009**] 2012**, 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, 2009.

Approved by the Governor, May 19, 2009.

Chapter 507

(Senate Bill 60)

AN ACT concerning

Maryland Transit Administration – Mass Transit Service Alterations – Public Service Commission and People's Counsel Reporting and Representation Requirements

FOR the purpose of repealing a requirement that the People's Counsel to the Public Service Commission appear and represent the public interest at certain public hearings; repealing a requirement that the Maryland Transit Administration refer certain matters to the Public Service Commission and the People's Counsel to the Commission for consideration and recommendations prior to holding certain public hearings; repealing a requirement that the Commission and the People's Counsel submit certain reports to the Administration relating to mass transit; making conforming changes; and generally relating to reporting requirements of the Public Service Commission and the People's Counsel relating to mass transit.

BY repealing and reenacting, without amendments,
Article – Transportation
Section 7–506(a)(1)
Annotated Code of Maryland
(2008 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Transportation
Section 7–506(e)
Annotated Code of Maryland
(2008 Replacement Volume)

BY repealing
Article – Transportation
Section 7–506(f) and 7–507
Annotated Code of Maryland
(2008 Replacement Volume)

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

Article – Transportation

7–506.

(a) (1) Except as provided in subsection (b) of this section, until a public hearing is held on the matter, the Administration may not:

(i) Fix or revise any fare or rate charged the general public;

(ii) Establish or abandon any bus or rail route listed on a published timetable;

(iii) Change a bus or rail route alignment listed on a published timetable, unless the change is needed because of temporary construction or changes in the road network; or

(iv) Establish or abandon a rail transit station.

(e) Before calling a hearing under this section, the Administration shall file at its main office and make available for public inspection:

(1) Its report on the subject matter of the hearing; **AND**

(2) **[**Any report received from the Public Service Commission under § 7–507 of this subtitle; and

(3)**]** If the hearing was requested under subsection (c) of this section, the written request for the hearing and all documents filed in support of it.

[(f) The People's Counsel shall appear and represent the public interest at each hearing called by the Administration under this section.**]**

[7–507.

(a) Except for temporary or emergency changes in matters affecting service, the Administration shall refer to the Public Service Commission and the People's Counsel to the Public Service Commission, for consideration and recommendations before any hearing held under § 7–506 of this subtitle:

(1) Any matter that the Administration considers might affect the operation of the publicly and privately owned or controlled transit facilities as a coordinated regional transit system; and

(2) Any matter on which the Administration has called a hearing under § 7–506 of this subtitle.

(b) (1) The Public Service Commission shall give a matter referred to it under this section preference over any other matters pending before it and, as soon as

possible, shall prepare and send its report on the matter to the Administration. If the People's Counsel to the Public Service Commission does not adopt the report of the Public Service Commission, he may file a separate report at the time that the report of the Public Service Commission is filed.

(2) The Administration may request the Public Service Commission or the People's Counsel to reconsider any part of its report or to make any supplemental report that the Administration considers necessary.

(3) All of these reports are advisory only.

(c) Any report that the Public Service Commission or the People's Counsel submits to the Administration shall consider, among other things:

(1) The impact on the revenues of both public and private transit facilities; and

(2) The probable effect of the referred matter on:

(i) The operation of the publicly and privately owned or controlled transit facilities as a coordinated regional system;

(ii) Passenger movements;

(iii) Fare structures; and

(iv) Service.]

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 508

(Senate Bill 70)

AN ACT concerning

Family Law – Child Support Enforcement – Medical Support for Children

FOR the purpose of ~~altering provisions of law relating to health insurance coverage for children by requiring, rather than authorizing, a court to include in a certain support order a provision requiring health insurance coverage for a child; providing that both parents are subject to a certain order; altering the~~

~~conditions under which coverage must be provided; repealing a provision of law authorizing a certain order to be issued separate from or in conjunction with an earnings withholding order; requiring a court to include certain provisions in a support order if health insurance coverage is not available at a reasonable cost at the time the order is established or modified; requiring cash medical support to be added to the basic child support obligation under the child support guidelines and divided by the parents in proportion to their adjusted actual incomes; prohibiting the court from ordering the obligee to pay cash medical support under certain circumstances; establishing when cash medical support and the cost of health insurance coverage shall be deemed reasonable~~ *requiring the court, in certain cases, to include in a certain support order a provision requiring one or both parents to include the child in the parent's health insurance coverage under certain circumstances; authorizing the court to include in a certain support order a provision requiring one or both parents to include the child in the parent's health insurance coverage at a certain point in the future under certain circumstances; requiring the court to order one or both parents to provide cash medical support in a certain amount under certain circumstances; authorizing the court to order one or both parents to provide cash medical support in a certain amount under certain circumstances; requiring cash medical support to be added to the basic child support obligation under the child support guidelines and divided by the parents in proportion to their adjusted actual incomes; prohibiting the court from ordering the obligee to pay cash medical support under certain circumstances*; defining certain terms; and generally relating to medical support for children.

BY repealing and reenacting, with amendments,
Article – Family Law
Section 12–102
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – Family Law

12–102.

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

(2) "ACCESSIBLE" MEANS HEALTH INSURANCE COVERAGE THAT INSURES PRIMARY CARE SERVICES LOCATED WITHIN THE LESSER OF 30 MILES OR 30 MINUTES FROM THE CHILD'S PRIMARY RESIDENCE.

(3) "ACTUAL INCOME" HAS THE MEANING STATED IN § 12–201(B) OF THIS TITLE.

(4) "ADJUSTED ACTUAL INCOME" HAS THE MEANING STATED IN § 12–201 OF THIS TITLE.

(5) "BASIC CHILD SUPPORT OBLIGATION" HAS THE MEANING STATED IN § 12–201 OF THIS TITLE.

~~(4)~~ (6) "CASH MEDICAL SUPPORT" MEANS AN AMOUNT PAID:

(I) TOWARD THE COST OF HEALTH INSURANCE PROVIDED BY:

1. A PUBLIC ENTITY; OR

2. ONE OR BOTH PARENTS THROUGH EMPLOYMENT OR OTHERWISE; OR

(II) FOR OTHER MEDICAL COSTS NOT COVERED BY INSURANCE, INCLUDING EXTRAORDINARY MEDICAL EXPENSES.

(7) "EXTRAORDINARY MEDICAL EXPENSES" HAS THE MEANING STATED IN § 12–201 OF THIS TITLE.

[(2)**]** **~~(5)~~ (8)** "Health insurance coverage" means any type of health care coverage under which medical care services can be provided to the child through an insurer.

[(3)**]** **~~(6)~~ (9)** "Insurer" means:

(i) an insurer, a nonprofit health service organization, or a health maintenance organization operating in this State under a certificate of authority issued by the Maryland Insurance Commissioner;

(ii) an entity that provides a group health plan, as defined in § 607(1) of the Employee Retirement Income Security Act of 1974; or

(iii) an entity offering a service benefit plan as defined by federal law.

[(4)**]** **~~(7)~~ (10)** "Medical support notice" means a notice that is:

(i) in a format prescribed by federal law; and

(ii) issued by a child support agency to enforce the health insurance coverage provisions of a child support order.

[(5)] ~~(8)~~ **(11)** "Tribunal" has the meaning stated in § 10–301 of this article.

~~(b) The court [may] SHALL include in any support order THAT IS ESTABLISHED OR MODIFIED a provision requiring either parent OR BOTH PARENTS to include the child in the parent's health insurance coverage if:~~

~~(1) the parent can obtain health insurance coverage through an employer or any form of group health insurance coverage; [and]~~

~~(2) the child can be included at a reasonable cost to the parent in that health insurance coverage; AND~~

~~(3) THE HEALTH INSURANCE COVERAGE IS ACCESSIBLE TO THE CHILD.~~

~~(c)~~ ~~(1)~~ ~~[An order of a court requiring the provision of health insurance coverage for a child may be issued separate from or in conjunction with an earnings withholding order.] IF HEALTH INSURANCE COVERAGE AT A REASONABLE COST IS NOT AVAILABLE AT THE TIME A SUPPORT ORDER IS ESTABLISHED OR MODIFIED, THE COURT SHALL INCLUDE A PROVISION REQUIRING THAT:~~

~~(1)~~ ~~(I)~~ ~~HEALTH INSURANCE COVERAGE BE PROVIDED BY ONE OR BOTH PARENTS SHOULD IT BECOME AVAILABLE IN THE FUTURE; AND~~

~~(2)~~ ~~(II)~~ ~~ONE OR BOTH PARENTS PROVIDE CASH MEDICAL SUPPORT AT A REASONABLE COST.~~

~~(2)~~ ~~CASH MEDICAL SUPPORT ORDERED UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION SHALL BE ADDED TO THE BASIC CHILD SUPPORT OBLIGATION AND DIVIDED BY THE PARENTS IN PROPORTION TO THEIR ADJUSTED ACTUAL INCOMES.~~

~~(D) A COURT MAY ORDER ONE OR BOTH PARENTS TO PROVIDE CASH MEDICAL SUPPORT AT A REASONABLE COST IN ADDITION TO REQUIRING ONE OR BOTH PARENTS TO PROVIDE HEALTH INSURANCE COVERAGE.~~

~~(E) THE COURT MAY NOT ORDER THE OBLIGEE TO PAY CASH MEDICAL SUPPORT TOWARD THE COST OF HEALTH INSURANCE PROVIDED BY A PUBLIC ENTITY FOR WHICH THE OBLIGEE DOES NOT PAY A PREMIUM, INCLUDING THE MARYLAND CHILDREN'S HEALTH PROGRAM UNDER TITLE 15, SUBTITLE 3 OF THE HEALTH – GENERAL ARTICLE.~~

~~(E)~~ (F) ~~(1) THE COST OF HEALTH INSURANCE COVERAGE SHALL BE DEEMED REASONABLE IF THE COST OF ADDING THE CHILD TO EXISTING HEALTH INSURANCE COVERAGE, OR THE DIFFERENCE BETWEEN SELF–ONLY AND FAMILY COVERAGE, DOES NOT EXCEED 10% 5% OF THE ACTUAL INCOME OF THE PARENT ORDERED TO PAY FOR HEALTH INSURANCE COVERAGE.~~

~~(2) CASH MEDICAL SUPPORT SHALL BE DEEMED REASONABLE IF IT DOES NOT EXCEED 10% 5% OF THE ACTUAL INCOME OF THE PARENT ORDERED TO PROVIDE CASH MEDICAL SUPPORT.~~

*(b) [The] **EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, THE** court may include in any support order a provision requiring either parent to include the child in the parent's health insurance coverage if:*

(1) the parent can obtain health insurance coverage through an employer or any form of group health insurance coverage; and

(2) the child can be included at a reasonable cost to the parent in that health insurance coverage.

(C) (1) THIS SUBSECTION APPLIES ONLY TO A CHILD SUPPORT ORDER UNDER TITLE IV, PART D OF THE SOCIAL SECURITY ACT.

(2) (I) THE COURT SHALL INCLUDE IN ANY SUPPORT ORDER THAT IS ESTABLISHED OR MODIFIED A PROVISION REQUIRING ONE OR BOTH PARENTS TO INCLUDE THE CHILD IN THE PARENT'S HEALTH INSURANCE COVERAGE IF:

1. THE PARENT CAN OBTAIN HEALTH INSURANCE COVERAGE THROUGH AN EMPLOYER OR ANY FORM OF GROUP HEALTH INSURANCE COVERAGE;

2. THE CHILD CAN BE INCLUDED AT A REASONABLE COST TO THE PARENT IN THAT HEALTH INSURANCE COVERAGE; AND

3. THE HEALTH INSURANCE COVERAGE IS ACCESSIBLE TO THE CHILD.

(II) FOR PURPOSES OF SUBPARAGRAPH (I)2 OF THIS PARAGRAPH, THE COST OF HEALTH INSURANCE COVERAGE IS REASONABLE IF THE COST OF ADDING THE CHILD TO EXISTING HEALTH INSURANCE COVERAGE, OR THE DIFFERENCE BETWEEN SELF–ONLY AND FAMILY COVERAGE, DOES NOT EXCEED 5% OF THE ACTUAL INCOME OF THE PARENT ORDERED TO PAY FOR HEALTH INSURANCE COVERAGE.

(3) IF HEALTH INSURANCE COVERAGE AT A REASONABLE COST IS NOT AVAILABLE AT THE TIME A SUPPORT ORDER IS ESTABLISHED OR MODIFIED, THE COURT:

(I) MAY INCLUDE A PROVISION REQUIRING ONE OR BOTH PARENTS TO INCLUDE THE CHILD IN THE PARENT'S HEALTH INSURANCE COVERAGE AS DESCRIBED IN PARAGRAPH (2) OF THIS SUBSECTION IF HEALTH INSURANCE COVERAGE AT A REASONABLE COST BECOMES AVAILABLE IN THE FUTURE; AND

(II) SHALL INCLUDE A PROVISION REQUIRING ONE OR BOTH PARENTS TO PROVIDE CASH MEDICAL SUPPORT IN AN AMOUNT NOT TO EXCEED 5% OF THE ACTUAL INCOME OF THE PARENT ORDERED TO PROVIDE CASH MEDICAL SUPPORT.

(4) IN ADDITION TO REQUIRING ONE OR BOTH PARENTS TO PROVIDE HEALTH INSURANCE COVERAGE, THE COURT MAY ORDER ONE OR BOTH PARENTS TO PROVIDE CASH MEDICAL SUPPORT IN AN AMOUNT NOT TO EXCEED 5% OF THE ACTUAL INCOME OF THE PARENT ORDERED TO PROVIDE CASH MEDICAL SUPPORT.

(5) CASH MEDICAL SUPPORT ORDERED UNDER THIS SUBSECTION SHALL BE ADDED TO THE BASIC CHILD SUPPORT OBLIGATION AND DIVIDED BY THE PARENTS IN PROPORTION TO THEIR ADJUSTED ACTUAL INCOMES.

(6) THE COURT MAY NOT ORDER THE OBLIGEE TO PAY CASH MEDICAL SUPPORT TOWARD THE COST OF HEALTH INSURANCE PROVIDED BY A PUBLIC ENTITY FOR WHICH THE OBLIGEE DOES NOT PAY A PREMIUM, INCLUDING THE MARYLAND CHILDREN'S HEALTH PROGRAM UNDER TITLE 15, SUBTITLE 3 OF THE HEALTH – GENERAL ARTICLE.

[(c)***]*** ***(D)*** *An order of a court requiring the provision of health insurance coverage for a child may be issued separate from or in conjunction with an earnings withholding order.*

[(d)**]** ~~(F)~~ ~~(G)~~ ***(E)*** (1) If a court orders a parent to provide health insurance coverage under this section, the parent under the order or the support enforcement agency shall send a copy of the order or medical support notice to the parent's employer by first–class mail, separate from or in conjunction with an earnings withholding order, as provided in § 10–123 of this article.

(2) Within 20 business days after the receipt of the order or medical support notice, the employer shall:

(i) send the appropriate part of the medical support notice to the employer's insurer;

(ii) if the employer determines that, based on reasons related to the employee's employment status, the employee's child is ineligible for health insurance coverage, complete the appropriate part of the medical support notice and return it to the issuing child support agency;

(iii) permit the parent, a child support enforcement agency, or the Department of Health and Mental Hygiene to enroll the child in any health insurance coverage available to the parent without regard to any enrollment season restrictions;

(iv) provide a statement to the support enforcement agency and to both parents that the child:

1. has been enrolled in health insurance coverage;

2. will be enrolled in health insurance coverage and that the expected date of enrollment will be provided; or

3. cannot be enrolled in health insurance coverage; and

(v) provide information to both parents and to the support enforcement agency concerning the available health insurance coverage, including:

1. the employee's Social Security number;

2. the name, address, and telephone number of the insurer;

3. the policy number;

4. the group number;

5. the effective date of coverage; and

6. any schedule of benefits.

[(e)**]** ~~(G)~~ ~~(H)~~ ***(F)*** On receipt of the order or medical support notice, the employer:

(1) if the employee's child is eligible for health insurance coverage, shall withhold from the employee's next earnings the amount of the employee contribution required to enroll the employee's child;

(2) if the employee's child is not currently eligible for health insurance coverage but will become eligible, shall withhold from the employee's earnings, at the earliest time the employee's child becomes eligible, the amount of the employee contribution required to enroll the employee's child; or

(3) if federal or State withholding limitations or prioritization prevent withholding from the employee's wages the amount required for enrollment, shall complete and send, to the issuing child support agency, the appropriate part of the medical support notice indicating the employee's income is insufficient for enrollment.

[(f)**]** ~~**(H)**~~ ~~**(I)**~~ ***(G)*** (1) To the extent consistent with the federal Consumer Credit Protection Act, the employer shall deduct the premiums for health insurance coverage from the earnings of the employee on a regular and continuing basis and pay the premiums to the insurer.

(2) The employer shall send to the insurer the amount deducted from the employee's earnings each pay period within 10 business days after the day on which the earnings are paid to the employee.

[(g)**]** ~~**(I)**~~ ~~**(J)**~~ ***(H)*** An employer or the child's parents may not disenroll or eliminate coverage for the child in any manner unless:

(1) the employer is provided satisfactory written evidence that:

(i) the court order is no longer in effect; or

(ii) the child has been or will be enrolled under other reasonable health insurance coverage, with the coverage to take effect no later than the effective date of disenrollment;

(2) the employer has eliminated family health coverage for all of its employees; or

(3) the employer no longer employs the parent under whose name the child has been enrolled for coverage except to the extent that if the parent elects to exercise the provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) then coverage must be provided for the child consistent with the employer's plan relating to postemployment medical coverage for dependents.

[(h)**]** ~~**(J)**~~ ~~**(K)**~~ ***(I)*** (1) If the health insurance coverage for the child terminates, the employer shall notify the other parent and, if a support enforcement agency is involved in the case, the support enforcement agency within 15 days of termination of the insurance.

(2) If, after a lapse in health insurance coverage, health insurance coverage becomes available to the employee for the child, the employer shall:

(i) enroll the child in health insurance coverage without regard to any enrollment season restrictions; and

(ii) within 15 days after health insurance coverage becomes available, provide notice to the support enforcement agency and the other parent of the enrollment.

[(i)**]** ~~**(K)**~~ ~~**(L)**~~ ***(J)*** Subject to the provisions of this section, the parent or the support enforcement agency may bring a civil action against an employer who willfully violates the provisions of this section.

[(j)**]** ~~**(L)**~~ ~~**(M)**~~ ***(K)*** This section does not limit the authority of a court to enter, modify, or enforce an order requiring payment of uninsured health expenses, health care costs, or health insurance premiums.

[(k)**]** ~~**(M)**~~ ~~**(N)**~~ ***(L)*** An employer may not use the existence of an order or a medical support notice requiring health insurance coverage as a basis for:

(1) reprisal against an employee;

(2) dismissal of an employee from employment; or

(3) refusal to hire a person or to promote an employee.

[(l)**]** ~~**(N)**~~ ~~**(O)**~~ ***(M)*** An order entered under this section is binding on a present and future employer of the parent on whom a copy of this order is served.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 509

(Senate Bill 79)

AN ACT concerning

Health Insurance – Reform

FOR the purpose of ~~expanding the applicability of certain provisions of law that limit the imposition of certain preexisting condition provisions by certain carriers to a policy or certificate issued to an individual in accordance with certain provisions of law; altering certain loss ratio requirements for certain health benefit plans and Medicare supplement policies;~~ prohibiting certain application forms from

containing inquiries about certain conditions, illnesses, diseases, or medical procedures; prohibiting an insurer or nonprofit health service plan from attaching an exclusionary rider to an individual health benefit plan unless the insurer or nonprofit health service plan obtains the prior written consent of the policyholder; authorizing an insurer or nonprofit health service plan to impose a preexisting condition exclusion or limitation on an individual for a certain condition under certain circumstances; prohibiting the imposition of a preexisting condition exclusion or limitation on a certain individual under certain circumstances; making a conforming change; requiring certain carriers that offer certain out–of–state association contracts to Maryland residents ~~also to offer certain individual health insurance contracts to Maryland residents; requiring the carriers~~ to make certain disclosures to a Maryland resident applying for coverage under an out–of–state association contract; requiring the carriers to disclose certain information on the enrollment application for coverage under an out–of–state association contract under certain circumstances; authorizing the Maryland Insurance Commissioner to require the carriers to make a certain report in a certain manner on or before a certain date of each year; prohibiting certain carriers from rescinding a contract or certificate under certain circumstances; requiring the carrier to have the burden of persuasion that a rescission complies with certain provisions of this Act; ~~altering a certain definition;~~ requiring the Maryland Insurance Administration, in consultation with the Maryland Health Care Commission and certain stakeholders, to study certain options in a certain manner; requiring the Administration to report on certain findings to certain committees of the General Assembly in a certain manner on or before a certain date; defining certain terms; providing for the application of certain provisions of this Act; providing for the effective dates of this Act; and generally relating to health insurance.

BY repealing and reenacting, with amendments,
Article – Insurance
Section ~~15–508, 15–605(c)(1) and (2)(i), and 15–911(d)~~ 12–205
Annotated Code of Maryland
(~~2006~~ 2003 Replacement Volume and 2008 Supplement)

BY adding to
Article – Insurance
Section 15–508.1; and 15–1105 and 15–1106 to be under the amended subtitle "Subtitle 11. Miscellaneous Health Insurance Policies and Contracts and Health Benefit Plans"
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

BY adding to
Article – Health – General
Section 19–706(ttt)
Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)

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

Article – Insurance

12–205.

(a) (1) The Commissioner shall disapprove a form or withdraw the previous approval of a form filed under § 12–203 of this subtitle if the form does not meet the requirements of subsection (b) of this section.

(2) The order of disapproval or withdrawal of approval shall inform the insurer of:

(i) a statutory or regulatory basis for the disapproval or withdrawal of approval; and

(ii) an explanation of the application of the statutory or regulatory basis for the disapproval or withdrawal of approval.

(b) A form may not:

(1) in any respect violate or fail to comply with this article;

(2) contain or incorporate by reference, if the incorporation is otherwise permissible, any inconsistent, ambiguous, or misleading clauses, or exceptions and conditions that deceptively affect the risk purported to be assumed in the general coverage of the contract;

(3) have a title, heading, or other indication of its provisions that is likely to mislead the policyholder or certificate holder;

(4) contain an inequitable provision of insurance without substantial benefit to the policyholder;

(5) be printed or otherwise reproduced so as to make a provision of the form substantially illegible;

(6) provide benefits in a health insurance policy that are unreasonable in relation to the premium charged;

(7) contain, irrespective of the premium charged, a benefit that is not sufficient to be of real economic value to the insured;

(8) fail to provide minimum benefits or coverages that the Commissioner considers necessary to meet the minimum needs of the insured; or

(9) in a health insurance application form **OR A NONPROFIT HEALTH SERVICE PLAN APPLICATION FORM**, contain inquiries about:

(i) a preexisting condition, illness, or disease for which the applicant has not received medical care or advice from a licensed health care provider**:**

1. during the 7 years immediately before the date of **[**the**]** application; or

2. FOR AN APPLICATION FOR AN INDIVIDUAL HEALTH BENEFIT PLAN THAT IS SUBJECT TO § 15–508.1 OF THIS ARTICLE, DURING THE 5 YEARS IMMEDIATELY BEFORE THE DATE OF APPLICATION; OR

(ii) medical screening, testing, monitoring, or any other similar medical procedure that the Commissioner specifies and that the applicant received**:**

1. more than 7 years before the date of application**; OR**

2. FOR AN APPLICATION FOR AN INDIVIDUAL HEALTH BENEFIT PLAN THAT IS SUBJECT TO § 15–508.1 OF THIS ARTICLE, MORE THAN 5 YEARS BEFORE THE DATE OF APPLICATION.

15–508.1.

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

(2) "CARRIER" MEANS AN INSURER OR A NONPROFIT HEALTH SERVICE PLAN.

(3) "CREDITABLE COVERAGE" HAS THE MEANING STATED IN § 15–1301 OF THIS TITLE.

(4) "EXCLUSIONARY RIDER" MEANS AN ENDORSEMENT TO AN INDIVIDUAL HEALTH BENEFIT PLAN THAT EXCLUDES BENEFITS FOR ONE OR MORE NAMED CONDITIONS THAT ARE DISCOVERED BY A CARRIER DURING THE UNDERWRITING PROCESS.

(5) "HEALTH BENEFIT PLAN" HAS THE MEANING STATED IN § 15–1301 OF THIS TITLE.

(6) "INDIVIDUAL HEALTH BENEFIT PLAN" MEANS A HEALTH BENEFIT PLAN ISSUED BY A CARRIER THAT INSURES:

(I) ONLY ONE INDIVIDUAL; OR

(II) ONE INDIVIDUAL AND ONE OR MORE FAMILY MEMBERS OF THE INDIVIDUAL.

(B) A CARRIER MAY NOT ATTACH AN EXCLUSIONARY RIDER TO AN INDIVIDUAL HEALTH BENEFIT PLAN UNLESS THE CARRIER OBTAINS THE PRIOR WRITTEN CONSENT OF THE POLICYHOLDER.

(C) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, A CARRIER MAY IMPOSE A PREEXISTING CONDITION EXCLUSION OR LIMITATION ON AN INDIVIDUAL FOR A CONDITION THAT WAS NOT DISCOVERED DURING THE UNDERWRITING PROCESS FOR AN INDIVIDUAL HEALTH BENEFIT PLAN ONLY IF THE EXCLUSION OR LIMITATION:

(1) RELATES TO A CONDITION OF THE INDIVIDUAL, REGARDLESS OF ITS CAUSE, FOR WHICH MEDICAL ADVICE, DIAGNOSIS, CARE, OR TREATMENT WAS RECOMMENDED OR RECEIVED WITHIN THE 12–MONTH PERIOD IMMEDIATELY PRECEDING THE EFFECTIVE DATE OF THE INDIVIDUAL'S COVERAGE;

(2) EXTENDS FOR A PERIOD OF NOT MORE THAN 12 MONTHS AFTER THE EFFECTIVE DATE OF THE INDIVIDUAL'S COVERAGE; AND

(3) IS REDUCED BY THE AGGREGATE OF ANY APPLICABLE PERIODS OF CREDITABLE COVERAGE.

(D) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A CARRIER MAY NOT IMPOSE A PREEXISTING CONDITION EXCLUSION OR LIMITATION ON AN INDIVIDUAL WHO, AS OF THE LAST DAY OF THE 30–DAY PERIOD BEGINNING WITH THE DATE OF THE INDIVIDUAL'S BIRTH, IS COVERED UNDER ANY CREDITABLE COVERAGE.

(2) THE LIMITATION ON THE IMPOSITION OF A PREEXISTING CONDITION EXCLUSION OR LIMITATION UNDER PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY AFTER THE END OF THE FIRST 63–DAY PERIOD DURING ALL OF WHICH THE INDIVIDUAL WAS NOT COVERED UNDER ANY CREDITABLE COVERAGE.

~~15–508.~~

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

~~(2) "Carrier" has the meaning stated in § 15–1301 of this title.~~

~~(3) "Enrollment date" has the meaning stated in § 15–1301 of this title.~~

~~(4) "Policy or certificate" means any [group] **INDIVIDUAL, GROUP,** or blanket health insurance contract or policy that is issued or delivered in the State by an insurer or nonprofit health service plan that provides hospital, medical, or surgical benefits on an expense–incurred basis.~~

~~(5) "Preexisting condition provision" has the meaning stated in § 15–1301 of this title.~~

~~(6) "Late enrollee" has the meaning stated in § 15–1401 of this title.~~

~~(b) This section does not apply to a policy or certificate issued to a small employer in accordance with Subtitle 12 of this title[, or to an individual in accordance with Subtitle 13 of this title].~~

~~(c) Except as otherwise provided in subsection (d) of this section, a carrier may impose a preexisting condition provision only if it:~~

~~(1) relates to a condition, regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the 6–month period ending on the enrollment date;~~

~~(2) extends for a period of not more than 12 months after the enrollment date or 18 months in the case of a late enrollee; and~~

~~(3) is reduced by the aggregate of the periods of creditable coverage, as defined in Subtitle 14 of this title.~~

~~(d) (1) Subject to paragraph (4) of this subsection, a carrier may not impose any preexisting condition provision on an individual who, as of the last day of the 30–day period beginning with the date of birth, is covered under creditable coverage.~~

~~(2) Subject to paragraph (4) of this subsection, a carrier may not impose any preexisting condition provisions on a child who:~~

~~(i) is adopted or placed for adoption before attaining 18 years of age; and~~

~~(ii) as of the last day of the 30–day period beginning on the date of adoption or placement for adoption, is covered under creditable coverage.~~

~~(3) A carrier may not impose any preexisting condition provisions relating to pregnancy.~~

~~(4) Paragraphs (1) and (2) of this subsection do not apply to an individual after the end of the first 63–day period during all of which the individual was not covered under any creditable coverage.~~

~~15–605.~~

~~(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%] **85%**.~~

~~(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%] **80%**.~~

~~15–911.~~

~~(d) The minimum acceptable loss ratios for Medicare supplement policies are:~~

~~(1) for group Medicare supplement policies, at least [75%] **85%** of the aggregate amount of premiums earned; and~~

~~(2) for individual Medicare supplement policies or subscriber contracts that are issued or renewed on a policy anniversary after July 1, 1991, at least [65%] **80%** of the aggregate amount of premiums earned.~~

Subtitle 11. Miscellaneous Health Insurance Policies **AND CONTRACTS AND HEALTH BENEFIT PLANS**.

15–1105.

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

(2) "CARRIER" MEANS:

(I) AN INSURER; OR

(II) A NONPROFIT HEALTH SERVICE PLAN.

(3) "ELIGIBLE INDIVIDUAL" MEANS A MARYLAND RESIDENT WHO HAS MEMBERSHIP IN AN ASSOCIATION.

(4) "EVIDENCE OF INDIVIDUAL INSURABILITY" MEANS MEDICAL OR OTHER INFORMATION THAT INDICATES HEALTH STATUS, USED TO DETERMINE WHETHER COVERAGE OF AN INDIVIDUAL IS TO BE:

(I) ISSUED OR DENIED; OR

(II) ISSUED WITH OR WITHOUT AN EXCLUSIONARY RIDER.

(5) "HEALTH BENEFIT PLAN" HAS THE MEANING STATED IN § 15–1301 OF THIS TITLE.

(6) "HEALTH STATUS–RELATED FACTOR" HAS THE MEANING STATED IN § 15–1201 OF THIS TITLE.

(7) "INDIVIDUAL HEALTH INSURANCE CONTRACT" MEANS A HEALTH BENEFIT PLAN THAT IS ISSUED OR DELIVERED IN THE STATE TO AN INDIVIDUAL.

(8) "MEMBER" MEANS AN ELIGIBLE INDIVIDUAL WHO PURCHASES COVERAGE UNDER AN OUT–OF–STATE ASSOCIATION CONTRACT.

(9) "OUT–OF–STATE ASSOCIATION CONTRACT" MEANS A HEALTH BENEFIT PLAN THAT IS ISSUED OR DELIVERED TO AN ASSOCIATION OUTSIDE THE STATE.

(B) THIS SECTION APPLIES TO A CARRIER THAT REQUIRES EVIDENCE OF INDIVIDUAL INSURABILITY FOR COVERAGE UNDER AN OUT–OF–STATE ASSOCIATION CONTRACT.

~~**(C) A CARRIER THAT OFFERS COVERAGE UNDER AN OUT–OF–STATE ASSOCIATION CONTRACT TO MARYLAND RESIDENTS ALSO SHALL OFFER AN INDIVIDUAL HEALTH BENEFIT PLAN TO MARYLAND RESIDENTS.**~~

~~**(D)**~~ **(C) A CARRIER SHALL DISCLOSE TO A MARYLAND RESIDENT APPLYING FOR COVERAGE UNDER AN OUT–OF–STATE ASSOCIATION CONTRACT:**

(1) THAT COVERAGE IS CONDITIONED ON MEMBERSHIP IN THE ASSOCIATION THAT HOLDS THE OUT–OF–STATE ASSOCIATION CONTRACT;

(2) ALL COSTS RELATED TO JOINING AND MAINTAINING MEMBERSHIP IN THE ASSOCIATION;

(3) THAT MEMBERSHIP FEES OR DUES ARE IN ADDITION TO THE PREMIUM FOR COVERAGE UNDER THE OUT–OF–STATE ASSOCIATION CONTRACT;

(4) THAT THE TERMS AND CONDITIONS OF COVERAGE UNDER THE OUT–OF–STATE ASSOCIATION CONTRACT ARE DETERMINED BY THE ASSOCIATION AND THE CARRIER;

(5) THE MANDATED BENEFITS REQUIRED UNDER SUBTITLE 8 OF THIS TITLE THAT ARE NOT INCLUDED IN THE OUT–OF–STATE ASSOCIATION CONTRACT;

~~**(6) THAT THE MARYLAND RESIDENT MAY PURCHASE DIRECTLY FROM THE CARRIER AN INDIVIDUAL HEALTH BENEFIT PLAN THAT INCLUDES THE MANDATED BENEFITS REQUIRED UNDER SUBTITLE 8 OF THIS TITLE THAT ARE NOT INCLUDED IN THE OUT–OF–STATE ASSOCIATION CONTRACT;**~~

(6) THAT THE MARYLAND RESIDENT MAY PURCHASE AN INDIVIDUAL HEALTH BENEFIT PLAN THAT INCLUDES THE MANDATED BENEFITS UNDER SUBTITLE 8 OF THIS TITLE THAT ARE NOT INCLUDED IN THE OUT–OF–STATE ASSOCIATION CONTRACT FROM A CARRIER LICENSED AND AUTHORIZED TO DO BUSINESS IN THE STATE;

(7) THAT BENEFITS OFFERED UNDER THE OUT–OF–STATE ASSOCIATION CONTRACT ARE NOT REGULATED BY THE COMMISSIONER; AND

(8) THAT THE TERMS AND CONDITIONS OF COVERAGE UNDER THE OUT–OF–STATE ASSOCIATION CONTRACT MAY BE CHANGED BY AGREEMENT OF THE ASSOCIATION AND THE CARRIER WITHOUT THE CONSENT OF A MEMBER.

~~**(E) A CARRIER MAY SATISFY THE DISCLOSURE REQUIREMENT UNDER SUBSECTION (D)(6) OF THIS SECTION BY PROVIDING TO A MARYLAND RESIDENT, AT THE TIME APPLICATION IS MADE TO THE CARRIER FOR COVERAGE UNDER AN OUT–OF–STATE ASSOCIATION CONTRACT INFORMATION ABOUT:**~~

~~**(1) HOW TO APPLY FOR COVERAGE UNDER AN INDIVIDUAL HEALTH BENEFIT PLAN OFFERED BY THE CARRIER THAT IS NOT CONDITIONED ON ASSOCIATION MEMBERSHIP; AND**~~

~~**(2) THE PREMIUM FOR THE COVERAGE.**~~

(D) (1) THE COMMISSIONER MAY REQUIRE A CARRIER THAT OFFERS COVERAGE UNDER AN OUT–OF–STATE ASSOCIATION CONTRACT TO REPORT, ON

OR BEFORE MARCH 1 OF EACH YEAR, THE NUMBER OF MARYLAND RESIDENTS COVERED IN THE PRECEDING CALENDAR YEAR UNDER THE OUT–OF–STATE ASSOCIATION CONTRACT.

(2) THE DATA REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE REPORTED IN A MANNER DETERMINED BY THE COMMISSIONER.

~~(F)~~ (E) IF A CARRIER COLLECTS MEMBERSHIP FEES OR DUES ON BEHALF OF AN ASSOCIATION, THE CARRIER SHALL DISCLOSE ON THE ENROLLMENT APPLICATION FOR ~~COVERAGE UNDER~~ AN OUT–OF–STATE ASSOCIATION CONTRACT THAT THE CARRIER BILLS AND COLLECTS MEMBERSHIP FEES AND DUES ON BEHALF OF THE ASSOCIATION.

15–1106.

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

(2) "CARRIER" MEANS:

(I) AN INSURER;

(II) A NONPROFIT HEALTH SERVICE PLAN; OR

(III) A HEALTH MAINTENANCE ORGANIZATION.

(3) "EVIDENCE OF INDIVIDUAL INSURABILITY" HAS THE MEANING STATED IN § 15–1105 OF THIS SUBTITLE.

(4) "HEALTH BENEFIT PLAN" HAS THE MEANING STATED IN § 15–1301 OF THIS TITLE.

(B) IF A CARRIER CONDITIONS COVERAGE FOR A HEALTH BENEFIT PLAN ON EVIDENCE OF INDIVIDUAL INSURABILITY, THE CARRIER MAY NOT RESCIND A CONTRACT OR A CERTIFICATE ON THE BASIS OF WRITTEN INFORMATION SUBMITTED ON OR WITH, OR OMITTED FROM, AN APPLICATION FOR THE HEALTH BENEFIT PLAN UNLESS THE CARRIER COMPLETED MEDICAL UNDERWRITING AND RESOLVED ALL REASONABLE MEDICAL QUESTIONS RELATED TO THE WRITTEN INFORMATION SUBMITTED ON OR WITH, OR OMITTED FROM, THE APPLICATION BEFORE ISSUING THE HEALTH BENEFIT PLAN.

(C) THE CARRIER SHALL HAVE THE BURDEN OF PERSUASION THAT ITS RESCISSION OF A HEALTH BENEFIT PLAN COMPLIES WITH SUBSECTION (B) OF THIS SECTION.

Article – Health – General

19–706.

(TTT) THE PROVISIONS OF § 15–1106 OF THE INSURANCE ARTICLE APPLY TO HEALTH MAINTENANCE ORGANIZATIONS.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) (1) The Maryland Insurance Administration, in consultation with the Maryland Health Care Commission and appropriate stakeholders, shall study options to raise or define medical loss ratio requirements in the individual, small group, and large group health insurance markets that incentivize reduction of health care costs and improvement of health care quality.

(2) In conducting the study required under this section, the Administration shall study medical loss ratio requirements in other states to determine innovative ways to encourage health insurance carriers to:

(i) incentivize adoption of electronic health records;

(ii) implement wellness programs;

(iii) implement chronic care management programs; and

(iv) adopt other policies that reduce health care costs and improve health care quality.

(3) The study required under this section also shall examine the feasibility and desirability of tiered medical loss ratio requirements in the small group market by looking at the impact of tiered medical loss ratio requirements in other states.

(b) On or before December 1, 2009, the Administration shall report, in accordance with § 2–1246 of the State Government Article, to the Senate Finance Committee and House Health and Government Operations Committee on its findings under this section.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take effect on October 1, 2009, and apply to all policies, contracts, certificates, and health benefit plans issued, delivered, or renewed on or after ~~January 1, 2010~~ October 1, 2009.

SECTION ~~3.~~ 4. AND BE IT FURTHER ENACTED, That, except as provided in Section 3 of this Act, this Act shall take effect July 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 510

(Senate Bill 99)

AN ACT concerning

Criminal Law – Possession of Child Pornography – Penalties

FOR the purpose of ~~altering the definition of "sexual conduct" for purposes of certain child pornography provisions to include displaying the genitals of an individual for purposes of sexual arousal or gratification;~~ increasing the penalties for possessing a film, videotape, photograph, or other visual representation depicting a minor engaged in certain activity or in a certain state; making the possession of child pornography a felony under certain circumstances; ~~making the possession of child pornography a felony under certain circumstances;~~ providing that the jurisdiction of the District Court is concurrent with that of a circuit court in a criminal case in which a person is charged with a second or subsequent offense of possession of child pornography; and generally relating to child pornography.

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section ~~11–201(f) and~~ 11–208
Annotated Code of Maryland
(2002 Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,
Article – Criminal Law
Section 11–201(f)
Annotated Code of Maryland
(2002 Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 4–301 and 4–302(a) and (d)
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – Criminal Law

11–201.

(f) ~~**(1)**~~ "Sexual conduct" has the meaning stated in § 11–101 of this title.

~~**(2) "SEXUAL CONDUCT" INCLUDES THE DISPLAY OF THE GENITALS OF AN INDIVIDUAL FOR PURPOSES OF SEXUAL AROUSAL OR GRATIFICATION.**~~

11–208.

(a) A person may not knowingly possess and intentionally retain a film, videotape, photograph, or other visual representation showing an actual child under the age of 16 years:

(1) engaged as a subject of sadomasochistic abuse;

(2) engaged in sexual conduct; or

(3) in a state of sexual excitement.

(b) **(1)** **[**A**]** **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A** person who violates this section is guilty of a misdemeanor and on conviction is subject to**[**:

(1) for a first violation,**]** imprisonment not exceeding **[**2**] 5** years or a fine not exceeding $2,500 or both**[**; and**].**

(2) **[**for each subsequent violation, imprisonment not exceeding 5 years**] A PERSON WHO VIOLATES THIS SECTION, HAVING PREVIOUSLY BEEN CONVICTED UNDER THIS SECTION, IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 10 YEARS** or a fine not exceeding $10,000 or both.

(c) Nothing in this section may be construed to prohibit a parent from possessing visual representations of the parent's own child in the nude unless the visual representations show the child engaged:

(1) as a subject of sadomasochistic abuse; or

(2) in sexual conduct and in a state of sexual excitement.

(d) It is an affirmative defense to a charge of violating this section that the person promptly and in good faith:

(1) took reasonable steps to destroy each visual representation; or

(2) reported the matter to a law enforcement agency.

Article – Courts and Judicial Proceedings

4–301.

(a) Except as provided in §§ 3–803, 3–8A–03, and 4–302 of this article, the District Court has exclusive original jurisdiction in a criminal case in which a person at least 16 years old or a corporation is charged with violation of the vehicle laws, or the State Boat Act, or regulations adopted pursuant to the vehicle laws or State Boat Act.

(b) Except as provided in § 4–302 of this subtitle, the District Court also has exclusive original jurisdiction in a criminal case in which a person at least 18 years old or a corporation is charged with:

(1) Commission of a common–law or statutory misdemeanor regardless of the amount of money or value of the property involved;

(2) Violation of § 7–104, § 7–105, § 7–107, or § 7–108 of the Criminal Law Article, whether a felony or a misdemeanor;

(3) Violation of a county, municipal, or other ordinance, if the violation is not a felony;

(4) Criminal violation of a State, county, or municipal rule or regulation, if the violation is not a felony;

(5) Doing or omitting to do any act made punishable by a fine, imprisonment, or other penalty as provided by the particular law, ordinance, rule, or regulation defining the violation if the violation is not a felony;

(6) Violation of § 8–103 of the Criminal Law Article, whether a felony or a misdemeanor;

(7) Violation of §§ 8–203 through 8–209 of the Criminal Law Article, whether a felony or misdemeanor;

(8) Forgery or violation of Title 8, Subtitle 6 of the Criminal Law Article, whether a felony or misdemeanor;

(9) Violation of Title 27, Subtitle 4 of the Insurance Article, whether a felony or a misdemeanor;

(10) Violation of § 9–1106 of the Labor and Employment Article;

(11) Violation of § 8–301 of the Criminal Law Article, whether a felony or misdemeanor;

(12) Violation of § 2–209 of the Criminal Law Article;

(13) Violation of Title 2, Subtitle 5 of the Criminal Law Article;

(14) Violation of Title 11, Subtitle 5 of the Financial Institutions Article;

(15) Violation of §§ 10–604 through 10–608 of the Criminal Law Article, whether a felony or misdemeanor;

(16) Violation of Title 7, Subtitle 3, Part III of the Criminal Law Article, whether a felony or misdemeanor;

(17) Violation of § 20–102 of the Transportation Article, whether a felony or misdemeanor;

(18) Violation of § 8–801 of the Criminal Law Article;

(19) Violation of § 8–604 of the Criminal Law Article;

(20) Violation of Title 8, Subtitle 2, Part II of the Criminal Law Article;

(21) Violation of §§ 16–801 through 16–804 of the Election Law Article;

(22) Violation of § 3–203(c) of the Criminal Law Article; **[**or**]**

(23) VIOLATION OF § 11–208 OF THE CRIMINAL LAW ARTICLE AS A SECOND OR SUBSEQUENT OFFENSE; OR

[(23)**](24)** Violation of § 11–303(b) of the Criminal Law Article.

4–302.

(a) Except as provided in § 4–301(b)(2), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), (17), (18), (19), (20), (21), (22), **[**and**]** (23)**, AND (24)** of this subtitle, the District Court does not have jurisdiction to try a criminal case charging the commission of a felony.

(d) (1) Except as provided in paragraph (2) of this subsection, the jurisdiction of the District Court is concurrent with that of the circuit court in a criminal case:

(i) In which the penalty may be confinement for 3 years or more or a fine of $2,500 or more; or

(ii) That is a felony, as provided in § 4–301(b)(2), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), (17), (18), (19), (20), (21), (22), **[**and**]** (23)**, AND (24)** of this subtitle.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, a circuit court does not have jurisdiction to try a case charging a violation of § 5–601 or § 5–620 of the Criminal Law Article.

(ii) A circuit court does have jurisdiction to try a case charging a violation of § 5–601 or § 5–620 of the Criminal Law Article if the defendant:

1. Properly demands a jury trial;

2. Appeals as provided by law from a final judgment entered in the District Court; or

3. Is charged with another offense arising out of the same circumstances that is within a circuit court's jurisdiction.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 511

(House Bill 9)

AN ACT concerning

Criminal Law – Possession of Child Pornography – Penalties

FOR the purpose of ~~altering the definition of "sexual conduct" for purposes of certain child pornography provisions to include displaying the genitals of an individual for purposes of sexual arousal or gratification;~~ increasing the penalties for possessing a film, videotape, photograph, or other visual representation depicting a minor engaged in certain activity or in a certain state; making the possession of child pornography a felony under certain circumstances; providing

that the jurisdiction of the District Court is concurrent with that of the circuit court in a criminal case in which a person is charged with a second or subsequent offense of possession of child pornography; and generally relating to child pornography.

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section ~~11–201(f) and~~ 11–208
Annotated Code of Maryland
(2002 Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,
Article – Criminal Law
Section 11–201(f)
Annotated Code of Maryland
(2002 Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 4–301 and 4–302(a) and (d)
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – Criminal Law

11–201.

(f) ~~(1)~~ "Sexual conduct" has the meaning stated in § 11–101 of this title.

~~(2) "SEXUAL CONDUCT" INCLUDES THE DISPLAY OF THE GENITALS OF AN INDIVIDUAL FOR PURPOSES OF SEXUAL AROUSAL OR GRATIFICATION.~~

11–208.

(a) A person may not knowingly possess and intentionally retain a film, videotape, photograph, or other visual representation showing an actual child under the age of 16 years:

(1) engaged as a subject of sadomasochistic abuse;

(2) engaged in sexual conduct; or

(3) in a state of sexual excitement.

(b) **(1)** [A] **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A** person who violates this section is guilty of a misdemeanor and on conviction is subject to**[**:

(1) for a first violation,**]** imprisonment not exceeding **[**2**] 5** years or a fine not exceeding $2,500 or both**[**; and**].**

(2) **[**for each subsequent violation, imprisonment not exceeding 5 years**] A PERSON WHO VIOLATES THIS SECTION, HAVING PREVIOUSLY BEEN CONVICTED UNDER THIS SECTION, IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 10 YEARS** or a fine not exceeding $10,000 or both.

(c) Nothing in this section may be construed to prohibit a parent from possessing visual representations of the parent's own child in the nude unless the visual representations show the child engaged:

(1) as a subject of sadomasochistic abuse; or

(2) in sexual conduct and in a state of sexual excitement.

(d) It is an affirmative defense to a charge of violating this section that the person promptly and in good faith:

(1) took reasonable steps to destroy each visual representation; or

(2) reported the matter to a law enforcement agency.

Article – Courts and Judicial Proceedings

4–301.

(a) Except as provided in §§ 3–803, 3–8A–03, and 4–302 of this article, the District Court has exclusive original jurisdiction in a criminal case in which a person at least 16 years old or a corporation is charged with violation of the vehicle laws, or the State Boat Act, or regulations adopted pursuant to the vehicle laws or State Boat Act.

(b) Except as provided in § 4–302 of this subtitle, the District Court also has exclusive original jurisdiction in a criminal case in which a person at least 18 years old or a corporation is charged with:

(1) Commission of a common–law or statutory misdemeanor regardless of the amount of money or value of the property involved;

(2) Violation of § 7–104, § 7–105, § 7–107, or § 7–108 of the Criminal Law Article, whether a felony or a misdemeanor;

(3) Violation of a county, municipal, or other ordinance, if the violation is not a felony;

(4) Criminal violation of a State, county, or municipal rule or regulation, if the violation is not a felony;

(5) Doing or omitting to do any act made punishable by a fine, imprisonment, or other penalty as provided by the particular law, ordinance, rule, or regulation defining the violation if the violation is not a felony;

(6) Violation of § 8–103 of the Criminal Law Article, whether a felony or a misdemeanor;

(7) Violation of §§ 8–203 through 8–209 of the Criminal Law Article, whether a felony or misdemeanor;

(8) Forgery or violation of Title 8, Subtitle 6 of the Criminal Law Article, whether a felony or misdemeanor;

(9) Violation of Title 27, Subtitle 4 of the Insurance Article, whether a felony or a misdemeanor;

(10) Violation of § 9–1106 of the Labor and Employment Article;

(11) Violation of § 8–301 of the Criminal Law Article, whether a felony or misdemeanor;

(12) Violation of § 2–209 of the Criminal Law Article;

(13) Violation of Title 2, Subtitle 5 of the Criminal Law Article;

(14) Violation of Title 11, Subtitle 5 of the Financial Institutions Article;

(15) Violation of §§ 10–604 through 10–608 of the Criminal Law Article, whether a felony or misdemeanor;

(16) Violation of Title 7, Subtitle 3, Part III of the Criminal Law Article, whether a felony or misdemeanor;

(17) Violation of § 20–102 of the Transportation Article, whether a felony or misdemeanor;

(18) Violation of § 8–801 of the Criminal Law Article;

(19) Violation of § 8–604 of the Criminal Law Article;

(20) Violation of Title 8, Subtitle 2, Part II of the Criminal Law Article;

(21) Violation of §§ 16–801 through 16–804 of the Election Law Article;

(22) Violation of § 3–203(c) of the Criminal Law Article; [or]

(23) VIOLATION OF § 11–208 OF THE CRIMINAL LAW ARTICLE AS A SECOND OR SUBSEQUENT OFFENSE; OR

[(23)]**(24)** Violation of § 11–303(b) of the Criminal Law Article.

4–302.

(a) Except as provided in § 4–301(b)(2), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), (17), (18), (19), (20), (21), (22), [and] (23)**, AND (24)** of this subtitle, the District Court does not have jurisdiction to try a criminal case charging the commission of a felony.

(d) (1) Except as provided in paragraph (2) of this subsection, the jurisdiction of the District Court is concurrent with that of the circuit court in a criminal case:

(i) In which the penalty may be confinement for 3 years or more or a fine of $2,500 or more; or

(ii) That is a felony, as provided in § 4–301(b)(2), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), (17), (18), (19), (20), (21), (22), [and] (23)**, AND (24)** of this subtitle.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, a circuit court does not have jurisdiction to try a case charging a violation of § 5–601 or § 5–620 of the Criminal Law Article.

(ii) A circuit court does have jurisdiction to try a case charging a violation of § 5–601 or § 5–620 of the Criminal Law Article if the defendant:

1. Properly demands a jury trial;

2. Appeals as provided by law from a final judgment entered in the District Court; or

3. Is charged with another offense arising out of the same circumstances that is within a circuit court's jurisdiction.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 512

(Senate Bill 133)

AN ACT concerning

~~**Task Force to Study Changes to the Automotive Warranty Enforcement Act**~~

Consumer Protection – Automotive Warranty Enforcement Act – Warranty Period

FOR the purpose of ~~establishing the Task Force to Study Changes to the Automotive Warranty Enforcement Act; providing for the membership of the Task Force; providing for the appointment of the chair of the Task Force; providing for the staffing of the Task Force; providing that a member of the Task Force may not receive compensation but is entitled to a certain reimbursement; requiring the Task Force to study and make recommendations regarding certain topics; requiring the Task Force to make a certain report to the Governor and General Assembly on or before a certain date; providing for the termination of this Act;~~ altering the definition of "manufacturer's warranty period" for purposes of the Automotive Warranty Enforcement Act to extend the warranty period; and generally relating to motor vehicles and motor vehicle warranty enforcement.

BY repealing and reenacting, without amendments,
Article – Commercial Law
Section 14–1501(a)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Commercial Law
Section 14–1501(e)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

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

Article – Commercial Law

14–1501.

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

(e) (1) "Manufacturer's warranty period" means the earlier of:

(i) The period of the motor vehicle's first **[**15,000**]** **18,000** miles of operation; or

(ii) **[**15**]** **24** months following the date of original delivery of the motor vehicle to the consumer.

(2) This subsection does not extend any manufacturer's express warranty.

~~(a) There is a Task Force to Study Changes to the Automotive Warranty Enforcement Act.~~

~~(b) The Task Force consists of the following members:~~

~~(1) two members of the Senate of Maryland, appointed by the President of the Senate;~~

~~(2) two members of the House of Delegates, appointed by the Speaker of the House;~~

~~(3) the Attorney General, or the Attorney General's designee; and~~

~~(4) the following members appointed by the Governor:~~

~~(i) one representative of the Alliance of Automobile Manufacturers;~~

~~(ii) one representative of the New Car and Truck Dealers Association; and~~

~~(iii) four representatives of the general public.~~

~~(c) To the extent practicable, the members appointed to the Task Force shall reasonably reflect the geographic, racial, ethnic, cultural, and gender diversity of the State.~~

~~(d) The President of the Senate and the Speaker of the House shall jointly designate the chair of the Task Force.~~

~~(e) The Office of the Attorney General shall provide staff for the Task Force.~~

~~(f) A member of the Task Force:~~

~~(1) may not receive compensation as a member of the Task Force; but~~

~~(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.~~

~~(g) The Task Force shall study and make recommendations on the following:~~

~~(1) the appropriate amount for a refund of motor vehicles with defects that cannot be cured;~~

~~(2) any need to clarify current law on what is considered a repair attempt under the Automotive Warranty Enforcement Act;~~

~~(3) what the burden of proof of a plaintiff should be in a civil action under the Automotive Warranty Enforcement Act;~~

~~(4) whether a court should be required to award costs and reasonable attorney's fees to a prevailing plaintiff under the Automotive Warranty Enforcement Act;~~

~~(5) any additional disclosures that a manufacturer, factory branch, or dealer should be required to make to a consumer seeking repair of a motor vehicle defect;~~

~~(6) whether the provisions of the Automotive Warranty Enforcement Act should be expanded to include used motor vehicles or commercial vehicles;~~

~~(7) whether the manufacturer's warranty period should be extended beyond 15 months based on the time a motor vehicle is under repair;~~

~~(8) the Motor Vehicle Administration's method of indicating in its titling records that a vehicle has been returned to a manufacturer or factory branch under the Automotive Warranty Enforcement Act and what information the Motor Vehicle Administration maintains or should maintain concerning those vehicles;~~

~~(9) whether a dealer that previously sold or attempted to repair a motor vehicle returned to a manufacturer under the Automotive Warranty Enforcement Act should be prohibited from reacquiring the motor vehicle through any means; and~~

~~(10) whether a State–run arbitration program should be created to resolve disputes under the Automotive Warranty Enforcement Act.~~

~~(h) On or before December 1, 2009, the Task Force shall report its findings and recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~June~~ October 1, 2009. ~~It shall remain effective for a period of 1 year and, at the end of May 31, 2010, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.~~

Approved by the Governor, May 19, 2009.

Chapter 513

(Senate Bill 145)

AN ACT concerning

Courts – Violation of Probation or Suspension of Sentence – Notice or Warrant

FOR the purpose of authorizing a circuit court to end a period of probation at any time, remand or release a probationer or defendant pending a hearing of a violation of probation, and, on a finding of violation, revoke probation or suspension of sentence and impose a certain sentence; altering a requirement that the District Court issue a warrant or give notice of a hearing on violation of probation during the period of probation; requiring that a certain hearing date be timely; making stylistic changes; and generally relating to a proceeding in the District Court or circuit courts for a violation of a condition of probation or suspension of sentence.

BY repealing and reenacting, with amendments,
Article – Criminal Procedure
Section 6–223
Annotated Code of Maryland
(2008 Replacement Volume)

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

Article – Criminal Procedure

6–223.

(a) **[**The**]** **A CIRCUIT COURT OR THE** District Court may end the period of probation at any time.

(b) ~~During the period of [probation, on written charges under oath or on violation of a condition of probation,] **PROBATION OR WITHIN 90 DAYS AFTER THE DATE ON WHICH THE PROBATION OF THE DEFENDANT ENDS, ON RECEIPT OF WRITTEN CHARGES, FILED UNDER OATH, THAT THE DEFENDANT VIOLATED A CONDITION OF PROBATION DURING THE PERIOD OF PROBATION,** the District Court may~~ ***ON RECEIPT OF WRITTEN CHARGES, FILED UNDER OATH, THAT A PROBATIONER OR DEFENDANT VIOLATED A CONDITION OF PROBATION DURING THE PERIOD OF PROBATION, THE DISTRICT COURT MAY, DURING THE PERIOD OF PROBATION OR WITHIN 30 DAYS AFTER THE VIOLATION, WHICHEVER IS LATER,*** issue a warrant or notice requiring the probationer or defendant to be brought or appear before the judge issuing the warrant or notice:

(1) to answer the charge of violation of [conditions] **A CONDITION** of probation or of suspension of sentence; and

(2) to be present for the setting of a **TIMELY** hearing date for that charge.

(c) Pending the hearing or determination of the charge, **A CIRCUIT COURT OR** the District Court may remand the probationer or defendant to a correctional facility or release the probationer or defendant with or without bail.

(d) If, at the hearing, **A CIRCUIT COURT OR** the District Court finds that the probationer or defendant has violated a condition of probation, the [District Court] **COURT** may:

(1) revoke the probation granted or the suspension of sentence; and

(2) impose any sentence that might have originally been imposed for the crime of which the probationer or defendant was convicted or pleaded nolo contendere.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 514

(Senate Bill 153)

AN ACT concerning

Estates and Trusts – Jurisdiction of Orphans' Court – Determination of Title to Personal Property

FOR the purpose of altering the maximum value of personal property for which an orphans' court is authorized to determine questions of title for a certain purpose; providing for the application of this Act; and generally relating to the estates of decedents.

BY repealing and reenacting, with amendments,
Article – Estates and Trusts
Section 1–301
Annotated Code of Maryland
(2001 Replacement Volume and 2008 Supplement)

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

Article – Estates and Trusts

1–301.

(a) All property of a decedent shall be subject to the estates of decedents law, and upon the person's death shall pass directly to the personal representative, who shall hold the legal title for administration and distribution, without any distinction, preference, or priority as between real and personal property.

(b) The court may determine questions of title to personal property not exceeding **[**$20,000**]** **$50,000** in value for the purpose of determining what personal property is properly includable in an estate that is the subject of a proceeding before the court.

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 probate proceeding commenced before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 515

(House Bill 399)

AN ACT concerning

Estates and Trusts – Jurisdiction of **Orphans' Court – ~~Jurisdictional Limit – Questions of~~** ***Determination of*** **Title to Personal Property**

FOR the purpose of ~~increasing the limit on the amount involved for jurisdiction of an orphans' court in the determination of questions of title to personal property~~ *altering the maximum value of personal property for which an orphans' court is authorized to determine questions of title for a certain purpose*; providing for the application of this Act; and generally relating to the ~~jurisdiction of an orphans' court under certain circumstances~~ *estates of decedents*.

BY repealing and reenacting, with amendments,
Article – Estates and Trusts
Section 1–301
Annotated Code of Maryland
(2001 Replacement Volume and 2008 Supplement)

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

Article – Estates and Trusts

1–301.

(a) All property of a decedent shall be subject to the estates of decedents law, and upon the person's death shall pass directly to the personal representative, who shall hold the legal title for administration and distribution, without any distinction, preference, or priority as between real and personal property.

(b) The court may determine questions of title to personal property not exceeding **[**$20,000**]** **$50,000** in value for the purpose of determining what personal property is properly includable in an estate that is the subject of a proceeding before the court.

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 probate proceeding commenced before the effective date of this Act.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 516

(Senate Bill 173)

AN ACT concerning

Health Insurance – Mandated Benefits – Hospitalization and Home Visits Following a Mastectomy

FOR the purpose of requiring certain insurers, nonprofit health service plans, and health maintenance organizations to provide inpatient hospitalization coverage for a certain minimum length of time following a mastectomy that is performed for the treatment of breast cancer; providing that the inpatient hospitalization services required under this Act need not be provided if a patient, in consultation with the patient's attending physician, decides that a shorter period of inpatient hospitalization is needed for recovery; requiring certain insurers, nonprofit health service plans, and health maintenance organizations to provide coverage for certain home visits under certain circumstances; prohibiting an entity subject to this Act from denying, limiting, or otherwise impairing the participation of an attending physician under contract with the entity under certain circumstances; prohibiting certain insurers, nonprofit health service plans, and health maintenance organizations from ~~imposing certain cost-sharing requirements or~~ refusing reimbursement for certain services ~~except under certain circumstances~~; requiring certain insurers, nonprofit health service plans, and health maintenance organizations to provide a certain notice to enrollees and insureds; defining ~~certain terms~~ a certain term; providing for the application of this Act; and generally relating to health insurance coverage for hospitalization and home visits following a mastectomy.

BY adding to
Article – Health – General
Section 19–706(ttt)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Insurance
Section 15–832
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

BY adding to
Article – Insurance
Section 15–832.1
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – Health – General

19–706.

(TTT) THE PROVISIONS OF § 15–832.1 OF THE INSURANCE ARTICLE APPLY TO HEALTH MAINTENANCE ORGANIZATIONS.

Article – Insurance

15–832.

(a) **[**In this section, "mastectomy" means the surgical removal of all or part of a breast as a result of breast cancer.

(b)**]** This section applies to:

(1) insurers and nonprofit health service plans that provide inpatient hospital, medical, or surgical benefits to individuals or groups on an expense–incurred basis under health insurance policies or contracts that are issued or delivered in the State; and

(2) health maintenance organizations that provide inpatient hospital, medical, or surgical benefits to individuals or groups under contracts that are issued or delivered in the State.

[(c)**]** **(B)** For a patient who receives less than 48 hours of inpatient hospitalization following **[**a mastectomy or**]** the surgical removal of a testicle, or who undergoes **[**a mastectomy or**]** the surgical removal of a testicle on an outpatient basis, an entity subject to this section shall provide coverage for:

(1) one home visit scheduled to occur within 24 hours after discharge from the hospital or outpatient health care facility; and

(2) an additional home visit if prescribed by the patient's attending physician.

[(d)**]** **(C)** Each entity subject to this section shall provide notice annually to its enrollees and insureds about the coverage required under this section.

15–832.1.

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

~~(2) "HIGH–DEDUCTIBLE HEALTH PLAN" MEANS A HEALTH PLAN THAT MEETS THE FEDERAL REQUIREMENTS ESTABLISHED BY § 1201 OF THE MEDICARE PRESCRIPTION DRUG, IMPROVEMENT, AND MODERNIZATION ACT OF 2003.~~

~~(3) "MASTECTOMY" MEANS~~, "MASTECTOMY" MEANS THE SURGICAL REMOVAL OF ALL OR PART OF A BREAST AS A RESULT OF BREAST CANCER.

(B) THIS SECTION APPLIES TO:

(1) INSURERS AND NONPROFIT HEALTH SERVICE PLANS THAT PROVIDE INPATIENT HOSPITAL, MEDICAL, OR SURGICAL BENEFITS TO INDIVIDUALS OR GROUPS ON AN EXPENSE–INCURRED BASIS UNDER HEALTH INSURANCE POLICIES OR CONTRACTS THAT ARE ISSUED OR DELIVERED IN THE STATE; AND

(2) HEALTH MAINTENANCE ORGANIZATIONS THAT PROVIDE INPATIENT HOSPITAL, MEDICAL, OR SURGICAL BENEFITS TO INDIVIDUALS OR GROUPS UNDER CONTRACTS THAT ARE ISSUED OR DELIVERED IN THE STATE.

(C) AN ENTITY SUBJECT TO THIS SECTION SHALL PROVIDE COVERAGE FOR THE COST OF INPATIENT HOSPITALIZATION SERVICES FOR A PATIENT FOR A MINIMUM OF 48 HOURS FOLLOWING A MASTECTOMY.

(D) A PATIENT MAY REQUEST A SHORTER LENGTH OF STAY THAN THAT PROVIDED IN SUBSECTION (C) OF THIS SECTION IF THE PATIENT DECIDES, IN CONSULTATION WITH THE PATIENT'S ATTENDING PHYSICIAN, THAT LESS TIME IS NEEDED FOR RECOVERY.

(E) (1) FOR A PATIENT WHO RECEIVES LESS THAN 48 HOURS OF INPATIENT HOSPITALIZATION FOLLOWING A MASTECTOMY OR WHO UNDERGOES A MASTECTOMY ON AN OUTPATIENT BASIS, AN ENTITY SUBJECT TO THIS SECTION SHALL PROVIDE COVERAGE FOR:

(I) ONE HOME VISIT SCHEDULED TO OCCUR WITHIN 24 HOURS AFTER DISCHARGE FROM THE HOSPITAL OR OUTPATIENT HEALTH CARE FACILITY; AND

(II) AN ADDITIONAL HOME VISIT IF PRESCRIBED BY THE PATIENT'S ATTENDING PHYSICIAN.

(2) FOR A PATIENT WHO REMAINS IN THE HOSPITAL FOR AT LEAST THE LENGTH OF TIME PROVIDED UNDER SUBSECTION (C) OF THIS SECTION, AN ENTITY SUBJECT TO THIS SECTION SHALL PROVIDE COVERAGE FOR A HOME VISIT IF PRESCRIBED BY THE ATTENDING PHYSICIAN.

(F) AN ENTITY SUBJECT TO THIS SECTION MAY NOT DENY, LIMIT, OR OTHERWISE IMPAIR THE PARTICIPATION OF AN ATTENDING PHYSICIAN UNDER CONTRACT WITH THE ENTITY IN PROVIDING HEALTH CARE SERVICES TO ENROLLEES OR INSUREDS FOR:

(1) ADVOCATING THE INTEREST OF A MASTECTOMY PATIENT THROUGH THE ENTITY'S UTILIZATION REVIEW OR APPEALS SYSTEM;

(2) ADVOCATING MORE THAN 48 HOURS OF INPATIENT HOSPITAL CARE FOR A PATIENT WITH COMPLICATIONS RELATED TO A MASTECTOMY; OR

(3) PRESCRIBING A HOME VISIT UNDER SUBSECTION (E)(1)(II) OR (2) OF THIS SECTION.

(G) ~~(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, AN ENTITY SUBJECT TO THIS SECTION MAY NOT:~~

~~(I) IMPOSE A COPAYMENT OR COINSURANCE REQUIREMENT OR DEDUCTIBLE FOR COVERAGE REQUIRED UNDER SUBSECTION (E)(1) OR (2) OF THIS SECTION; OR~~

~~(II)~~ <u>AN ENTITY SUBJECT TO THIS SECTION MAY NOT</u> REFUSE REIMBURSEMENT UNDER SUBSECTION (E)(1) OF THIS SECTION IF THE SERVICES DO NOT OCCUR WITHIN THE TIME SPECIFIED.

~~(2) IF AN INSURED OR ENROLLEE IS COVERED UNDER A HIGH-DEDUCTIBLE HEALTH PLAN, AN ENTITY SUBJECT TO THIS SECTION MAY REQUIRE THAT THE COVERAGE REQUIRED UNDER SUBSECTION (E)(1) AND (2) OF THIS SECTION BE SUBJECT TO THE DEDUCTIBLE OF THE HIGH-DEDUCTIBLE HEALTH PLAN.~~

(H) AN ENTITY SUBJECT TO THIS SECTION SHALL PROVIDE NOTICE ANNUALLY TO INSUREDS AND ENROLLEES ABOUT THE COVERAGE PROVIDED BY THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or after October 1, 2009.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 517

(House Bill 41)

AN ACT concerning

Health Insurance – Mandated Benefits – Hospitalization and Home Visits Following a Mastectomy

FOR the purpose of requiring certain insurers, nonprofit health service plans, and health maintenance organizations to provide inpatient hospitalization coverage for a certain minimum length of time following a mastectomy that is performed for the treatment of breast cancer; providing that the inpatient hospitalization services required under this Act need not be provided if a patient, in consultation with the patient's attending physician, decides that a shorter period of inpatient hospitalization is needed for recovery; requiring certain insurers, nonprofit health service plans, and health maintenance organizations to provide coverage for certain home visits under certain circumstances; prohibiting an entity subject to this Act from denying, limiting, or otherwise impairing the participation of an attending physician under contract with the entity under certain circumstances; prohibiting certain insurers, nonprofit health service plans, and health maintenance organizations from ~~imposing certain cost-sharing requirements or~~ refusing reimbursement for certain services ~~except under certain circumstances~~; requiring certain insurers, nonprofit health service plans, and health maintenance organizations to provide a certain notice to enrollees and insureds; defining ~~certain terms~~ a certain term; providing for the application of this Act; and generally relating to health insurance coverage for hospitalization and home visits following a mastectomy.

BY adding to
Article – Health – General
Section 19–706(ttt)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Insurance
Section 15–832
Annotated Code of Maryland

(2006 Replacement Volume and 2008 Supplement)

BY adding to
Article – Insurance
Section 15–832.1
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – Health – General

19–706.

(TTT) THE PROVISIONS OF § 15–832.1 OF THE INSURANCE ARTICLE APPLY TO HEALTH MAINTENANCE ORGANIZATIONS.

Article – Insurance

15–832.

(a) **[**In this section, "mastectomy" means the surgical removal of all or part of a breast as a result of breast cancer.

(b)**]** This section applies to:

(1) insurers and nonprofit health service plans that provide inpatient hospital, medical, or surgical benefits to individuals or groups on an expense–incurred basis under health insurance policies or contracts that are issued or delivered in the State; and

(2) health maintenance organizations that provide inpatient hospital, medical, or surgical benefits to individuals or groups under contracts that are issued or delivered in the State.

[(c)**] (B)** For a patient who receives less than 48 hours of inpatient hospitalization following **[**a mastectomy or**]** the surgical removal of a testicle, or who undergoes **[**a mastectomy or**]** the surgical removal of a testicle on an outpatient basis, an entity subject to this section shall provide coverage for:

(1) one home visit scheduled to occur within 24 hours after discharge from the hospital or outpatient health care facility; and

(2) an additional home visit if prescribed by the patient's attending physician.

[(d)] **(C)** Each entity subject to this section shall provide notice annually to its enrollees and insureds about the coverage required under this section.

15–832.1.

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

~~(2) "HIGH–DEDUCTIBLE HEALTH PLAN" MEANS A HEALTH PLAN THAT MEETS THE FEDERAL REQUIREMENTS ESTABLISHED BY § 1201 OF THE MEDICARE PRESCRIPTION DRUG, IMPROVEMENT, AND MODERNIZATION ACT OF 2003.~~

~~(3) "MASTECTOMY" MEANS~~, **"MASTECTOMY" MEANS THE SURGICAL REMOVAL OF ALL OR PART OF A BREAST AS A RESULT OF BREAST CANCER.**

(B) THIS SECTION APPLIES TO:

(1) INSURERS AND NONPROFIT HEALTH SERVICE PLANS THAT PROVIDE INPATIENT HOSPITAL, MEDICAL, OR SURGICAL BENEFITS TO INDIVIDUALS OR GROUPS ON AN EXPENSE–INCURRED BASIS UNDER HEALTH INSURANCE POLICIES OR CONTRACTS THAT ARE ISSUED OR DELIVERED IN THE STATE; AND

(2) HEALTH MAINTENANCE ORGANIZATIONS THAT PROVIDE INPATIENT HOSPITAL, MEDICAL, OR SURGICAL BENEFITS TO INDIVIDUALS OR GROUPS UNDER CONTRACTS THAT ARE ISSUED OR DELIVERED IN THE STATE.

(C) AN ENTITY SUBJECT TO THIS SECTION SHALL PROVIDE COVERAGE FOR THE COST OF INPATIENT HOSPITALIZATION SERVICES FOR A PATIENT FOR A MINIMUM OF 48 HOURS FOLLOWING A MASTECTOMY.

(D) A PATIENT MAY REQUEST A SHORTER LENGTH OF STAY THAN THAT PROVIDED IN SUBSECTION (C) OF THIS SECTION IF THE PATIENT DECIDES, IN CONSULTATION WITH THE PATIENT'S ATTENDING PHYSICIAN, THAT LESS TIME IS NEEDED FOR RECOVERY.

(E) (1) FOR A PATIENT WHO RECEIVES LESS THAN 48 HOURS OF INPATIENT HOSPITALIZATION FOLLOWING A MASTECTOMY OR WHO UNDERGOES A MASTECTOMY ON AN OUTPATIENT BASIS, AN ENTITY SUBJECT TO THIS SECTION SHALL PROVIDE COVERAGE FOR:

(I) ONE HOME VISIT SCHEDULED TO OCCUR WITHIN 24 HOURS AFTER DISCHARGE FROM THE HOSPITAL OR OUTPATIENT HEALTH CARE FACILITY; AND

(II) AN ADDITIONAL HOME VISIT IF PRESCRIBED BY THE PATIENT'S ATTENDING PHYSICIAN.

(2) FOR A PATIENT WHO REMAINS IN THE HOSPITAL FOR AT LEAST THE LENGTH OF TIME PROVIDED UNDER SUBSECTION (C) OF THIS SECTION, AN ENTITY SUBJECT TO THIS SECTION SHALL PROVIDE COVERAGE FOR A HOME VISIT IF PRESCRIBED BY THE ATTENDING PHYSICIAN.

(F) AN ENTITY SUBJECT TO THIS SECTION MAY NOT DENY, LIMIT, OR OTHERWISE IMPAIR THE PARTICIPATION OF AN ATTENDING PHYSICIAN UNDER CONTRACT WITH THE ENTITY IN PROVIDING HEALTH CARE SERVICES TO ENROLLEES OR INSUREDS FOR:

(1) ADVOCATING THE INTEREST OF A MASTECTOMY PATIENT THROUGH THE ENTITY'S UTILIZATION REVIEW OR APPEALS SYSTEM;

(2) ADVOCATING MORE THAN 48 HOURS OF INPATIENT HOSPITAL CARE FOR A PATIENT WITH COMPLICATIONS RELATED TO A MASTECTOMY; OR

(3) PRESCRIBING A HOME VISIT UNDER SUBSECTION (E)(1)(II) OR (2) OF THIS SECTION.

(G) ~~(1)~~ ~~EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, AN ENTITY SUBJECT TO THIS SECTION MAY NOT:~~

~~(I) IMPOSE A COPAYMENT OR COINSURANCE REQUIREMENT OR DEDUCTIBLE FOR COVERAGE REQUIRED UNDER SUBSECTION (E)(1) OR (2) OF THIS SECTION; OR~~

~~(II)~~ AN ENTITY SUBJECT TO THIS SECTION MAY NOT REFUSE REIMBURSEMENT UNDER SUBSECTION (E)(1) OF THIS SECTION IF THE SERVICES DO NOT OCCUR WITHIN THE TIME SPECIFIED.

~~(2) IF AN INSURED OR ENROLLEE IS COVERED UNDER A HIGH-DEDUCTIBLE HEALTH PLAN, AN ENTITY SUBJECT TO THIS SECTION MAY REQUIRE THAT THE COVERAGE REQUIRED UNDER SUBSECTION (E)(1) AND (2) OF THIS SECTION BE SUBJECT TO THE DEDUCTIBLE OF THE HIGH-DEDUCTIBLE HEALTH PLAN.~~

(H) AN ENTITY SUBJECT TO THIS SECTION SHALL PROVIDE NOTICE ANNUALLY TO INSUREDS AND ENROLLEES ABOUT THE COVERAGE PROVIDED BY THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or after October 1, 2009.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 518

(Senate Bill 177)

AN ACT concerning

Emergency Responders – Death Benefits and Funeral Expenses

FOR the purpose of providing that certain individuals employed as emergency responders for the Department of the Environment are eligible for certain death benefits and funeral expenses; defining certain terms; requiring the Department of the Environment to place in reserve each fiscal year a certain amount to pay a certain death benefit under certain circumstances; and generally relating to benefits for emergency responders for the Department of the Environment.

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 1–202
Annotated Code of Maryland
(2003 Volume and 2008 Supplement)

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

Article – Public Safety

1–202.

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

(2) (i) "Child" means a natural or adopted, legitimate or illegitimate child or stepchild of the decedent.

(ii) "Child" includes a child or stepchild born posthumously.

(3) "Correctional officer" has the meaning stated in § 8–201(e)(1) of the Correctional Services Article.

(4) "HAZARDOUS MATERIAL" MEANS ANY SUBSTANCE REGULATED AS A HAZARDOUS MATERIAL UNDER TITLE 49 OF THE CODE OF FEDERAL REGULATIONS.

(5) "HAZARDOUS MATERIAL ~~RESPONDER~~ RESPONSE TEAM EMPLOYEE" MEANS ~~ANY INDIVIDUAL EMPLOYED BY THE STATE OR A LOCAL GOVERNMENT AGENCY WHOSE PRIMARY DUTIES DIRECTLY INVOLVE HAZARDOUS MATERIALS~~ AN EMPLOYEE OF THE DEPARTMENT OF THE ENVIRONMENT WHO IS ON CALL 24 HOURS A DAY TO PROVIDE EMERGENCY RESPONSE TO A DISCHARGE OF OIL OR A RELEASE OF HAZARDOUS MATERIAL OR OTHER EMERGENCY RESPONSE ACTIVITY.

[(4)**] (6)** (i) "Law enforcement officer" has the meaning stated in § 3–101 of this article.

(ii) "Law enforcement officer" includes:

1. an officer who serves in a probationary status; and

2. an officer who serves at the pleasure of the appointing authority of a county or municipal corporation.

[(5)**] (7)** "Performance of duties" includes, in the case of a volunteer or career firefighter, public safety aviation employee, **[**or**]** rescue squad member**, OR HAZARDOUS ~~MATERIALS RESPONDER, OR EMPLOYEE OF THE HARFORD COUNTY EMERGENCY MEDICAL SERVICES FOUNDATION~~ MATERIAL RESPONSE TEAM EMPLOYEE**:

(i) actively participating in fighting a fire;

(ii) going to or from a fire;

(iii) performing other duties necessary to the operation or maintenance of the fire company;

(iv) actively participating in the ambulance, advanced life support, or rescue work of an advanced life support unit or a fire, ambulance, or rescue company, including going to or from an emergency or rescue;

(v) providing emergency or rescue assistance, whether acting alone or at the direction of or with a fire, ambulance, or rescue company or advanced life support unit; **[**and**]**

(vi) actively participating in flight operations as a crew member in a rotary or fixed wing aircraft**; AND**

(VII) ~~**PERFORMING DUTIES DIRECTLY INVOLVING HAZARDOUS MATERIALS**~~ **PROVIDING EMERGENCY RESPONSE TO A DISCHARGE OF OIL OR A RELEASE OF HAZARDOUS MATERIAL OR OTHER EMERGENCY RESPONSE ACTIVITY**.

[(6)**] (8)** "Public safety aviation employee" includes a pilot and aviation maintenance technician employed by the State.

[(7)**] (9)** "Stepchild" means a child of the surviving spouse who was living with or dependent for support on the decedent at the time of the decedent's death.

(a–1) For purposes of this section, an individual served in the Afghanistan or Iraq conflict if the individual was a member of the uniform services of the United States who served in:

(1) Afghanistan or contiguous air space, as defined in federal regulations, on or after October 24, 2001, and before a terminal date to be prescribed by the United States Secretary of Defense; or

(2) Iraq or contiguous waters or air space, as defined in federal regulations, on or after March 19, 2003, and before a terminal date to be prescribed by the United States Secretary of Defense.

(b) (1) Subject to subsection (c) of this section and paragraph (2) of this subsection, a death benefit of $125,000 shall be paid to the surviving spouse, child, dependent parent, or estate of each of the following individuals who is killed or dies in the performance of duties on or after January 1, 2006:

(i) a law enforcement officer;

(ii) a correctional officer;

(iii) a volunteer or career firefighter or rescue squad member;

(iv) a sworn member of the office of State Fire Marshal;

(v) a public safety aviation employee; **[**or**]**

(vi) a Maryland resident who was a member of the uniform services of the United States serving in the Afghanistan or Iraq conflict**; OR**

(VII) A HAZARDOUS MATERIAL ~~RESPONDER; OR~~

~~(VIII) AN EMPLOYEE OF THE HARFORD COUNTY EMERGENCY MEDICAL SERVICES FOUNDATION~~ RESPONSE TEAM EMPLOYEE.

(2) For fiscal year 2009, and for each following fiscal year, the death benefit provided in the prior fiscal year shall be adjusted by any change in the calendar year preceding the fiscal year in the Consumer Price Index (all urban customers – United States city average – all items), as published by the United States Bureau of Labor Statistics.

(3) A death benefit under this subsection is in addition to:

(i) any workers' compensation benefits;

(ii) the proceeds of any form of life insurance, regardless of who paid the premiums on the insurance; and

(iii) the funeral benefit provided under subsection (d) of this section.

(c) (1) Whenever an individual identified in subsection (b)(1)(i) through (v) **AND (VII)** of this section dies as the direct and proximate result of a heart attack or stroke, the individual shall be presumed to have died as a direct and proximate result of a personal injury sustained in the performance of duties if:

(i) the individual, while on duty:

1. engaged in a situation that involved nonroutine stressful or strenuous physical law enforcement, fire suppression, rescue, **RESPONSE TO A DISCHARGE OF OIL OR A RELEASE OF** hazardous material ~~response~~, emergency medical services, prison security, disaster relief, flight operations as a crew member in a rotary or fixed wing aircraft, or other emergency response activity; or

2. participated in a training exercise that involved nonroutine stressful or strenuous physical activity;

(ii) the individual died as a result of a heart attack or stroke that the individual suffered:

1. while engaging or participating in an activity described in item (i)1 or 2 of this paragraph;

2. while still on duty after engaging or participating in an activity described in item (i)1 or 2 of this paragraph; or

3. not later than 24 hours after engaging or participating in an activity described in item (i)1 or 2 of this paragraph; and

(iii) the presumption is not overcome by competent medical evidence to the contrary.

(2) For purposes of paragraph (1) of this subsection, nonroutine stressful or strenuous physical activity does not include actions of a clerical, administrative, or nonmanual nature.

(d) (1) Reasonable funeral expenses, not exceeding $10,000, shall be paid to the surviving spouse, child, parent, or estate of each of the following individuals who is killed or dies in the performance of duties:

(i) a law enforcement officer;

(ii) a correctional officer;

(iii) a volunteer or career firefighter or rescue squad member;

(iv) a public safety aviation employee; **[**or**]**

(v) a sworn member of the office of State Fire Marshal**; OR**

(VI) A HAZARDOUS MATERIAL ~~RESPONDER; OR~~

~~(VII) AN EMPLOYEE OF THE HARFORD COUNTY EMERGENCY MEDICAL SERVICES FOUNDATION~~ RESPONSE TEAM EMPLOYEE.

(2) The funeral benefit under this subsection shall be reduced by the amount of any related workers' compensation benefits paid under § 9–689 of the Labor and Employment Article.

(e) (1) The Secretary of State shall issue a State flag to the family of a firefighter, policeman, member of the military, or sworn member of the office of State Fire Marshal who is killed in the performance of duty.

(2) (i) Except when the deceased is a member of the military, the flag shall be presented to the family of the deceased by the State Senator of the legislative district in which the deceased resided or served.

(ii) When the deceased is a member of the military, the flag shall be presented to the family of the deceased by the Department of Veterans Affairs.

(f) On a case–by–case basis, the Secretary of Public Safety and Correctional Services may award a death benefit under this section if:

(1) the decedent's death was caused by the decedent's intentional misconduct;

(2) the decedent intended to bring about the decedent's death; or

(3) the decedent's voluntary intoxication was the proximate cause of the decedent's death.

(g) If the Secretary of Public Safety and Correctional Services determines that the benefits under this section are to be paid, the benefits shall be paid:

(1) to the decedent's surviving spouse;

(2) if no individual is eligible under item (1) of this subsection, to each surviving child of the decedent in equal shares;

(3) (i) for a death benefit under subsection (b) of this section, if no individual is eligible under item (1) or (2) of this subsection, to the decedent's surviving parent, if the parent was a dependent as defined in § 152 of the Internal Revenue Code; or

(ii) for any other benefit under this section, if no individual is eligible under item (1) or (2) of this subsection, to the decedent's surviving parent; or

(4) if no individual is eligible under item (1), (2), or (3) of this subsection, to the decedent's estate.

(h) Payments under this section shall be made out of money that the Governor includes for that purpose in the State budget.

(i) A person aggrieved by a final decision of the Secretary of Public Safety and Correctional Services under this section may seek judicial review as provided for review of final decisions in Title 10, Subtitle 2 of the State Government Article.

SECTION 2. AND BE IT FURTHER ENACTED, That the Department of the Environment shall place in reserve each fiscal year from a combination of the State Hazardous Substance Control Fund and the Oil Disaster Containment, Cleanup & Contingency Fund the amount needed to pay for one death benefit for a hazardous material response team employee, as provided for under § 1–202 of the Public Safety Article, as enacted by Section 1 of this Act, for the purpose of covering the death

benefit, and, in the event of the death of a hazardous material response team employee who qualifies for payment of the death benefit, shall pay to the Department of Public Safety and Correctional Services the funds required to pay the benefit.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 519

(House Bill 787)

AN ACT concerning

Emergency Responders – Death Benefits and Funeral Expenses

FOR the purpose of providing that certain individuals employed as emergency responders for the Department of the Environment are eligible for certain death benefits and funeral expenses; defining certain terms; requiring the Department of the Environment to place in reserve each fiscal year a certain amount to pay a certain death benefit under certain circumstances; and generally relating to benefits for emergency responders for the Department of the Environment.

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 1–202
Annotated Code of Maryland
(2003 Volume and 2008 Supplement)

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

Article – Public Safety

1–202.

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

(2) (i) "Child" means a natural or adopted, legitimate or illegitimate child or stepchild of the decedent.

(ii) "Child" includes a child or stepchild born posthumously.

(3) "Correctional officer" has the meaning stated in § 8–201(e)(1) of the Correctional Services Article.

(4) "HAZARDOUS MATERIAL" MEANS ANY SUBSTANCE REGULATED AS A HAZARDOUS MATERIAL UNDER TITLE 49 OF THE CODE OF FEDERAL REGULATIONS.

(5) "HAZARDOUS MATERIAL ~~RESPONDER~~ RESPONSE TEAM EMPLOYEE" MEANS ~~ANY INDIVIDUAL EMPLOYED BY THE STATE OR A LOCAL GOVERNMENT AGENCY WHOSE PRIMARY DUTIES DIRECTLY INVOLVE HAZARDOUS MATERIALS~~ AN EMPLOYEE OF THE DEPARTMENT OF THE ENVIRONMENT WHO IS ON CALL 24 HOURS A DAY TO PROVIDE EMERGENCY RESPONSE TO A DISCHARGE OF OIL OR A RELEASE OF HAZARDOUS MATERIAL OR OTHER EMERGENCY RESPONSE ACTIVITY.

[(4)**] (6)** (i) "Law enforcement officer" has the meaning stated in § 3–101 of this article.

(ii) "Law enforcement officer" includes:

1. an officer who serves in a probationary status; and

2. an officer who serves at the pleasure of the appointing authority of a county or municipal corporation.

[(5)**] (7)** "Performance of duties" includes, in the case of a volunteer or career firefighter, public safety aviation employee, **[**or**]** rescue squad member**, OR HAZARDOUS ~~MATERIALS RESPONDER, OR EMPLOYEE OF THE HARFORD COUNTY EMERGENCY MEDICAL SERVICES FOUNDATION~~ MATERIAL RESPONSE TEAM EMPLOYEE**:

(i) actively participating in fighting a fire;

(ii) going to or from a fire;

(iii) performing other duties necessary to the operation or maintenance of the fire company;

(iv) actively participating in the ambulance, advanced life support, or rescue work of an advanced life support unit or a fire, ambulance, or rescue company, including going to or from an emergency or rescue;

(v) providing emergency or rescue assistance, whether acting alone or at the direction of or with a fire, ambulance, or rescue company or advanced life support unit; **[**and**]**

(vi) actively participating in flight operations as a crew member in a rotary or fixed wing aircraft**; AND**

(VII) ~~**PERFORMING DUTIES DIRECTLY INVOLVING HAZARDOUS MATERIALS**~~ **PROVIDING EMERGENCY RESPONSE TO A DISCHARGE OF OIL OR A RELEASE OF HAZARDOUS MATERIAL OR OTHER EMERGENCY RESPONSE ACTIVITY**.

[(6)**] (8)** "Public safety aviation employee" includes a pilot and aviation maintenance technician employed by the State.

[(7)**] (9)** "Stepchild" means a child of the surviving spouse who was living with or dependent for support on the decedent at the time of the decedent's death.

(a–1) For purposes of this section, an individual served in the Afghanistan or Iraq conflict if the individual was a member of the uniform services of the United States who served in:

(1) Afghanistan or contiguous air space, as defined in federal regulations, on or after October 24, 2001, and before a terminal date to be prescribed by the United States Secretary of Defense; or

(2) Iraq or contiguous waters or air space, as defined in federal regulations, on or after March 19, 2003, and before a terminal date to be prescribed by the United States Secretary of Defense.

(b) (1) Subject to subsection (c) of this section and paragraph (2) of this subsection, a death benefit of $125,000 shall be paid to the surviving spouse, child, dependent parent, or estate of each of the following individuals who is killed or dies in the performance of duties on or after January 1, 2006:

(i) a law enforcement officer;

(ii) a correctional officer;

(iii) a volunteer or career firefighter or rescue squad member;

(iv) a sworn member of the office of State Fire Marshal;

(v) a public safety aviation employee; **[**or**]**

(vi) a Maryland resident who was a member of the uniform services of the United States serving in the Afghanistan or Iraq conflict**; OR**

(VII) A HAZARDOUS MATERIAL ~~RESPONDER; OR~~

~~(VIII) AN EMPLOYEE OF THE HARFORD COUNTY EMERGENCY MEDICAL SERVICES FOUNDATION~~ RESPONSE TEAM EMPLOYEE.

(2) For fiscal year 2009, and for each following fiscal year, the death benefit provided in the prior fiscal year shall be adjusted by any change in the calendar year preceding the fiscal year in the Consumer Price Index (all urban customers – United States city average – all items), as published by the United States Bureau of Labor Statistics.

(3) A death benefit under this subsection is in addition to:

(i) any workers' compensation benefits;

(ii) the proceeds of any form of life insurance, regardless of who paid the premiums on the insurance; and

(iii) the funeral benefit provided under subsection (d) of this section.

(c) (1) Whenever an individual identified in subsection (b)(1)(i) through (v) **AND (VII)** of this section dies as the direct and proximate result of a heart attack or stroke, the individual shall be presumed to have died as a direct and proximate result of a personal injury sustained in the performance of duties if:

(i) the individual, while on duty:

1. engaged in a situation that involved nonroutine stressful or strenuous physical law enforcement, fire suppression, rescue, **RESPONSE TO A DISCHARGE OF OIL OR A RELEASE OF** hazardous material ~~response~~, emergency medical services, prison security, disaster relief, flight operations as a crew member in a rotary or fixed wing aircraft, or other emergency response activity; or

2. participated in a training exercise that involved nonroutine stressful or strenuous physical activity;

(ii) the individual died as a result of a heart attack or stroke that the individual suffered:

1. while engaging or participating in an activity described in item (i)1 or 2 of this paragraph;

2. while still on duty after engaging or participating in an activity described in item (i)1 or 2 of this paragraph; or

3. not later than 24 hours after engaging or participating in an activity described in item (i)1 or 2 of this paragraph; and

(iii) the presumption is not overcome by competent medical evidence to the contrary.

(2) For purposes of paragraph (1) of this subsection, nonroutine stressful or strenuous physical activity does not include actions of a clerical, administrative, or nonmanual nature.

(d) (1) Reasonable funeral expenses, not exceeding $10,000, shall be paid to the surviving spouse, child, parent, or estate of each of the following individuals who is killed or dies in the performance of duties:

(i) a law enforcement officer;

(ii) a correctional officer;

(iii) a volunteer or career firefighter or rescue squad member;

(iv) a public safety aviation employee; **[**or**]**

(v) a sworn member of the office of State Fire Marshal**; OR**

(VI) A HAZARDOUS MATERIAL ~~RESPONDER; OR~~

~~(VII) AN EMPLOYEE OF THE HARFORD COUNTY EMERGENCY MEDICAL SERVICES FOUNDATION~~ RESPONSE TEAM EMPLOYEE.

(2) The funeral benefit under this subsection shall be reduced by the amount of any related workers' compensation benefits paid under § 9–689 of the Labor and Employment Article.

(e) (1) The Secretary of State shall issue a State flag to the family of a firefighter, policeman, member of the military, or sworn member of the office of State Fire Marshal who is killed in the performance of duty.

(2) (i) Except when the deceased is a member of the military, the flag shall be presented to the family of the deceased by the State Senator of the legislative district in which the deceased resided or served.

(ii) When the deceased is a member of the military, the flag shall be presented to the family of the deceased by the Department of Veterans Affairs.

(f) On a case–by–case basis, the Secretary of Public Safety and Correctional Services may award a death benefit under this section if:

(1) the decedent's death was caused by the decedent's intentional misconduct;

(2) the decedent intended to bring about the decedent's death; or

(3) the decedent's voluntary intoxication was the proximate cause of the decedent's death.

(g) If the Secretary of Public Safety and Correctional Services determines that the benefits under this section are to be paid, the benefits shall be paid:

(1) to the decedent's surviving spouse;

(2) if no individual is eligible under item (1) of this subsection, to each surviving child of the decedent in equal shares;

(3) (i) for a death benefit under subsection (b) of this section, if no individual is eligible under item (1) or (2) of this subsection, to the decedent's surviving parent, if the parent was a dependent as defined in § 152 of the Internal Revenue Code; or

(ii) for any other benefit under this section, if no individual is eligible under item (1) or (2) of this subsection, to the decedent's surviving parent; or

(4) if no individual is eligible under item (1), (2), or (3) of this subsection, to the decedent's estate.

(h) Payments under this section shall be made out of money that the Governor includes for that purpose in the State budget.

(i) A person aggrieved by a final decision of the Secretary of Public Safety and Correctional Services under this section may seek judicial review as provided for review of final decisions in Title 10, Subtitle 2 of the State Government Article.

SECTION 2. AND BE IT FURTHER ENACTED, That the Department of the Environment shall place in reserve each fiscal year from a combination of the State Hazardous Substance Control Fund and the Oil Disaster Containment, Cleanup & Contingency Fund the amount needed to pay for one death benefit for a hazardous material response team employee, as provided for under § 1–202 of the Public Safety Article, as enacted by Section 1 of this Act, for the purpose of covering the death benefit, and, in the event of the death of a hazardous material response team employee who qualifies for payment of the death benefit, shall pay to the Department of ~~Budget and Management~~ *Public Safety and Correctional Services* the funds required to pay the benefit.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 520

(Senate Bill 183)

AN ACT concerning

College Textbook Competition and Affordability Act of 2009

FOR the purpose of requiring certain institutions of higher education to develop and implement informational campaigns, ~~certain textbook adoption processes,~~ certain procedures relating to certain disclosures and certain ~~affirmations~~ *acknowledgments*, and certain best practices processes; requiring certain institutions to develop a certain process for the ~~affirmation and~~ acknowledgment by certain faculty of certain information; requiring certain publishers to disclose certain information in certain formats relating to certain prices, certain textbook–related information, certain content revisions, *and* certain other formats~~, and certain variances in price~~; requiring, subject to a certain exception, certain publishers and certain bookstores to provide and sell certain textbooks and certain supplemental material in a certain manner and to work with certain faculty members to find certain alternatives under certain circumstances; requiring certain textbooks and certain supplemental material to be available in certain packages; requiring certain institutions to provide certain information to certain bookstores under certain circumstances, subject to certain notifications *and certain conditions*; requiring certain institutions to make certain information available by posting it on certain websites on or before a certain time *subject to a certain extension under certain circumstances*; prohibiting certain institutions from encouraging or promoting the creation or sale of certain types of textbooks; ~~requiring certain institutions to allow certain bookstores to advertise and have certain access to certain students under certain circumstances;~~ providing for a certain exception to the provisions of this Act; providing for the construction of this Act; ~~requiring certain institutions to make certain reports to the Maryland Higher Education Commission regarding certain analyses of certain textbook prices and certain other information on or before a certain date; requiring the Commission to compile certain reports and forward the compilation to the Governor and the General Assembly on or before a certain date;~~ requiring certain institutions to report *to the Maryland Higher Education Commission* regarding certain efforts to lower the cost of certain textbooks~~,~~ *and* certain policies developed in accordance with this Act, and certain recommendations; requiring the Commission, in consultation with

certain stakeholders, to conduct certain feasibility studies on or before a certain date *and report to the Governor and the General Assembly on or before a certain date*; requiring the University System of Maryland to conduct a certain study regarding certain business models and report the results of the study to the Board of Regents and the General Assembly; defining certain terms; and generally relating to the sale of college textbooks.

BY adding to
Article – Education
Section 15–112
Annotated Code of Maryland
(2008 Replacement Volume)

Preamble

WHEREAS, In 2005, the federal Government Accountability Office (GAO) reported that during the period of December 1986 through December 2004, college textbook prices increased 186% and inflation increased only 72%; and

WHEREAS, The textbook market is supply–driven rather than demand–driven and consequently offers consumers (students) no role in determining price, format, or quality of the product; and

WHEREAS, The State of Maryland has passed legislative initiatives to control the cost of tuition but not to control the cost of textbooks; now, therefore,

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

Article – Education

15–112.

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

(2) (I) "BOOKSTORE" MEANS ANY ENTITY THAT OFFERS BOOKS OR OTHER COURSE MATERIALS FOR SALE AND IS LICENSED BY THE COMPTROLLER UNDER TITLE 11, SUBTITLE 7 OF THE TAX – GENERAL ARTICLE.

(II) "BOOKSTORE" INCLUDES CAMPUS BOOKSTORES AND ONLINE VENDORS.

(3) (I) "BUNDLE" MEANS ONE OR MORE COLLEGE TEXTBOOKS OR OTHER SUPPLEMENTAL MATERIAL THAT ARE PACKAGED TOGETHER TO BE SOLD AS COURSE MATERIALS FOR ONE PRICE.

(II) "BUNDLE" DOES NOT INCLUDE SINGLE~~, CUSTOM, OR INTEGRATED~~ ~~OR CUSTOM~~*, CUSTOM, OR INTEGRATED* TEXTBOOKS.

(4) "CAMPUS BOOKSTORE" MEANS A BOOKSTORE UNDER THE JURISDICTION OF AN INSTITUTION OF HIGHER EDUCATION.

(5) (I) "CUSTOM TEXTBOOK" MEANS A COLLEGE TEXTBOOK THAT IS COMPILED BY A PUBLISHER AT THE DIRECTION OF A FACULTY MEMBER OR OTHER PERSON OR ADOPTING ENTITY IN CHARGE OF SELECTING COURSE MATERIALS AT AN INSTITUTION OF HIGHER EDUCATION.

(II) "CUSTOM TEXTBOOK" INCLUDES ORIGINAL INSTRUCTOR MATERIAL, PREVIOUSLY COPYRIGHTED MATERIAL, OR COPYRIGHTED THIRD–PARTY MATERIAL~~, OR ELEMENTS UNIQUE TO A SPECIFIC INSTITUTION, SUCH AS COMMEMORATIVE EDITIONS~~.

(III) "CUSTOM TEXTBOOK" DOES NOT INCLUDE PURELY AESTHETIC CHANGES TO A COLLEGE TEXTBOOK WHEN COMPARED WITH A PRIOR EDITION OF A COLLEGE TEXTBOOK SUCH AS COMMEMORATIVE EDITIONS.

~~(6) "INTEGRATED TEXTBOOK" MEANS A COLLEGE TEXTBOOK THAT IS COMBINED WITH:~~

~~(I) MATERIALS DEVELOPED BY A THIRD PARTY AND THAT, BY THIRD–PARTY CONTRACTUAL AGREEMENT, MAY NOT BE OFFERED BY PUBLISHERS SEPARATELY FROM THE COLLEGE TEXTBOOK WITH WHICH THE MATERIALS ARE COMBINED; OR~~

~~(II) OTHER MATERIALS THAT ARE SO INTERRELATED WITH THE CONTENT OF THE COLLEGE TEXTBOOK THAT THE SEPARATION OF THE COLLEGE TEXTBOOK FROM THE OTHER MATERIALS WOULD RENDER THE COLLEGE TEXTBOOK UNUSABLE FOR ITS INTENDED PURPOSE.~~

(6) "INTEGRATED TEXTBOOK" MEANS A COLLEGE TEXTBOOK THAT IS COMBINED WITH:

(I) MATERIALS DEVELOPED BY A THIRD PARTY AND THAT, BY THIRD–PARTY CONTRACTUAL AGREEMENT, MAY NOT BE OFFERED BY PUBLISHERS SEPARATELY FROM THE COLLEGE TEXTBOOK WITH WHICH THE MATERIALS ARE COMBINED; OR

(II) OTHER MATERIALS THAT ARE SO INTERRELATED WITH THE CONTENT OF THE COLLEGE TEXTBOOK THAT THE SEPARATION OF THE COLLEGE TEXTBOOK FROM THE OTHER MATERIALS WOULD RENDER THE COLLEGE TEXTBOOK UNUSABLE FOR ITS INTENDED PURPOSE.

~~(7)~~ ~~(6)~~ *(7)* "ISBN" MEANS THE UNIQUE INTERNATIONAL STANDARD BOOK NUMBER ASSIGNED TO ~~A~~ COLLEGE ~~TEXTBOOK~~ COURSE MATERIAL THAT IS USED BY PUBLISHERS TO IDENTIFY EACH TEXTBOOK EDITION AND ~~PRINTING OF A COLLEGE TEXTBOOK~~ OTHER COURSE MATERIAL, INCLUDING BUNDLES.

~~(7)~~ *(8)* "PRICE" MEANS THE PRICE AT WHICH THE PUBLISHER WOULD MAKE THE COLLEGE TEXTBOOK OR SUPPLEMENTAL MATERIAL AVAILABLE TO A BOOKSTORE~~, OR~~ AND, IF AVAILABLE, THE PRICE AT WHICH THE PUBLISHER WOULD MAKE THE COLLEGE TEXTBOOK OR SUPPLEMENTAL MATERIAL AVAILABLE TO THE PUBLIC~~, OR BOTH~~.

~~(8)~~ *(9)* "SUBSTANTIAL CONTENT" MEANS A PART OF A COLLEGE TEXTBOOK, SUCH AS NEW CHAPTERS, NEW MATERIAL COVERING ADDITIONAL ERAS OF TIME, NEW THEMES, OR NEW SUBJECT MATTER.

~~(9)~~ *(10)* (I) "SUPPLEMENTAL MATERIAL" MEANS EDUCATIONAL MATERIAL DEVELOPED TO ACCOMPANY A COLLEGE TEXTBOOK *THAT IS NOT BEING USED AS A COMPONENT OF AN INTEGRATED TEXTBOOK* ~~THAT IS NOT BEING USED AS A COMPONENT OF AN INTEGRATED TEXTBOOK~~.

(II) "SUPPLEMENTAL MATERIAL" INCLUDES PRINTED MATERIALS AND ELECTRONIC MATERIALS SUCH AS COMPUTER DISKS AND WEB ACCESS CODES.

~~(10)~~ *(11)* "TEXTBOOK" INCLUDES CUSTOM TEXTBOOKS TO THE MAXIMUM EXTENT PRACTICABLE.

(B) THIS SECTION DOES NOT APPLY TO THE OVERSEAS PROGRAMS OF THE UNIVERSITY OF MARYLAND UNIVERSITY COLLEGE.

(C) EACH PUBLIC INSTITUTION OF HIGHER EDUCATION IN THE STATE SHALL DEVELOP AND IMPLEMENT:

(1) AN INFORMATIONAL CAMPAIGN TO ASSIST FACULTY AND MAKE THEM AWARE OF TEXTBOOK–RELATED ISSUES, INCLUDING:

(I) ~~WHOLESALE PRICE AND SUGGESTED RETAIL PRICES, IF ANY,~~ THE PRICE OF COLLEGE TEXTBOOKS AND OF SUPPLEMENTAL MATERIAL;

(II) ~~VARIANCES IN WHOLESALE PRICE AND SUGGESTED RETAIL PRICES, IF ANY, PRICE OF BUNDLED AND UNBUNDLED COURSE MATERIALS~~ *THE EXISTENCE OF VARIANCES IN PRICE OF BUNDLED AND UNBUNDLED COURSE MATERIALS*;

(III) SUBSTANTIAL CONTENT REVISIONS MADE BETWEEN THE CURRENT EDITION OF A COLLEGE TEXTBOOK OR SUPPLEMENTAL MATERIAL AND THE PREVIOUS EDITION OF THE COLLEGE TEXTBOOK OR SUPPLEMENTAL MATERIAL AS REPORTED TO THE INSTITUTION UNDER SUBSECTION (E) OF THIS SECTION; ~~AND~~

(IV) WHICH TEXTBOOKS ARE INTEGRATED TEXTBOOKS AND ARE THEREFORE NOT SUBJECT TO SUBSECTION (F)(3) OF THIS SECTION, AS REPORTED BY THE PUBLISHER UNDER SUBSECTION (E) OF THIS SECTION; AND

~~(IV)~~ *(V)* THE FISCAL IMPACT TO STUDENTS OF THE HIGH COST OF COLLEGE TEXTBOOKS;

~~(2) A COLLEGE TEXTBOOK ADOPTION PROCESS THAT INCLUDES THE PROVISION OF INFORMATION TO INSTITUTIONS AND CAMPUS BOOKSTORES REGARDING THE AVAILABILITY AND SUGGESTED RETAIL PRICES OF NEW CURRENT EDITIONS, USED CURRENT EDITIONS, NEW PREVIOUS EDITIONS, AND USED PREVIOUS EDITIONS OF COLLEGE TEXTBOOKS AND SUPPLEMENTAL MATERIAL;~~

~~(3)~~ (2) A PROCEDURE BY WHICH BOOKSTORES AND STUDENTS ARE MADE AWARE OF THE INFORMATION REQUIRED TO BE DISCLOSED UNDER SUBSECTION (G) OF THIS SECTION; AND

~~(4)~~ (3) A BEST–PRACTICES PROCESS FOR FACULTY IN SELECTING COLLEGE TEXTBOOKS AND SUPPLEMENTAL MATERIAL THAT:

(I) ENSURES EARLY ADOPTION OF COLLEGE TEXTBOOKS AND SUPPLEMENTAL MATERIAL;

(II) ENCOURAGES THE MAXIMUM USAGE OF USED COLLEGE TEXTBOOKS AND OF PREVIOUS EDITIONS OF COLLEGE TEXTBOOKS, WHEN POSSIBLE;

(III) FOR UNDERGRADUATE COLLEGE TEXTBOOKS, ENSURES THAT THE MAJORITY OF THE ASSIGNED MATERIAL WILL BE USED IN THE

COURSE UNLESS IT WOULD BE IN THE STUDENT'S FINANCIAL INTEREST TO PURCHASE SEPARATE MATERIALS; AND

(IV) ENSURES THAT FACULTY ARE AWARE OF VARIOUS OUTLETS FOR THE SUPPLY OF COLLEGE TEXTBOOKS AND SUPPLEMENTAL MATERIAL.

(D) (1) EACH PUBLIC INSTITUTION OF HIGHER EDUCATION SHALL DEVELOP A PROCESS BY WHICH FACULTY MEMBERS ~~AFFIRM AND~~ ACKNOWLEDGE THE INFORMATION UNDER PARAGRAPH (2) OF THIS SUBSECTION.

(2) BEFORE ~~IDENTIFYING~~ *SELECTING* A COLLEGE TEXTBOOK OR SUPPLEMENTAL MATERIAL AND BEFORE TRANSMITTING THE SELECTION TO A CAMPUS BOOKSTORE, PROVIDING THE SELECTION TO ANY OTHER BOOKSTORE, OR POSTING THE SELECTION ON THE WEBSITE OF THE PUBLIC INSTITUTION OF HIGHER EDUCATION, A FACULTY MEMBER SHALL *ACKNOWLEDGE*:

(I) *1.* IF SELECTING A DIFFERENT COLLEGE TEXTBOOK FROM A DIFFERENT PUBLISHER, ~~AFFIRM AND~~ ~~ACKNOWLEDGE~~ THE COST OF THE NEW SELECTION VERSUS THE COST OF THE PREVIOUS SELECTION; OR

~~(II)~~ *2.* IF SELECTING A CURRENT EDITION OF A COLLEGE TEXTBOOK~~,~~ ~~AFFIRM AND~~ ~~ACKNOWLEDGE~~:

~~1.~~ *A.* THE DIFFERENCES IN SUBSTANTIAL CONTENT BETWEEN THE CURRENT EDITION OF THE TEXTBOOK AND THE PREVIOUS EDITION OF THE TEXTBOOK *AS REPORTED BY THE PUBLISHER UNDER SUBSECTION (E) OF THIS SECTION*;

~~2.~~ *B.* THAT THE USE OF THE CURRENT EDITION IS ~~JUSTIFIED~~ *APPROPRIATE* DUE TO A MATERIAL CHANGE IN SUBSTANTIAL CONTENT BETWEEN THE CURRENT EDITION AND THE PREVIOUS EDITION;

~~3.~~ *C.* THE DIFFERENCE IN PRICE BETWEEN THE CURRENT EDITION OF THE TEXTBOOK AND THE PREVIOUS EDITION OF THE TEXTBOOK; AND

~~4.~~ *D.* THAT THE PREVIOUS EDITION OF THE TEXTBOOK MAY BE AVAILABLE TO STUDENTS AT A LOWER PRICE VIA THE USED BOOK MARKET;

(II) THAT AN INTEGRATED TEXTBOOK IS NOT SUBJECT TO SUBSECTION (F)(3) OF THIS SECTION;

(III) THAT SUPPLEMENTAL MATERIAL INCLUDED IN A BUNDLE IS INTENDED FOR USE IN THE COURSE.

(E) (1) A PUBLISHER ~~WHO~~ THAT SELLS COLLEGE TEXTBOOKS OR SUPPLEMENTAL MATERIAL AND PROVIDES INFORMATION REGARDING A COLLEGE TEXTBOOK OR SUPPLEMENTAL MATERIAL TO A FACULTY MEMBER, OTHER ADOPTING ENTITY IN CHARGE OF SELECTING COURSE MATERIALS, OR THE ADMINISTRATION OF AN INSTITUTION OF HIGHER EDUCATION SHALL DISCLOSE WITH THIS INFORMATION, IN WRITING, BY PAPER OR ELECTRONIC MEANS:

(I) THE PRICE ~~AT WHICH THE PUBLISHER WOULD MAKE THE~~ OF THE COLLEGE TEXTBOOK OR SUPPLEMENTAL MATERIAL ~~AVAILABLE TO A BOOKSTORE AND THE PRICE AT WHICH THE PUBLISHER WOULD MAKE THE COLLEGE TEXTBOOK OR SUPPLEMENTAL MATERIAL AVAILABLE DIRECTLY TO THE PUBLIC~~;

(II) THE TITLE, AUTHOR, PUBLISHER, EDITION, CURRENT AND THREE PREVIOUS COPYRIGHT DATES, PUBLICATION DATE WHEN AVAILABLE, AND ISBN OF THE COLLEGE TEXTBOOK AND SUPPLEMENTAL MATERIAL, BOTH AS BUNDLED AND UNBUNDLED ITEMS;

(III) SUBSTANTIAL CONTENT REVISIONS MADE BETWEEN THE CURRENT EDITION OF THE COLLEGE TEXTBOOK OR SUPPLEMENTAL MATERIAL AND THE PREVIOUS EDITION OF THE COLLEGE TEXTBOOK OR SUPPLEMENTAL MATERIAL ~~EXPRESSED AS AN ITEMIZED LIST~~;

(IV) OTHER AVAILABLE FORMATS FOR THE COLLEGE TEXTBOOK OR SUPPLEMENTAL MATERIAL SUCH AS PAPERBACK OR UNBOUND; AND

(V) ~~VARIANCES IN PRICE, IF ANY, BETWEEN BUNDLED AND UNBUNDLED ITEMS~~ *A LIST OF TEXTBOOKS THAT ARE CLASSIFIED AS INTEGRATED TEXTBOOKS*.

(2) EACH INSTITUTION OF HIGHER EDUCATION IN THE STATE SHALL DEVELOP A PROCESS BY WHICH FACULTY MEMBERS ACKNOWLEDGE HAVING BEEN INFORMED OF THE DISCLOSURES REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION AND THE IMPACT THAT THE HIGH COST OF COLLEGE TEXTBOOKS AND SUPPLEMENTAL MATERIAL HAS ON STUDENTS.

(F) (1) ~~A~~ EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, A PUBLISHER AND A CAMPUS BOOKSTORE SHALL PROVIDE AND

SELL COLLEGE TEXTBOOKS AND SUPPLEMENTAL MATERIAL IN THE SAME MANNER AS SELECTED AND ORDERED BY FACULTY MEMBERS.

(2) (I) IF A COLLEGE TEXTBOOK OR SUPPLEMENTAL MATERIAL IS UNAVAILABLE AS ORDERED, THE PUBLISHER AND THE CAMPUS BOOKSTORE SHALL WORK WITH THE FACULTY MEMBER TO FIND ALTERNATIVES.

(II) A PUBLISHER COLLABORATING WITH A CAMPUS BOOKSTORE AND A FACULTY MEMBER UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL PROVIDE ~~WHOLESALE PRICES AND SUGGESTED RETAIL PRICES, IF ANY,~~ PRICE INFORMATION FOR ALTERNATIVE COLLEGE TEXTBOOKS AND SUPPLEMENTAL MATERIAL.

(3) A PUBLISHER THAT SELLS A COLLEGE TEXTBOOK AND ANY SUPPLEMENTAL MATERIAL ACCOMPANYING THE COLLEGE TEXTBOOK IN A BUNDLE SHALL ALSO MAKE AVAILABLE THE COLLEGE TEXTBOOK AND THE SUPPLEMENTAL MATERIAL AS SEPARATE AND UNBUNDLED ITEMS, EACH SEPARATELY PRICED.

(4) ~~(I)~~ ~~SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH~~ *WITH THE PERMISSION OF A FACULTY MEMBER*, A CAMPUS BOOKSTORE MAY SELL COLLEGE TEXTBOOKS AND SUPPLEMENTAL MATERIAL IN A DIFFERENT MANNER THAN AS SELECTED AND ORDERED BY FACULTY MEMBERS FOR THE PURPOSE OF PROVIDING USED COLLEGE TEXTBOOKS, PRIOR EDITIONS, OR OTHER LOWER–COST OPTIONS TO STUDENTS.

~~(II) IF A CAMPUS BOOKSTORE SELLS COLLEGE TEXTBOOKS OR SUPPLEMENTAL MATERIAL AS AUTHORIZED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE CAMPUS BOOKSTORE SHALL CLEARLY MARK THE FACULTY MEMBER'S ACTUAL SELECTION IN CONTRAST WITH THE CAMPUS BOOKSTORE'S ALTERNATIVE PRODUCT SUGGESTION.~~

(G) (1) *(I)* SUBJECT TO ~~PARAGRAPH (4) OF THIS SUBSECTION~~ *SUBPARAGRAPH (II) OF THIS PARAGRAPH*, ON THE REQUEST OF A BOOKSTORE, AN INSTITUTION OF HIGHER EDUCATION SHALL PROVIDE THE INFORMATION LISTED UNDER PARAGRAPH ~~(2)~~ *(3)* OF THIS SUBSECTION TO A BOOKSTORE *BY THE EARLIER OF:*

1. WITHIN 1 WEEK OF A FACULTY MEMBER'S SELECTION OF A COLLEGE TEXTBOOK OR SUPPLEMENTAL MATERIAL AND TRANSMISSION TO A CAMPUS BOOKSTORE; OR

2. WHEN THE SELECTION BY A FACULTY MEMBER OF A COLLEGE TEXTBOOK OR SUPPLEMENTAL MATERIAL IS FINALIZED.

(II) A BOOKSTORE THAT OBTAINS INFORMATION UNDER SUBPARAGRAPH (I)1 OF THIS PARAGRAPH MAY NOT MAKE THE INFORMATION AVAILABLE TO STUDENTS OR MEMBERS OF THE PUBLIC UNTIL THE INFORMATION IS MADE AVAILABLE TO THE BOOKSTORE IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION. ~~AS SOON AS A FACULTY MEMBER IDENTIFIES A COLLEGE TEXTBOOK OR SUPPLEMENTAL MATERIAL AND TRANSMITS THE SELECTION TO A CAMPUS BOOKSTORE.~~

~~(2) THE INFORMATION PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE THE:~~

~~(I) TITLE;~~

~~(II) AUTHOR;~~

~~(III) PUBLISHER;~~

~~(IV) EDITION;~~

~~(V) COPYRIGHT DATE AND PUBLICATION DATE WHEN AVAILABLE;~~

~~(VI) ISBN; AND~~

~~(VII) ANTICIPATED ENROLLMENT FOR THE COURSE.~~

~~(3)~~ *(2)* (I) AN INSTITUTION OF HIGHER EDUCATION SHALL MAKE THE INFORMATION LISTED UNDER PARAGRAPH ~~(2)~~ *(3)* OF THIS SUBSECTION AVAILABLE TO *BOOKSTORES*, STUDENTS, AND THE REST OF THE PUBLIC BY POSTING THE INFORMATION ON ITS WEBSITE BY THE EARLIER OF:

1. SUBJECT TO ~~PARAGRAPH (4)~~ *PARAGRAPHS (4) AND (5)* OF THIS SUBSECTION, ~~1 WEEK~~ *3 WEEKS* FOLLOWING THE ~~PROVISION OF INFORMATION UNDER PARAGRAPH (1) OF THIS SUBSECTION~~ *SELECTION BY A FACULTY MEMBER OF A COLLEGE TEXTBOOK OR SUPPLEMENTAL MATERIAL*; OR

2. ~~WHEN A CAMPUS BOOKSTORE PLACES A FINAL ORDER FOR A COLLEGE TEXTBOOK OR SUPPLEMENTAL MATERIAL~~ *WHEN THE SELECTION BY A FACULTY MEMBER OF A COLLEGE TEXTBOOK OR SUPPLEMENTAL MATERIAL IS FINALIZED*.

(II) IN ADDITION TO THE INFORMATION POSTED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, AN INSTITUTION SHALL POST ON ITS WEBSITE:

1. WHETHER SUPPLEMENTAL MATERIAL IS REQUIRED OR ONLY SUGGESTED BY FACULTY; AND

2. WHETHER A PREVIOUS EDITION OF AN ASSIGNED COLLEGE TEXTBOOK WILL SUFFICE.

(3) THE INFORMATION MADE AVAILABLE UNDER PARAGRAPHS (1) AND (2) OF THIS SUBSECTION SHALL INCLUDE THE:

(I) TITLE;

(II) AUTHOR;

(III) PUBLISHER;

(IV) EDITION;

(V) COPYRIGHT DATE AND PUBLICATION DATE, WHEN AVAILABLE;

(VI) ISBN; AND

(VII) ANTICIPATED ENROLLMENT FOR THE COURSE.

(4) (I) AN INSTITUTION OF HIGHER EDUCATION SHALL INFORM A BOOKSTORE ~~THAT MAKES A REQUEST UNDER PARAGRAPH (1) OF THIS SUBSECTION AND~~, STUDENTS, OR MEMBERS OF THE PUBLIC WHO ACCESS THE WEBSITE OF THE INSTITUTION UNDER PARAGRAPH ~~(3)~~ *(2)* OF THIS SUBSECTION IF *THE SELECTION OF* ~~A~~ THE PARTICULAR COLLEGE TEXTBOOK, SUPPLEMENTAL MATERIAL, OR BUNDLE HAS NOT BEEN FINALIZED BY THE FACULTY MEMBER.

(II) IN ADDITION TO THE DISCLOSURE MADE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, AN INSTITUTION, *CAMPUS BOOKSTORE, OR OTHER BOOKSTORE THAT OFFERS A COLLEGE TEXTBOOK OR SUPPLEMENTAL MATERIAL FOR SALE PRIOR TO THE SELECTION BEING FINALIZED* SHALL PROVIDE ~~A~~*:*

1. A CAVEAT REGARDING THE POTENTIAL CONSEQUENCES OF PURCHASING ~~A~~ THE PARTICULAR COLLEGE TEXTBOOK,

SUPPLEMENTAL MATERIAL, OR BUNDLE PRIOR TO THE SELECTION BEING FINALIZED~~.~~*; AND*

2. THE RETURN POLICY OF THE CAMPUS BOOKSTORE OR OTHER BOOKSTORE, AS APPROPRIATE.

(5) (I) NOTWITHSTANDING PARAGRAPHS (1) AND (2) OF THIS SUBSECTION, UPON REQUEST TO AN INSTITUTION, AN EXTENSION OF TIME MAY BE GRANTED TO A FACULTY MEMBER FROM THE REQUIREMENT TO POST THE SELECTION OF A COLLEGE TEXTBOOK OR SUPPLEMENTAL MATERIAL PRIOR TO THE SELECTION BEING FINALIZED.

(II) THE EXTENSION GRANTED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE APPROVED BY THE FACULTY DEPARTMENT CHAIR AND THE DEAN OR DIVISION HEAD OF THE INSTITUTION.

(III) THE EXTENSION SHALL INCLUDE A WRITTEN STATEMENT OF EXPLANATION FOR THE EXTENSION.

(IV) AN INSTITUTION SHALL POST THE WRITTEN STATEMENT ON ITS WEBSITE INSTEAD OF THE SELECTION, AS APPROPRIATE.

(H) A PUBLIC INSTITUTION OF HIGHER EDUCATION MAY NOT ENCOURAGE OR PROMOTE THE CREATION OR SALE OF COLLEGE TEXTBOOKS THAT CONSIST OF PURELY AESTHETIC CHANGES TO A PRIOR EDITION OF A COLLEGE TEXTBOOK SUCH AS A COMMEMORATIVE EDITION.

~~**(H) (I) ON THE REQUEST OF A BOOKSTORE, IF A PUBLIC INSTITUTION OF HIGHER EDUCATION ALLOWS A CAMPUS BOOKSTORE TO:**~~

~~**(1) ADVERTISE OR SUBMIT ADVERTISING FOR INCLUSION IN ORIENTATION PACKETS, IN OTHER PRINT MATERIAL, OR ON THE WEBSITE OF THE INSTITUTION, THEN THE INSTITUTION SHALL ALLOW OTHER BOOKSTORES TO ADVERTISE OR SUBMIT ADVERTISING FOR THE SAME INCLUSION; AND**~~

~~**(2) ACCESS STUDENTS AS PART OF A PRESENTATION OR TOUR FOR A STUDENT GROUP OR A GROUP OF POTENTIAL STUDENTS, THEN THE INSTITUTION SHALL ALLOW OTHER BOOKSTORES TO HAVE THE SAME ACCESS TO STUDENTS.**~~

~~**(I) (J)**~~ ***(I)*** **THIS SECTION MAY NOT BE CONSTRUED TO SUPERSEDE THE INSTITUTIONAL AUTONOMY OR ACADEMIC FREEDOM OF FACULTY MEMBERS INVOLVED IN THE SELECTION OF COLLEGE TEXTBOOKS AND SUPPLEMENTAL MATERIAL.**

~~SECTION 2. AND BE IT FURTHER ENACTED, That:~~

~~(a) On or before November 1, 2010, the University System of Maryland, St. Mary's College of Maryland, Morgan State University, and the Maryland Association of Community Colleges shall submit reports to the Maryland Higher Education Commission, including a scientific and data–driven analysis of college textbook prices at the constituent or member institutions, as appropriate, efforts to lower the cost of textbooks for their students, and recommendations for statewide policy initiatives that will further ameliorate the high cost of undergraduate and graduate education as impacted by textbook prices; and~~

~~(b) On or before December 1, 2010, the Maryland Higher Education Commission shall compile the reports required under paragraph (a) of this section and shall forward a copy of the compilation to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.~~

SECTION ~~3.~~ 2. AND BE IT FURTHER ENACTED, That~~, on~~:

(a) *On* or before December 1, ~~2010~~ *2011*, each public institution of higher education in the State shall report to the ~~Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly,~~ *Maryland Higher Education Commission* regarding efforts to lower the cost of textbooks for their ~~students,~~ *students and* the "best–practices" process developed under § ~~15–112(c)(4)~~ 15–112(c)(3) of the Education Article, as enacted by Section 1 of this Act~~, and recommendations for statewide policy initiatives that will further ameliorate the high cost of undergraduate and graduate education as impacted by textbook prices~~.

~~SECTION 4.~~ 3. ~~AND BE IT FURTHER ENACTED, That:~~

~~(a)~~ *(b)* On or before December 1, 2011, the ~~Maryland Higher Education~~ Commission, in consultation with the University System of Maryland, St. Mary's College of Maryland, Morgan State University, the Maryland Association of Community Colleges, and the Maryland Independent College and University Association, shall conduct a feasibility study regarding:

(1) the establishment of one or more textbook rental programs in Maryland that would allow students to lease textbooks on a per book, per credit hour, or per course basis, including an analysis of start–up costs and funding options such as private sector donations and grants; ~~and~~

(2) the establishment of a statewide digital marketplace for college textbooks and supplemental material including:

(i) an analysis of the infrastructure, technology, and support services necessary to allow institutions, students, faculty, bookstores, publishers, and other stakeholders to interact efficiently; and

(ii) a consideration of digital rights management capabilities and transactional processes needed for both fee–based and no–cost content; and

(3) the accessibility of the digital marketplace and any and all electronic textbooks and supplemental material to blind and print–disabled students and faculty members.

~~(b)~~ *(c)* On or before December 31, 2011, the ~~Maryland Higher Education~~ Commission shall:

(1) compile the reports required under paragraph (a) of this section; and

(2) submit *to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly, the compilation,* the results of the feasibility studies conducted under paragraph ~~(a)~~ *(b)* of this section, and ~~make~~ recommendations regarding textbook rental programs ~~and~~, the establishment of a digital marketplace ~~including cost estimates to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly,~~, *and statewide policy initiatives that will further ameliorate the high cost of undergraduate and graduate education as impacted by textbook prices* based on information gathered under ~~subsection (a) of~~ this section.

SECTION ~~5.~~ ~~4.~~ *3.* AND BE IT FURTHER ENACTED, That:

(a) The University System of Maryland, under the direction of the Board of Regents, shall conduct a study of changes that the University System of Maryland and its constituent institutions can make to their business models regarding textbook assignments and textbook purchasing in order to reduce the cost of textbooks to students while preserving and enhancing the quality of educational materials available to students. Principles underlying this review shall include:

(1) the protection of academic freedom;

(2) the promotion of competition among publishers, bookstores, and other textbook vendors;

(3) the empowerment of faculty and students to access information about options which will strengthen their market power; and

(4) the exploration of:

(i) alternative approaches used in other universities, states, and countries;

(ii) new technologies; and

(iii) legal structures.

(b) The study conducted under subsection (a) of this section shall include, but not be limited to, an exploration of:

(1) using the market power of faculty and students to drive down prices;

(2) strategies to increase the use of used textbooks;

(3) the creation of textbook rental programs;

(4) increasing faculty awareness of textbook costs and options for reducing textbook costs;

(5) minimizing the impact of publishers' "planned obsolescence" marketing strategies; ~~and~~

(6) cost–effective substitution of content–licensing for textbook purchasing; and

(7) ensuring that any and all electronic textbooks and supplemental material shall be accessible to blind and print–disabled students and faculty members.

(c) On or before December 1, 2010, the University System of Maryland shall submit to the Board of Regents and, in accordance with § 2–1246 of the State Government Article, the General Assembly, the results of the study required under subsection (a) of this section.

(d) Nothing contained in this section bars the University System of Maryland from implementing changes consistent with its intent before December 1, 2010.

SECTION ~~6.~~ ~~5.~~ *4.* AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 521

(House Bill 85)

AN ACT concerning

College Textbook Competition and Affordability Act of 2009

FOR the purpose of requiring certain institutions of higher education to develop and implement informational campaigns, ~~certain textbook adoption processes,~~ certain procedures relating to certain disclosures and certain ~~affirmations~~ acknowledgments, and certain best practices processes; requiring certain institutions to develop a certain process for the ~~affirmation and~~ acknowledgment by certain faculty of certain information; requiring certain publishers to disclose certain information in certain formats relating to certain prices, certain textbook–related information, certain content revisions, and certain other formats~~, and certain variances in price~~; requiring, subject to a certain exception, certain publishers and certain bookstores to provide and sell certain textbooks and certain supplemental material in a certain manner and to work with certain faculty members to find certain alternatives under certain circumstances; requiring certain textbooks and certain supplemental material to be available in certain packages; *requiring certain institutions to provide certain information to certain bookstores under certain circumstances, subject to certain notifications and certain conditions;* ~~requiring certain institutions to provide certain information to certain bookstores under certain circumstances, subject to certain notifications;~~ requiring certain institutions to make certain information available by posting it on certain websites on or before a certain time subject to a certain extension under certain circumstances; prohibiting certain institutions from encouraging or promoting the creation or sale of certain types of textbooks; ~~requiring certain institutions to allow certain bookstores to advertise and have certain access to certain students under certain circumstances;~~ providing for a certain exception to the provisions of this Act; providing for the construction of this Act; ~~requiring certain institutions to make certain reports to the Maryland Higher Education Commission regarding certain analyses of certain textbook prices and certain other information on or before a certain date; requiring the Commission to compile certain reports and forward the compilation to the Governor and the General Assembly on or before a certain date;~~ requiring certain institutions to report to the Maryland Higher Education Commission regarding certain efforts to lower the cost of certain textbooks and certain policies developed in accordance with this Act; requiring the Commission, in consultation with certain stakeholders, to conduct certain feasibility studies on or before a certain date and report to the Governor and the General Assembly on or before a certain date; requiring the University System of Maryland to conduct a certain study regarding certain business models and report the results of the study to the Board of Regents and the General Assembly; defining certain terms; and generally relating to the sale of college textbooks.

BY adding to
Article – Education
Section 15–112
Annotated Code of Maryland
(2008 Replacement Volume)

Preamble

WHEREAS, In 2005, the federal Government Accountability Office (GAO) reported that during the period of December 1986 through December 2004, college textbook prices increased 186% and inflation increased only 72%; and

WHEREAS, The textbook market is supply–driven rather than demand–driven and consequently offers consumers (students) no role in determining price, format, or quality of the product; and

WHEREAS, The State of Maryland has passed legislative initiatives to control the cost of tuition but not to control the cost of textbooks; now, therefore,

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

Article – Education

15–112.

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

(2) (I) "BOOKSTORE" MEANS ANY ENTITY THAT OFFERS BOOKS OR OTHER COURSE MATERIALS FOR SALE <u>AND IS LICENSED BY THE COMPTROLLER UNDER TITLE 11, SUBTITLE 7 OF THE TAX – GENERAL ARTICLE</u>.

(II) "BOOKSTORE" INCLUDES CAMPUS BOOKSTORES AND ONLINE VENDORS.

(3) (I) "BUNDLE" MEANS ONE OR MORE COLLEGE TEXTBOOKS OR OTHER SUPPLEMENTAL MATERIAL THAT ARE PACKAGED TOGETHER TO BE SOLD AS COURSE MATERIALS FOR ONE PRICE.

(II) "BUNDLE" DOES NOT INCLUDE SINGLE, CUSTOM, OR INTEGRATED TEXTBOOKS.

(4) "CAMPUS BOOKSTORE" MEANS A BOOKSTORE UNDER THE JURISDICTION OF AN INSTITUTION OF HIGHER EDUCATION.

(5) (I) "CUSTOM TEXTBOOK" MEANS A COLLEGE TEXTBOOK THAT IS COMPILED BY A PUBLISHER AT THE DIRECTION OF A FACULTY MEMBER

OR OTHER PERSON OR ADOPTING ENTITY IN CHARGE OF SELECTING COURSE MATERIALS AT AN INSTITUTION OF HIGHER EDUCATION.

(II) "CUSTOM TEXTBOOK" INCLUDES ORIGINAL INSTRUCTOR MATERIAL, PREVIOUSLY COPYRIGHTED MATERIAL, OR COPYRIGHTED THIRD–PARTY MATERIAL~~, OR ELEMENTS UNIQUE TO A SPECIFIC INSTITUTION, SUCH AS COMMEMORATIVE EDITIONS~~.

(III) "CUSTOM TEXTBOOK" DOES NOT INCLUDE PURELY AESTHETIC CHANGES TO A COLLEGE TEXTBOOK WHEN COMPARED WITH A PRIOR EDITION OF A COLLEGE TEXTBOOK SUCH AS COMMEMORATIVE EDITIONS.

(6) "INTEGRATED TEXTBOOK" MEANS A COLLEGE TEXTBOOK THAT IS COMBINED WITH:

(I) MATERIALS DEVELOPED BY A THIRD PARTY AND THAT, BY THIRD–PARTY CONTRACTUAL AGREEMENT, MAY NOT BE OFFERED BY PUBLISHERS SEPARATELY FROM THE COLLEGE TEXTBOOK WITH WHICH THE MATERIALS ARE COMBINED; OR

(II) OTHER MATERIALS THAT ARE SO INTERRELATED WITH THE CONTENT OF THE COLLEGE TEXTBOOK THAT THE SEPARATION OF THE COLLEGE TEXTBOOK FROM THE OTHER MATERIALS WOULD RENDER THE COLLEGE TEXTBOOK UNUSABLE FOR ITS INTENDED PURPOSE.

(7) "ISBN" MEANS THE UNIQUE INTERNATIONAL STANDARD BOOK NUMBER ASSIGNED TO ~~A~~ COLLEGE ~~TEXTBOOK~~ COURSE MATERIAL THAT IS USED BY PUBLISHERS TO IDENTIFY EACH TEXTBOOK EDITION AND ~~PRINTING OF A COLLEGE TEXTBOOK~~ OTHER COURSE MATERIAL, INCLUDING BUNDLES.

(8) "PRICE" MEANS THE PRICE AT WHICH THE PUBLISHER WOULD MAKE THE COLLEGE TEXTBOOK OR SUPPLEMENTAL MATERIAL AVAILABLE TO A BOOKSTORE AND, IF AVAILABLE, THE PRICE AT WHICH THE PUBLISHER WOULD MAKE THE COLLEGE TEXTBOOK OR SUPPLEMENTAL MATERIAL AVAILABLE TO THE PUBLIC.

~~(8)~~ (9) "SUBSTANTIAL CONTENT" MEANS A PART OF A COLLEGE TEXTBOOK, SUCH AS NEW CHAPTERS, NEW MATERIAL COVERING ADDITIONAL ERAS OF TIME, NEW THEMES, OR NEW SUBJECT MATTER.

~~(9)~~ (10) (I) "SUPPLEMENTAL MATERIAL" MEANS EDUCATIONAL MATERIAL DEVELOPED TO ACCOMPANY A COLLEGE TEXTBOOK THAT IS NOT BEING USED AS A COMPONENT OF AN INTEGRATED TEXTBOOK.

(II) "SUPPLEMENTAL MATERIAL" INCLUDES PRINTED MATERIALS AND ELECTRONIC MATERIALS SUCH AS COMPUTER DISKS AND WEB ACCESS CODES.

(11) "TEXTBOOK" INCLUDES CUSTOM TEXTBOOKS TO THE MAXIMUM EXTENT PRACTICABLE.

(B) THIS SECTION DOES NOT APPLY TO THE OVERSEAS PROGRAMS OF THE UNIVERSITY OF MARYLAND UNIVERSITY COLLEGE.

(C) EACH PUBLIC INSTITUTION OF HIGHER EDUCATION IN THE STATE SHALL DEVELOP AND IMPLEMENT:

(1) AN INFORMATIONAL CAMPAIGN TO ASSIST FACULTY AND MAKE THEM AWARE OF TEXTBOOK–RELATED ISSUES, INCLUDING:

(I) ~~WHOLESALE PRICE AND SUGGESTED RETAIL PRICES, IF ANY,~~ THE PRICE OF COLLEGE TEXTBOOKS AND OF SUPPLEMENTAL MATERIAL;

~~(II) VARIANCES IN WHOLESALE PRICE AND SUGGESTED RETAIL PRICES, IF ANY, OF BUNDLED AND UNBUNDLED COURSE MATERIALS;~~

(II) THE EXISTENCE OF VARIANCES IN PRICE OF BUNDLED AND UNBUNDLED COURSE MATERIALS;

~~(III)~~ ~~(II)~~ *(III)* SUBSTANTIAL CONTENT REVISIONS MADE BETWEEN THE CURRENT EDITION OF A COLLEGE TEXTBOOK OR SUPPLEMENTAL MATERIAL AND THE PREVIOUS EDITION OF THE COLLEGE TEXTBOOK OR SUPPLEMENTAL MATERIAL AS REPORTED TO THE INSTITUTION UNDER SUBSECTION (E) OF THIS SECTION; ~~AND~~

~~(III)~~ *(IV)* WHICH TEXTBOOKS ARE INTEGRATED TEXTBOOKS AND ARE THEREFORE NOT SUBJECT TO SUBSECTION (F)(3) OF THIS SECTION, AS REPORTED BY THE PUBLISHER UNDER SUBSECTION (E) OF THIS SECTION; AND

~~(IV)~~ *(V)* THE FISCAL IMPACT TO STUDENTS OF THE HIGH COST OF COLLEGE TEXTBOOKS;

~~(2) A COLLEGE TEXTBOOK ADOPTION PROCESS THAT INCLUDES THE PROVISION OF INFORMATION TO INSTITUTIONS AND CAMPUS BOOKSTORES REGARDING THE AVAILABILITY AND SUGGESTED RETAIL PRICES OF NEW CURRENT EDITIONS, USED CURRENT EDITIONS, NEW PREVIOUS EDITIONS, AND~~

~~USED PREVIOUS EDITIONS OF COLLEGE TEXTBOOKS AND SUPPLEMENTAL MATERIAL;~~

~~(3)~~ (2) A PROCEDURE BY WHICH BOOKSTORES AND STUDENTS ARE MADE AWARE OF THE INFORMATION REQUIRED TO BE DISCLOSED UNDER SUBSECTION (G) OF THIS SECTION; AND

~~(4)~~ (3) A BEST–PRACTICES PROCESS FOR FACULTY IN SELECTING COLLEGE TEXTBOOKS AND SUPPLEMENTAL MATERIAL THAT:

(I) ENSURES EARLY ADOPTION OF COLLEGE TEXTBOOKS AND SUPPLEMENTAL MATERIAL;

(II) ENCOURAGES THE MAXIMUM USAGE OF USED COLLEGE TEXTBOOKS AND OF PREVIOUS EDITIONS OF COLLEGE TEXTBOOKS, WHEN POSSIBLE;

(III) FOR UNDERGRADUATE COLLEGE TEXTBOOKS, ENSURES THAT THE MAJORITY OF THE ASSIGNED MATERIAL WILL BE USED IN THE COURSE UNLESS IT WOULD BE IN THE STUDENT'S FINANCIAL INTEREST TO PURCHASE SEPARATE MATERIALS; AND

(IV) ENSURES THAT FACULTY ARE AWARE OF VARIOUS OUTLETS FOR THE SUPPLY OF COLLEGE TEXTBOOKS AND SUPPLEMENTAL MATERIAL.

(D) (1) EACH PUBLIC INSTITUTION OF HIGHER EDUCATION SHALL DEVELOP A PROCESS BY WHICH FACULTY MEMBERS ~~AFFIRM AND~~ ACKNOWLEDGE THE INFORMATION UNDER PARAGRAPH (2) OF THIS SUBSECTION.

(2) BEFORE ~~IDENTIFYING~~ SELECTING A COLLEGE TEXTBOOK OR SUPPLEMENTAL MATERIAL AND BEFORE TRANSMITTING THE SELECTION TO A CAMPUS BOOKSTORE, PROVIDING THE SELECTION TO ANY OTHER BOOKSTORE, OR POSTING THE SELECTION ON THE WEBSITE OF THE PUBLIC INSTITUTION OF HIGHER EDUCATION, A FACULTY MEMBER SHALL *ACKNOWLEDGE*:

(I) *1.* IF SELECTING A DIFFERENT COLLEGE TEXTBOOK FROM A DIFFERENT PUBLISHER, ~~AFFIRM AND ACKNOWLEDGE~~ THE COST OF THE NEW SELECTION VERSUS THE COST OF THE PREVIOUS SELECTION; OR

~~(II)~~ *2.* IF SELECTING A CURRENT EDITION OF A COLLEGE TEXTBOOK~~, AFFIRM AND ACKNOWLEDGE~~:

~~1.~~ *A.* THE DIFFERENCES IN SUBSTANTIAL CONTENT BETWEEN THE CURRENT EDITION OF THE TEXTBOOK AND THE PREVIOUS EDITION OF THE TEXTBOOK AS REPORTED BY THE PUBLISHER UNDER SUBSECTION (E) OF THIS SECTION;

~~2.~~ *B.* THAT THE USE OF THE CURRENT EDITION IS ~~JUSTIFIED~~ APPROPRIATE DUE TO A MATERIAL CHANGE IN SUBSTANTIAL CONTENT BETWEEN THE CURRENT EDITION AND THE PREVIOUS EDITION;

~~3.~~ *C.* THE DIFFERENCE IN PRICE BETWEEN THE CURRENT EDITION OF THE TEXTBOOK AND THE PREVIOUS EDITION OF THE TEXTBOOK; *AND* ~~AND~~

~~4.~~ *D.* THAT THE PREVIOUS EDITION OF THE TEXTBOOK MAY BE AVAILABLE TO STUDENTS AT A LOWER PRICE VIA THE USED BOOK MARKET; ~~AND~~

~~5.~~ *(II)* THAT AN INTEGRATED TEXTBOOK IS NOT SUBJECT TO SUBSECTION (F)(3) OF THIS SECTION; *AND*

(III) THAT SUPPLEMENTAL MATERIAL INCLUDED IN A BUNDLE IS INTENDED FOR USE IN THE COURSE.

(E) (1) A PUBLISHER ~~WHO~~ THAT SELLS COLLEGE TEXTBOOKS OR SUPPLEMENTAL MATERIAL AND PROVIDES INFORMATION REGARDING A COLLEGE TEXTBOOK OR SUPPLEMENTAL MATERIAL TO A FACULTY MEMBER, OTHER ADOPTING ENTITY IN CHARGE OF SELECTING COURSE MATERIALS, OR THE ADMINISTRATION OF AN INSTITUTION OF HIGHER EDUCATION SHALL DISCLOSE WITH THIS INFORMATION, IN WRITING, BY PAPER OR ELECTRONIC MEANS:

(I) THE PRICE ~~AT WHICH THE PUBLISHER WOULD MAKE THE~~ OF THE COLLEGE TEXTBOOK OR SUPPLEMENTAL MATERIAL ~~AVAILABLE TO A BOOKSTORE AND THE PRICE AT WHICH THE PUBLISHER WOULD MAKE THE COLLEGE TEXTBOOK OR SUPPLEMENTAL MATERIAL AVAILABLE DIRECTLY TO THE PUBLIC~~;

(II) THE TITLE, AUTHOR, PUBLISHER, EDITION, CURRENT AND THREE PREVIOUS COPYRIGHT DATES, PUBLICATION DATE WHEN AVAILABLE, AND ISBN OF THE COLLEGE TEXTBOOK AND SUPPLEMENTAL MATERIAL, BOTH AS BUNDLED AND UNBUNDLED ITEMS;

(III) SUBSTANTIAL CONTENT REVISIONS MADE BETWEEN THE CURRENT EDITION OF THE COLLEGE TEXTBOOK OR SUPPLEMENTAL

MATERIAL AND THE PREVIOUS EDITION OF THE COLLEGE TEXTBOOK OR SUPPLEMENTAL MATERIAL ~~EXPRESSED AS AN ITEMIZED LIST~~;

(IV) OTHER AVAILABLE FORMATS FOR THE COLLEGE TEXTBOOK OR SUPPLEMENTAL MATERIAL SUCH AS PAPERBACK OR UNBOUND; AND

(V) A LIST OF TEXTBOOKS THAT ARE CLASSIFIED AS INTEGRATED TEXTBOOKS.

~~(V) VARIANCES IN PRICE, IF ANY, BETWEEN BUNDLED AND UNBUNDLED ITEMS.~~

(2) EACH INSTITUTION OF HIGHER EDUCATION IN THE STATE SHALL DEVELOP A PROCESS BY WHICH FACULTY MEMBERS ACKNOWLEDGE HAVING BEEN INFORMED OF THE DISCLOSURES REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION AND THE IMPACT THAT THE HIGH COST OF COLLEGE TEXTBOOKS AND SUPPLEMENTAL MATERIAL HAS ON STUDENTS.

~~(3) THE PROVISIONS OF THIS SUBSECTION SHALL BE MET, TO THE EXTENT PRACTICABLE, ON OR BEFORE OCTOBER 1, 2009 BUT NO LATER THAN JULY 1, 2010.~~

(F) (1) ~~A~~ EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, A PUBLISHER AND A CAMPUS BOOKSTORE SHALL PROVIDE AND SELL COLLEGE TEXTBOOKS AND SUPPLEMENTAL MATERIAL IN THE SAME MANNER AS SELECTED AND ORDERED BY FACULTY MEMBERS.

(2) (I) IF A COLLEGE TEXTBOOK OR SUPPLEMENTAL MATERIAL IS UNAVAILABLE AS ORDERED, THE PUBLISHER AND THE CAMPUS BOOKSTORE SHALL WORK WITH THE FACULTY MEMBER TO FIND ALTERNATIVES.

(II) A PUBLISHER COLLABORATING WITH A CAMPUS BOOKSTORE AND A FACULTY MEMBER UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL PROVIDE ~~WHOLESALE PRICES AND SUGGESTED RETAIL PRICES, IF ANY,~~ PRICE INFORMATION FOR ALTERNATIVE COLLEGE TEXTBOOKS AND SUPPLEMENTAL MATERIAL.

(3) A PUBLISHER THAT SELLS A COLLEGE TEXTBOOK AND ANY SUPPLEMENTAL MATERIAL ACCOMPANYING THE COLLEGE TEXTBOOK IN A BUNDLE SHALL ALSO MAKE AVAILABLE THE COLLEGE TEXTBOOK AND THE SUPPLEMENTAL MATERIAL AS SEPARATE AND UNBUNDLED ITEMS, EACH SEPARATELY PRICED.

(4) WITH THE PERMISSION OF A FACULTY MEMBER, A CAMPUS BOOKSTORE MAY SELL COLLEGE TEXTBOOKS AND SUPPLEMENTAL MATERIAL IN A DIFFERENT MANNER THAN AS SELECTED AND ORDERED BY THE FACULTY MEMBER FOR THE PURPOSE OF PROVIDING USED COLLEGE TEXTBOOKS, PRIOR EDITIONS, OR OTHER LOWER–COST OPTIONS TO STUDENTS.

~~(G) (1) SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, ON THE REQUEST OF A BOOKSTORE, AN INSTITUTION OF HIGHER EDUCATION SHALL PROVIDE THE INFORMATION LISTED UNDER PARAGRAPH (2) OF THIS SUBSECTION TO A BOOKSTORE AS SOON AS A FACULTY MEMBER IDENTIFIES A COLLEGE TEXTBOOK OR SUPPLEMENTAL MATERIAL AND TRANSMITS THE SELECTION TO A CAMPUS BOOKSTORE.~~

(G) (1) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, ON THE REQUEST OF A BOOKSTORE, AN INSTITUTION OF HIGHER EDUCATION SHALL PROVIDE THE INFORMATION LISTED UNDER PARAGRAPH (3) OF THIS SUBSECTION TO A BOOKSTORE BY THE EARLIER OF:

1. WITHIN 1 WEEK OF A FACULTY MEMBER'S SELECTION OF A COLLEGE TEXTBOOK OR SUPPLEMENTAL MATERIAL AND TRANSMISSION TO A CAMPUS BOOKSTORE; OR

2. WHEN THE SELECTION BY A FACULTY MEMBER OF A COLLEGE TEXTBOOK OR SUPPLEMENTAL MATERIAL IS FINALIZED.

(II) A BOOKSTORE THAT OBTAINS INFORMATION UNDER SUBPARAGRAPH (I)1 OF THIS PARAGRAPH MAY NOT MAKE THE INFORMATION AVAILABLE TO STUDENTS OR MEMBERS OF THE PUBLIC UNTIL THE INFORMATION IS MADE AVAILABLE TO THE BOOKSTORE IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION.

~~(2) THE INFORMATION PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE THE:~~

~~(I) TITLE;~~

~~(II) AUTHOR;~~

~~(III) PUBLISHER;~~

~~(IV) EDITION;~~

~~(V) COPYRIGHT DATE AND PUBLICATION DATE WHEN AVAILABLE;~~

~~(VI) ISBN; AND~~

~~(VII) ANTICIPATED ENROLLMENT FOR THE COURSE.~~

~~(3)~~ ~~(G)~~ ~~(1)~~ *(2)* (I) AN INSTITUTION OF HIGHER EDUCATION SHALL MAKE THE INFORMATION LISTED UNDER PARAGRAPH ~~(2)~~*(3)* OF THIS SUBSECTION AVAILABLE TO BOOKSTORES, STUDENTS, AND THE REST OF THE PUBLIC BY POSTING THE INFORMATION ON ITS WEBSITE BY THE EARLIER OF:

1. SUBJECT TO ~~PARAGRAPH (4)~~ PARAGRAPHS ~~(3)~~ *(4)* AND ~~(4)~~ *(5)* OF THIS SUBSECTION, ~~1 WEEK~~ ~~30 DAYS~~ *3 WEEKS* FOLLOWING THE ~~PROVISION OF INFORMATION UNDER PARAGRAPH (1) OF THIS SUBSECTION~~ SELECTION BY A FACULTY MEMBER OF A COLLEGE TEXTBOOK OR SUPPLEMENTAL MATERIAL; OR

~~2. WHEN A CAMPUS BOOKSTORE PLACES A FINAL ORDER FOR A COLLEGE TEXTBOOK OR SUPPLEMENTAL MATERIAL.~~

2. WHEN THE SELECTION BY A FACULTY MEMBER OF A COLLEGE TEXTBOOK OR SUPPLEMENTAL MATERIAL IS FINALIZED.

(II) IN ADDITION TO THE INFORMATION POSTED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, AN INSTITUTION SHALL POST ON ITS WEBSITE:

1. WHETHER SUPPLEMENTAL MATERIAL IS REQUIRED OR ONLY SUGGESTED BY FACULTY; AND

2. WHETHER A PREVIOUS EDITION OF AN ASSIGNED COLLEGE TEXTBOOK WILL SUFFICE.

~~(2)~~ *(3)* THE INFORMATION MADE AVAILABLE UNDER ~~PARAGRAPH (1)~~ *PARAGRAPHS (1) AND (2)* OF THIS SUBSECTION SHALL INCLUDE THE:

(I) TITLE;

(II) AUTHOR;

(III) PUBLISHER;

(IV) EDITION;

(V) COPYRIGHT DATE AND PUBLICATION DATE, WHEN AVAILABLE;

(VI) ISBN; AND

(VII) ANTICIPATED ENROLLMENT FOR THE COURSE.

~~(4)~~ ~~(3)~~ *(4)* (I) AN INSTITUTION OF HIGHER EDUCATION SHALL INFORM A BOOKSTORE, ~~THAT MAKES A REQUEST UNDER PARAGRAPH (1) OF THIS SUBSECTION AND~~ STUDENTS, OR MEMBERS OF THE PUBLIC WHO ACCESS THE WEBSITE OF THE INSTITUTION UNDER PARAGRAPH ~~(3)~~ ~~(1)~~ *(2)* OF THIS SUBSECTION IF ~~A~~ THE SELECTION OF THE PARTICULAR COLLEGE TEXTBOOK, SUPPLEMENTAL MATERIAL, OR BUNDLE HAS NOT BEEN FINALIZED BY THE FACULTY MEMBER.

(II) IN ADDITION TO THE DISCLOSURE MADE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, AN INSTITUTION, CAMPUS BOOKSTORE, OR OTHER BOOKSTORE THAT OFFERS A COLLEGE TEXTBOOK OR SUPPLEMENTAL MATERIAL FOR SALE PRIOR TO THE SELECTION BEING FINALIZED SHALL PROVIDE ~~A~~:

1. A CAVEAT REGARDING THE POTENTIAL CONSEQUENCES OF PURCHASING ~~A~~ THE PARTICULAR COLLEGE TEXTBOOK, SUPPLEMENTAL MATERIAL, OR BUNDLE PRIOR TO THE SELECTION BEING FINALIZED; AND

2. THE RETURN POLICY OF THE CAMPUS BOOKSTORE OR OTHER BOOKSTORE, AS APPROPRIATE.

~~(4)~~ *(5)* (I) NOTWITHSTANDING ~~PARAGRAPH (1)~~ *PARAGRAPHS (1) AND (2)* OF THIS SUBSECTION, UPON REQUEST TO AN INSTITUTION, AN EXTENSION OF TIME MAY BE GRANTED TO A FACULTY MEMBER ~~OR A CAMPUS BOOKSTORE~~ FROM THE REQUIREMENT TO POST THE SELECTION OF A COLLEGE TEXTBOOK OR SUPPLEMENTAL MATERIAL PRIOR TO THE SELECTION BEING FINALIZED.

(II) THE EXTENSION GRANTED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE APPROVED BY THE FACULTY DEPARTMENT CHAIR AND THE DEAN OR DIVISION HEAD OF THE INSTITUTION.

(III) THE EXTENSION SHALL INCLUDE A WRITTEN STATEMENT OF EXPLANATION FOR THE EXTENSION.

(IV) AN INSTITUTION SHALL POST THE WRITTEN STATEMENT ON ITS WEBSITE INSTEAD OF THE SELECTION, AS APPROPRIATE.

(H) A PUBLIC INSTITUTION OF HIGHER EDUCATION MAY NOT ENCOURAGE OR PROMOTE THE CREATION OR SALE OF COLLEGE TEXTBOOKS THAT CONSIST OF PURELY AESTHETIC CHANGES TO A PRIOR EDITION OF A COLLEGE TEXTBOOK SUCH AS A COMMEMORATIVE EDITION.

~~**(H) ON THE REQUEST OF A BOOKSTORE, IF A PUBLIC INSTITUTION OF HIGHER EDUCATION ALLOWS A CAMPUS BOOKSTORE TO:**~~

~~**(1) ADVERTISE OR SUBMIT ADVERTISING FOR INCLUSION IN ORIENTATION PACKETS, IN OTHER PRINT MATERIAL, OR ON THE WEBSITE OF THE INSTITUTION, THEN THE INSTITUTION SHALL ALLOW OTHER BOOKSTORES TO ADVERTISE OR SUBMIT ADVERTISING FOR THE SAME INCLUSION; AND**~~

~~**(2) ACCESS STUDENTS AS PART OF A PRESENTATION OR TOUR FOR A STUDENT GROUP OR A GROUP OF POTENTIAL STUDENTS, THEN THE INSTITUTION SHALL ALLOW OTHER BOOKSTORES TO HAVE THE SAME ACCESS TO STUDENTS.**~~

(I) THIS SECTION MAY NOT BE CONSTRUED TO SUPERSEDE THE INSTITUTIONAL AUTONOMY OR ACADEMIC FREEDOM OF FACULTY MEMBERS INVOLVED IN THE SELECTION OF COLLEGE TEXTBOOKS AND SUPPLEMENTAL MATERIAL.

~~SECTION 2. AND BE IT FURTHER ENACTED, That:~~

~~(a) On or before November 1, 2010, the University System of Maryland, St. Mary's College of Maryland, Morgan State University, and the Maryland Association of Community Colleges shall submit reports to the Maryland Higher Education Commission, including a scientific and data–driven analysis of college textbook prices at the constituent or member institutions, as appropriate, efforts to lower the cost of textbooks for their students, and recommendations for statewide policy initiatives that will further ameliorate the high cost of undergraduate and graduate education as impacted by textbook prices; and~~

~~(b) On or before December 1, 2010, the Maryland Higher Education Commission shall compile the reports required under paragraph (a) of this section and shall forward a copy of the compilation to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.~~

SECTION ~~3.~~ 2. AND BE IT FURTHER ENACTED, ~~That, on~~ That:

(a) On or before December 1, ~~2010~~ 2011, each public institution of higher education in the State shall report to the ~~Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly,~~ Maryland Higher Education Commission regarding efforts to lower the cost of textbooks for their students and the "best–practices" process developed under § ~~15–112(c)(4)~~ 15–112(c)(3) of the Education Article, as enacted by Section 1 of this Act.

~~SECTION 4. AND BE IT FURTHER ENACTED, That:~~

~~(a)~~ (b) On or before December 1, 2011, the ~~Maryland Higher Education~~ Commission, in consultation with the University System of Maryland, St. Mary's College of Maryland, Morgan State University, the Maryland Association of Community Colleges, and the Maryland Independent College and University Association, shall conduct a feasibility study regarding:

(1) the establishment of one or more textbook rental programs in Maryland that would allow students to lease textbooks on a per book, per credit hour, or per course basis, including an analysis of start–up costs and funding options such as private sector donations and grants; ~~and~~

(2) the establishment of a statewide digital marketplace for college textbooks and supplemental material including:

(i) an analysis of the infrastructure, technology, and support services necessary to allow institutions, students, faculty, bookstores, publishers, and other stakeholders to interact efficiently; and

(ii) a consideration of digital rights management capabilities and transactional processes needed for both fee–based and no–cost content; and

(3) the accessibility of the digital marketplace and any and all electronic textbooks and supplemental material to blind and print–disabled students and faculty members.

~~(b)~~ (c) On or before December 31, 2011, the ~~Maryland Higher Education~~ Commission shall:

(1) compile the reports required under paragraph (a) of this section; and

(2) submit to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly, the compilation, the results of the feasibility studies conducted under paragraph ~~(a)~~ (b) of this section, and ~~make~~ recommendations regarding textbook rental programs, ~~and~~ the establishment of a digital marketplace ~~including cost estimates to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly,~~, and statewide policy initiatives that will further ameliorate the high cost of undergraduate and graduate

education as impacted by textbook prices based on information gathered under ~~subsection (a) of~~ this section.

SECTION ~~5.~~ 3. AND BE IT FURTHER ENACTED, That:

(a) The University System of Maryland, under the direction of the Board of Regents, shall conduct a study of changes that the University System of Maryland and its constituent institutions can make to their business models regarding textbook assignments and textbook purchasing in order to reduce the cost of textbooks to students while preserving and enhancing the quality of educational materials available to students. Principles underlying this review shall include:

(1) the protection of academic freedom;

(2) the promotion of competition among publishers, bookstores, and other textbook vendors;

(3) the empowerment of faculty and students to access information about options which will strengthen their market power; and

(4) the exploration of:

(i) alternative approaches used in other universities, states, and countries;

(ii) new technologies; and

(iii) legal structures.

(b) The study conducted under subsection (a) of this section shall include, but not be limited to, an exploration of:

(1) using the market power of faculty and students to drive down prices;

(2) strategies to increase the use of used textbooks;

(3) the creation of textbook rental programs;

(4) increasing faculty awareness of textbook costs and options for reducing textbook costs;

(5) minimizing the impact of publishers' "planned obsolescence" marketing strategies; ~~and~~

(6) cost–effective substitution of content–licensing for textbook purchasing; and

(7) ensuring that any and all electronic textbooks and supplemental material shall be accessible to blind and print–disabled students and faculty members.

(c) On or before December 1, 2010, the University System of Maryland shall submit to the Board of Regents and, in accordance with § 2–1246 of the State Government Article, the General Assembly, the results of the study required under subsection (a) of this section.

(d) Nothing contained in this section bars the University System of Maryland from implementing changes consistent with its intent before December 1, 2010.

SECTION ~~6.~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 522

(Senate Bill 201)

AN ACT concerning

Real Property – Condominiums – ~~Required Insurance Coverage~~ Repair or Replacement of Damage or Destruction by Council of Unit Owners

FOR the purpose of clarifying that the council of unit owners of a condominium is responsible for the repair or replacement of the common elements and condominium units, exclusive of improvements and betterments installed in units by unit owners other than the developer, in the event of damage to or destruction of the condominium under certain circumstances; ~~clarifying that the council of unit owners is required to maintain certain insurance on a condominium's common elements and units, exclusive of improvements and betterments installed in units by unit owners; making stylistic changes~~ clarifying the coverage of certain property insurance required to be maintained by a council of unit owners; providing that the owner of the unit where the cause of certain damage or destruction originated is responsible for a certain insurance deductible up to a certain amount; repealing a condition that a certain responsibility of the unit owner be provided in the bylaws; repealing a provision that the council of unit owners' property insurance deductible is a common expense under certain circumstances; requiring the council of unit owners to inform unit owners of certain responsibilities relating to the property insurance deductible under certain circumstances; requiring a contract for the initial sale of a unit and a contract for the resale of a unit to include a certain

notice of the unit owner's responsibility relating to the property insurance deductible under certain circumstances; declaring the intent of the General Assembly; and generally relating to condominiums and insurance coverage under the Maryland Condominium Act.

BY repealing and reenacting, with amendments,
Article – Real Property
Section 11–108.1 ~~and~~, 11–114, 11–126(b)(16) and (17), and 11–135(a)(4)(xii) and (5) and (b)
Annotated Code of Maryland
(2003 Replacement Volume and 2008 Supplement)

BY adding to
Article – Real Property
Section 11–126(b)(17) and 11–135(a)(6)
Annotated Code of Maryland
(2003 Replacement Volume and 2008 Supplement)

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

Article – Real Property

11–108.1.

Except to the extent **[**otherwise**]** provided by the declaration **[**or**]**~~,~~ bylaws, ~~**OR § 11–114(G) OF THIS TITLE**~~ **AND SUBJECT TO § 11–114 OF THIS SUBTITLE,** the council of unit owners is responsible for maintenance, repair, and replacement of the common elements, and each unit owner is responsible for maintenance, repair, and replacement of his unit.

11–114.

(a) Commencing not later than the time of the first conveyance of a unit to a person other than the developer, the council of unit owners shall maintain, to the extent reasonably available:

(1) Property insurance on the common elements and units, exclusive of improvements and betterments installed in units by unit owners **OTHER THAN THE DEVELOPER**, insuring against those risks of direct physical loss commonly insured against, in amounts determined by the council of unit owners but not less than any amounts specified in the declaration or bylaws; and

(2) Comprehensive general liability insurance, including medical payments insurance, in an amount determined by the council of unit owners, but not less than any amount specified in the declaration or bylaws, covering occurrences

commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the common elements.

(b) The council of unit owners shall give notice to all unit owners of the termination of any insurance policy within 10 days of termination. The declaration or bylaws may require the council of unit owners to carry any other insurance, and the council of unit owners in any event may carry any other insurance it deems appropriate to protect the council of unit owners or the unit owners.

(c) Insurance policies carried pursuant to subsection (a) of this section shall provide that:

(1) ~~Each~~ **FOR PROPERTY AND CASUALTY LOSSES TO THE COMMON ELEMENTS AND THE UNITS, EXCLUSIVE OF IMPROVEMENTS AND BETTERMENTS INSTALLED IN THE UNITS BY UNIT OWNERS OTHER THAN THE DEVELOPER, EACH** unit owner is an insured person under the policy with respect to liability arising out of his ownership of an undivided interest in the common elements or membership in the council of unit owners;

(2) The insurer waives its right to subrogation under the policy against any unit owner of the condominium or members of his household;

(3) An act or omission by any unit owner, unless acting within the scope of his authority on behalf of the council of unit owners, does not void the policy and is not a condition to recovery under the policy; and

(4) If, at the time of a loss under the policy, there is other insurance in the name of a unit owner covering the same property covered by the policy, the policy is primary insurance not contributing with the other insurance.

(d) Any loss covered by the property policy under subsection (a)(1) of this section shall be adjusted with the council of unit owners, but the insurance proceeds for that loss shall be payable to any insurance trustee designated for that purpose, or otherwise to the council of unit owners, and not to any mortgagee. The insurance trustee or the council of unit owners shall hold any insurance proceeds in trust for unit owners and lien holders as their interests may appear. Subject to the provisions of subsection (g) of this section, the proceeds shall be disbursed first for the repair or restoration of the damaged common elements and units, and unit owners and lien holders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the common elements and units have been completely repaired or restored, or the condominium is terminated.

(e) An insurance policy issued to the council of unit owners does not prevent a unit owner from obtaining insurance for his own benefit.

(f) An insurer that has issued an insurance policy under this section shall issue certificates or memoranda of insurance to the council of unit owners and, upon

request, to any unit owner, mortgagee, or beneficiary under a deed of trust. The insurance may not be canceled until 30 days after the notice of the proposed cancellation has been mailed to the council of unit owners, each unit owner and each mortgagee to whom certificates of insurance have been issued.

(g) (1) Any portion of the ~~condominium **FOR WHICH INSURANCE IS REQUIRED UNDER THIS SECTION THAT IS**~~ **COMMON ELEMENTS AND THE UNITS, EXCLUSIVE OF IMPROVEMENTS AND BETTERMENTS INSTALLED IN THE UNITS BY UNIT OWNERS OTHER THAN THE DEVELOPER,** damaged or destroyed shall be repaired or replaced promptly by the council of unit owners unless:

(i) The condominium is terminated;

(ii) Repair or replacement would be illegal under any State or local health or safety statute or ordinance; or

(iii) 80 percent of the unit owners, including every owner of a unit or assigned limited common element which will not be rebuilt, vote not to rebuild.

(2) (i) 1. The cost of repair or replacement in excess of insurance proceeds and reserves is a common expense.

2. A property insurance deductible is not a cost of repair or replacement in excess of insurance proceeds.

(ii) If the cause of any damage to or destruction of any portion of the condominium originates from the common elements, the council of unit owners' property insurance deductible is a common expense.

(iii) 1. ~~Except as otherwise provided in the council of unit owners' bylaws, if~~ **IF** the cause of any damage to or destruction of any portion of the condominium originates from a unit, ~~the council of unit owners' property insurance deductible is a common expense.~~

~~2.~~ ~~If the council of unit owners' bylaws provides that~~ the owner of the unit where the cause of the damage or destruction originated is responsible for the council of unit owners' property insurance deductible~~, the unit owner's responsibility may~~ not **TO** exceed $5,000.

2. THE COUNCIL OF UNIT OWNERS SHALL INFORM EACH UNIT OWNER ANNUALLY IN WRITING OF:

A. THE UNIT OWNER'S RESPONSIBILITY FOR THE COUNCIL OF UNIT OWNERS' PROPERTY INSURANCE DEDUCTIBLE; AND

B. THE AMOUNT OF THE DEDUCTIBLE.

3. The council of unit owners' property insurance deductible amount exceeding the $5,000 responsibility of the unit owner is a common expense.

(iv) In the same manner as provided under § 11–110 of this subtitle, the council of unit owners may make an annual assessment against the unit owner responsible under subparagraph (iii) of this paragraph.

(3) If the damaged or destroyed portion of the condominium is not repaired or replaced:

(i) The insurance proceeds attributable to the damaged common elements shall be used to restore the damaged area to a condition compatible with the remainder of the condominium;

(ii) The insurance proceeds attributable to units and limited common elements which are not rebuilt shall be distributed to the owners of those units and the owners of the units to which those limited common elements were assigned; and

(iii) The remainder of the proceeds shall be distributed to all the unit owners in proportion to their percentage interest in the common elements.

(4) If the unit owners vote not to rebuild any unit, that unit's entire common element interest, votes in the council of unit owners, and common expense liability are automatically reallocated upon the vote as if the unit had been condemned under § 11–112 of this title, and the council of unit owners promptly shall prepare, execute, and record an amendment to the declaration reflecting the reallocations. Notwithstanding the provisions of this subsection, § 11–123 of this title governs the distribution of insurance proceeds if the condominium is terminated.

(h) The council of unit owners shall maintain and make available for inspection a copy of all insurance policies maintained by the council of unit owners.

(i) The provisions of this section do not apply to a condominium all of whose units are intended for nonresidential use.

<u>11–126.</u>

<u>(b) The public offering statement required by subsection (a) of this section shall be sufficient for the purposes of this section if it contains at least the following:</u>

<u>(16) A statement of whether the unit being purchased is subject to an extended lease under § 11–137 of this title, or local law, and a copy of any extended lease; **[**and**]**</u>

(17) A WRITTEN NOTICE OF THE UNIT OWNER'S RESPONSIBILITY FOR THE COUNCIL OF UNIT OWNERS' PROPERTY INSURANCE DEDUCTIBLE AND THE AMOUNT OF THE DEDUCTIBLE; AND

[(17)**]** **(18)** Any other information required by regulation duly adopted and issued by the Secretary of State.

11–135.

(a) Except as provided in subsection (b) of this section, a contract for the resale of a unit by a unit owner other than a developer is not enforceable unless the contract of sale contains in conspicuous type a notice in the form specified in subsection (g)(1) of this section, and the unit owner furnishes to the purchaser not later than 15 days prior to closing:

(4) A certificate containing:

(xii) A description of any recreational or other facilities which are to be used by the unit owners or maintained by them or the council of unit owners, and a statement as to whether or not they are to be a part of the common elements; **[**and**]**

(5) A statement by the unit owner as to whether the unit owner has knowledge:

(i) That any alteration to the unit or to the limited common elements assigned to the unit violates any provision of the declaration, bylaws, or rules and regulations;

(ii) Of any violation of the health or building codes with respect to the unit or the limited common elements assigned to the unit; and

(iii) That the unit is subject to an extended lease under § 11–137 of this title or under local law, and if so, a copy of the lease must be provided**; AND**

(6) A WRITTEN NOTICE OF THE UNIT OWNER'S RESPONSIBILITY FOR THE COUNCIL OF UNIT OWNERS' PROPERTY INSURANCE DEDUCTIBLE AND THE AMOUNT OF THE DEDUCTIBLE.

(b) A contract for the resale by a unit owner other than a developer of a unit in a condominium containing less than 7 units is not enforceable unless the contract of sale contains in conspicuous type a notice in the form specified in subsection (g)(2) of this section, and the unit owner furnishes to the purchaser not later than 15 days prior to closing:

(1) A copy of the declaration (other than the plats);

(2) The bylaws;

(3) The rules and regulations of the condominium; [and]

(4) A statement by the unit owner of the unit owner's expenses during the preceding 12 months relating to the common elements**; AND**

(5) A WRITTEN NOTICE OF THE UNIT OWNER'S RESPONSIBILITY FOR THE COUNCIL OF UNIT OWNERS' PROPERTY INSURANCE DEDUCTIBLE AND THE AMOUNT OF THE DEDUCTIBLE.

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that this Act:

(a) Overturn the Court of Appeals ruling in Diane Anderson, et al. v. Council of Unit Owners of The Gables on Tuckerman Condominium, et al., 404 Md. 560 (2008);

(b) Place an affirmative duty on the council of unit owners of a condominium association to:

(1) Repair damage or destruction to the condominium that originated in a unit; and

(2) Purchase property insurance that reflects this duty; and

(c) Make the cost of the property insurance purchased by the council of unit owners of a condominium association under this Act a common expense, except that in the case of damage or destruction originating from a unit, the payment of the property insurance deductible shall be the responsibility, up to the maximum amount provided under § 11–114(g) of the Real Property Article, of the owner of the unit where the cause of the damage or destruction originated.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 523

(House Bill 287)

AN ACT concerning

Real Property – Condominiums – Repair or Replacement of ~~Unit~~ Damage or Destruction by Council of Unit Owners

FOR the purpose of clarifying that the council of unit owners of a condominium is responsible for the repair or replacement of the common elements and condominium units, exclusive of improvements and betterments installed in units by unit owners other than the developer, in the event of damage or destruction of the condominium under certain circumstances; clarifying the coverage of certain property insurance required to be maintained by a council of unit owners; providing that the owner of the unit where the cause of certain damage or destruction originated is responsible for a certain insurance deductible up to a certain amount; repealing a condition that ~~the~~ a certain responsibility of the unit owner be provided in the bylaws; ~~repealing a provision that a property insurance deductible is not a cost of repair or replacement in excess of insurance proceeds;~~ repealing a provision that the council of unit owners' property insurance deductible is a common expense under certain circumstances; ~~altering the amount of a property insurance deductible for which a unit owner is responsible;~~ requiring the council of unit owners to inform unit owners of certain responsibilities relating to the property insurance deductible under certain circumstances; requiring a contract for the initial sale of a unit and a contract for the resale of a unit to include a certain notice of the unit owner's responsibility relating to the property insurance deductible under certain circumstances; declaring the intent of the General Assembly; and generally relating to condominiums and insurance coverage under the Maryland Condominium Act.

BY repealing and reenacting, with amendments,
Article – Real Property
Section 11–108.1 ~~and~~, 11–114, 11–126(b)(16) and (17), and 11–135(a)(4)(xii) and (5) and (b)
Annotated Code of Maryland
(2003 Replacement Volume and 2008 Supplement)

BY adding to
Article – Real Property
Section 11–126(b)(17) and 11–135(a)(6)
Annotated Code of Maryland
(2003 Replacement Volume and 2008 Supplement)

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

Article – Real Property

11–108.1.

~~(A)~~ Except to the extent otherwise provided by the declaration or bylaws, **AND SUBJECT TO § 11–114 OF THIS SUBTITLE,** the council of unit owners is responsible for maintenance, repair, and replacement of the common elements, and each unit owner is responsible for maintenance, repair, and replacement of his unit.

~~(B) WHEN REPAIR OR REPLACEMENT OF A UNIT RESULTS FROM A PROPERTY LOSS INSURABLE BY THE COUNCIL OF UNIT OWNERS UNDER SECTION 11–114 OF THIS SUBTITLE, THE COUNCIL OF UNIT OWNERS IS RESPONSIBLE FOR REPAIR OR REPLACEMENT OF THE UNIT.~~

11–114.

(a) Commencing not later than the time of the first conveyance of a unit to a person other than the developer, the council of unit owners shall maintain, to the extent reasonably available:

(1) Property insurance on the common elements and units, exclusive of improvements and betterments installed in units by unit owners **OTHER THAN THE DEVELOPER**, insuring against those risks of direct physical loss commonly insured against, in amounts determined by the council of unit owners but not less than any amounts specified in the declaration or bylaws; and

(2) Comprehensive general liability insurance, including medical payments insurance, in an amount determined by the council of unit owners, but not less than any amount specified in the declaration or bylaws, covering occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the common elements.

(b) The council of unit owners shall give notice to all unit owners of the termination of any insurance policy within 10 days of termination. The declaration or bylaws may require the council of unit owners to carry any other insurance, and the council of unit owners in any event may carry any other insurance it deems appropriate to protect the council of unit owners or the unit owners.

(c) Insurance policies carried pursuant to subsection (a) of this section shall provide that:

(1) ~~Each~~ **FOR PROPERTY AND CASUALTY LOSSES TO THE COMMON ELEMENTS AND THE UNITS, EXCLUSIVE OF IMPROVEMENTS AND BETTERMENTS INSTALLED IN THE UNITS BY UNIT OWNERS OTHER THAN THE DEVELOPER, EACH** unit owner is an insured person under the policy with respect to liability arising out of his ownership of an undivided interest in the common elements or membership in the council of unit owners;

(2) The insurer waives its right to subrogation under the policy against any unit owner of the condominium or members of his household;

(3) An act or omission by any unit owner, unless acting within the scope of his authority on behalf of the council of unit owners, does not void the policy and is not a condition to recovery under the policy; and

(4) If, at the time of a loss under the policy, there is other insurance in the name of a unit owner covering the same property covered by the policy, the policy is primary insurance not contributing with the other insurance.

(d) Any loss covered by the property policy under subsection (a)(1) of this section shall be adjusted with the council of unit owners, but the insurance proceeds for that loss shall be payable to any insurance trustee designated for that purpose, or otherwise to the council of unit owners, and not to any mortgagee. The insurance trustee or the council of unit owners shall hold any insurance proceeds in trust for unit owners and lien holders as their interests may appear. Subject to the provisions of subsection (g) of this section, the proceeds shall be disbursed first for the repair or restoration of the damaged common elements and units, and unit owners and lien holders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the common elements and units have been completely repaired or restored, or the condominium is terminated.

(e) An insurance policy issued to the council of unit owners does not prevent a unit owner from obtaining insurance for his own benefit.

(f) An insurer that has issued an insurance policy under this section shall issue certificates or memoranda of insurance to the council of unit owners and, upon request, to any unit owner, mortgagee, or beneficiary under a deed of trust. The insurance may not be canceled until 30 days after the notice of the proposed cancellation has been mailed to the council of unit owners, each unit owner and each mortgagee to whom certificates of insurance have been issued.

(g) (1) Any portion of the ~~condominium~~ **COMMON ELEMENTS AND THE UNITS, EXCLUSIVE OF IMPROVEMENTS AND BETTERMENTS INSTALLED IN THE UNITS BY UNIT OWNERS OTHER THAN THE DEVELOPER,** damaged or destroyed shall be repaired or replaced promptly by the council of unit owners unless:

(i) The condominium is terminated;

(ii) Repair or replacement would be illegal under any State or local health or safety statute or ordinance; or

(iii) 80 percent of the unit owners, including every owner of a unit or assigned limited common element which will not be rebuilt, vote not to rebuild.

(2) (i) ~~[~~1.~~]~~ The cost of repair or replacement in excess of insurance proceeds and reserves is a common expense.

~~[~~2. A property insurance deductible is not a cost of repair or replacement in excess of insurance proceeds.~~]~~

(ii) If the cause of any damage to or destruction of any portion of the condominium originates from the common elements, the council of unit owners' property insurance deductible is a common expense.

(iii) 1. ~~Except as otherwise provided in the council of unit owners' bylaws, if~~ **IF** the cause of any damage to or destruction of any portion of the condominium originates from a unit, **[**the council of unit owners' property insurance deductible is a common expense.

2. If the council of unit owners' bylaws provides that**]** the owner of the unit where the cause of the damage or destruction originated is responsible for the council of unit owners' property insurance deductible~~, [the unit owner's responsibility may~~ not **TO** exceed $5,000.~~]~~ ~~**UP TO $10,000**~~**.**

2. THE COUNCIL OF UNIT OWNERS SHALL INFORM EACH UNIT OWNER ANNUALLY IN WRITING OF:

A. THE UNIT OWNER'S ~~LIABILITY~~ RESPONSIBILITY FOR THE COUNCIL OF UNIT OWNERS' PROPERTY INSURANCE DEDUCTIBLE; AND

B. THE AMOUNT OF THE DEDUCTIBLE.

3. The council of unit owners' property insurance deductible amount exceeding the ~~[~~$5,000~~]~~ ~~**$10,000**~~ responsibility of the unit owner is a common expense.

(iv) In the same manner as provided under § 11–110 of this subtitle, the council of unit owners may make an annual assessment against the unit owner responsible under subparagraph (iii) of this paragraph.

(3) If the damaged or destroyed portion of the condominium is not repaired or replaced:

(i) The insurance proceeds attributable to the damaged common elements shall be used to restore the damaged area to a condition compatible with the remainder of the condominium;

(ii) The insurance proceeds attributable to units and limited common elements which are not rebuilt shall be distributed to the owners of those units and the owners of the units to which those limited common elements were assigned; and

(iii) The remainder of the proceeds shall be distributed to all the unit owners in proportion to their percentage interest in the common elements.

(4) If the unit owners vote not to rebuild any unit, that unit's entire common element interest, votes in the council of unit owners, and common expense liability are automatically reallocated upon the vote as if the unit had been condemned under § 11–112 of this title, and the council of unit owners promptly shall prepare, execute, and record an amendment to the declaration reflecting the reallocations. Notwithstanding the provisions of this subsection, § 11–123 of this title governs the distribution of insurance proceeds if the condominium is terminated.

(h) The council of unit owners shall maintain and make available for inspection a copy of all insurance policies maintained by the council of unit owners.

(i) The provisions of this section do not apply to a condominium all of whose units are intended for nonresidential use.

11–126.

(b) The public offering statement required by subsection (a) of this section shall be sufficient for the purposes of this section if it contains at least the following:

(16) A statement of whether the unit being purchased is subject to an extended lease under § 11–137 of this title, or local law, and a copy of any extended lease; [and]

(17) A WRITTEN NOTICE OF THE UNIT OWNER'S RESPONSIBILITY FOR THE COUNCIL OF UNIT OWNERS' PROPERTY INSURANCE DEDUCTIBLE AND THE AMOUNT OF THE DEDUCTIBLE; AND

[(17)] **(18)** Any other information required by regulation duly adopted and issued by the Secretary of State.

11–135.

(a) Except as provided in subsection (b) of this section, a contract for the resale of a unit by a unit owner other than a developer is not enforceable unless the contract of sale contains in conspicuous type a notice in the form specified in subsection (g)(1) of this section, and the unit owner furnishes to the purchaser not later than 15 days prior to closing:

(4) A certificate containing:

(xii) A description of any recreational or other facilities which are to be used by the unit owners or maintained by them or the council of unit owners, and a statement as to whether or not they are to be a part of the common elements; [and]

(5) A statement by the unit owner as to whether the unit owner has knowledge:

(i) That any alteration to the unit or to the limited common elements assigned to the unit violates any provision of the declaration, bylaws, or rules and regulations;

(ii) Of any violation of the health or building codes with respect to the unit or the limited common elements assigned to the unit; and

(iii) That the unit is subject to an extended lease under § 11–137 of this title or under local law, and if so, a copy of the lease must be provided**[.]; AND**

(6) A WRITTEN NOTICE OF THE UNIT OWNER'S RESPONSIBILITY FOR THE COUNCIL OF UNIT OWNERS' PROPERTY INSURANCE DEDUCTIBLE AND THE AMOUNT OF THE DEDUCTIBLE.

(b) A contract for the resale by a unit owner other than a developer of a unit in a condominium containing less than 7 units is not enforceable unless the contract of sale contains in conspicuous type a notice in the form specified in subsection (g)(2) of this section, and the unit owner furnishes to the purchaser not later than 15 days prior to closing:

(1) A copy of the declaration (other than the plats);

(2) The bylaws;

(3) The rules and regulations of the condominium; **[**and**]**

(4) A statement by the unit owner of the unit owner's expenses during the preceding 12 months relating to the common elements**; AND**

(5) A WRITTEN NOTICE OF THE UNIT OWNER'S RESPONSIBILITY FOR THE COUNCIL OF UNIT OWNERS' PROPERTY INSURANCE DEDUCTIBLE AND THE AMOUNT OF THE DEDUCTIBLE.

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that this Act:

(a) Overturn the Court of Appeals ruling in Diane Anderson, et al. v. Council of Unit Owners of The Gables on Tuckerman Condominium, et al., 404 Md. 560 (2008);

(b) Place an affirmative duty on the council of unit owners of a condominium association to:

(1) Repair damage or destruction to the condominium that originated in a unit; and

(2) Purchase property insurance that reflects this duty; and

(c) Make the cost of the property insurance purchased by the council of unit owners of a condominium association under this Act a common expense, except in the case of damage or destruction originating from a unit, the payment of the property insurance deductible shall be the responsibility, up to the maximum amount provided under § 11–114(g) of the Real Property Article, of the owner of the unit where the cause of the damage or destruction originated.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 524

(Senate Bill 218)

AN ACT concerning

Criminal Procedure – Offender Registry – Minors

FOR the purpose of establishing that a certain part of a police or court record pertaining to a child may be accessed and used by the Department of Public Safety and Correctional Services and certain supervising authorities for certain purposes relating to a certain offender registry; altering the definitions of "child sexual offender" and "sexually violent offender" for purposes of a certain offender registry to include certain persons who have been adjudicated delinquent for acts that would constitute certain offenses if committed by an adult; altering the definition of "supervising authority" for purposes of a certain offender registry to include the ~~court in which certain persons are adjudicated delinquent~~ *Secretary of Juvenile Services*; requiring a certain person to register with a supervising authority for inclusion on a certain offender registry if the person was at least a certain age at the time a certain act was committed, ~~is determined by the court at the time a certain court jurisdiction is terminated to be at risk of committing certain offenses, and~~ *the State's Attorney or the Department of Juvenile Services requests that the person be required to register, the court determines at a certain time and under a certain standard that the person is at risk for committing certain offenses, and the person* is at least a certain age; requiring the State's Attorney to serve a certain written notice within a certain period; requiring the Department of Juvenile Services to provide the court with certain information and conduct certain follow–up;

requiring that the form of certain petitions and pleadings and the procedures to be followed by a court under certain circumstances be specified in the Maryland Rules; ~~requiring that certain allegations be proven by clear and convincing evidence before a certain determination is made;~~ *authorizing a certain court to order an evaluation of a certain person in making a certain determination;* establishing that a certain person is required to register with a supervising authority within a certain time after a certain jurisdiction of the juvenile court terminates; altering the definition of "resident" for purposes of a certain offender registry; requiring that a certain person is required to register with a certain local law enforcement unit after a certain jurisdiction of the juvenile court is terminated; *establishing the term of registration for a certain person;* establishing that, for a certain person, a term of registration on a certain offender registry is computed from the time a certain jurisdiction of the juvenile court is terminated; defining a certain term; and generally relating to the inclusion of minors on the offender registry.

BY repealing and reenacting, without amendments,
Article – Courts and Judicial Proceedings
Section 3–8A–27(a)(1) and (b)(1)
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

BY adding to
Article – Courts and Judicial Proceedings
Section 3–8A–27(h)
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Criminal Procedure
Section 11–701(c), (j), and (m), 11–704, 11–705, and 11–707
Annotated Code of Maryland
(2008 Replacement Volume)

BY repealing and reenacting, without amendments,
Article – Criminal Procedure
Section 11–701(k)
Annotated Code of Maryland
(2008 Replacement Volume)

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

Article – Courts and Judicial Proceedings

3–8A–27.

(a) (1) A police record concerning a child is confidential and shall be maintained separate from those of adults. Its contents may not be divulged, by subpoena or otherwise, except by order of the court upon good cause shown or as otherwise provided in § 7–303 of the Education Article.

(b) (1) A court record pertaining to a child is confidential and its contents may not be divulged, by subpoena or otherwise, except by order of the court upon good cause shown or as provided in § 7–303 of the Education Article.

(H) THIS SECTION DOES NOT PROHIBIT THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES OR A SUPERVISING AUTHORITY, AS DEFINED IN § 11–701 OF THE CRIMINAL PROCEDURE ARTICLE, FROM ACCESSING OR USING THE PART OF A JUVENILE RECORD THAT IDENTIFIES AN OFFENSE COMMITTED BY A JUVENILE FOR PURPOSES OF COMPLYING WITH TITLE 11, SUBTITLE 7 OF THE CRIMINAL PROCEDURE ARTICLE.

Article – Criminal Procedure

11–701.

(c) "Child sexual offender" means a person who:

(1) has been convicted of violating § 3–602 of the Criminal Law Article;

(2) has been convicted of violating any of the provisions of the rape or sexual offense statutes under §§ 3–303 through 3–307 of the Criminal Law Article for a crime involving a child under the age of 15 years;

(3) has been convicted of violating the fourth degree sexual offense statute under § 3–308 of the Criminal Law Article for a crime involving a child under the age of 15 years and has been ordered by the court to register under this subtitle; **[**or**]**

(4) has been convicted in another state or in a federal, military, or Native American tribal court of a crime that, if committed in this State, would constitute one of the crimes listed in items (1) and (2) of this subsection**; OR**

(5) (I) HAS BEEN ADJUDICATED DELINQUENT FOR AN ACT *INVOLVING A VICTIM UNDER THE AGE OF 15 YEARS* THAT WOULD CONSTITUTE A VIOLATION OF ~~§§ 3–303 THROUGH~~ *§ 3–303, § 3–304, § 3–305, OR §* 3–306 OF THE CRIMINAL LAW ARTICLE IF COMMITTED BY AN ADULT; AND

(II) MEETS THE REQUIREMENTS FOR REGISTRATION UNDER § 11–704(C) OF THIS SUBTITLE.

(j) "Sexually violent offender" means a person who:

(1) has been convicted of a sexually violent offense; **[**or**]**

(2) has been convicted of an attempt to commit a sexually violent offense**; OR**

(3) (I) HAS BEEN ADJUDICATED DELINQUENT FOR AN ACT *INVOLVING A VICTIM 15 YEARS OF AGE OR OLDER* THAT WOULD CONSTITUTE A VIOLATION OF ~~§§ 3–303 THROUGH~~ *§ 3–303, § 3–304, § 3–305, OR §* 3–306 OF THE CRIMINAL LAW ARTICLE IF COMMITTED BY AN ADULT; AND

(II) MEETS THE REQUIREMENTS FOR REGISTRATION UNDER § 11–704(C) OF THIS SUBTITLE.

(k) "Sexually violent offense" means:

(1) a violation of §§ 3–303 through 3–307 or §§ 3–309 through 3–312 of the Criminal Law Article;

(2) assault with intent to commit rape in the first or second degree or a sexual offense in the first or second degree as prohibited on or before September 30, 1996, under former Article 27, § 12 of the Code; or

(3) a crime committed in another state or in a federal, military, or Native American tribal jurisdiction that, if committed in this State, would constitute one of the crimes listed in item (1) or (2) of this subsection.

(m) "Supervising authority" means:

(1) the Secretary, if the registrant is in the custody of a correctional facility operated by the Department;

(2) the administrator of a local correctional facility, if the registrant, including a participant in a home detention program, is in the custody of the local correctional facility;

(3) the court that granted the probation or suspended sentence, except as provided in item (12) of this subsection, if the registrant is granted probation before judgment, probation after judgment, or a suspended sentence;

(4) the Director of the Patuxent Institution, if the registrant is in the custody of the Patuxent Institution;

(5) the Secretary of Health and Mental Hygiene, if the registrant is in the custody of a facility operated by the Department of Health and Mental Hygiene;

(6) the court in which the registrant was convicted, if the registrant's sentence does not include a term of imprisonment or if the sentence is modified to time served;

(7) the Secretary, if the registrant is in the State under terms and conditions of the Interstate Compact for Adult Offender Supervision, set forth in Title 6, Subtitle 2 of the Correctional Services Article, or the Interstate Corrections Compact, set forth in Title 8, Subtitle 6 of the Correctional Services Article;

(8) the Secretary, if the registrant moves to this State and was convicted in another state of a crime that would require the registrant to register if the crime was committed in this State;

(9) the Secretary, if the registrant moves to this State from another state where the registrant was required to register;

(10) the Secretary, if the registrant is convicted in a federal, military, or Native American tribal court and is not under supervision by another supervising authority;

(11) the Secretary, if the registrant is not a resident of this State and has been convicted in another state or by a federal, military, or Native American tribal court; **[**or**]**

(12) the Director of Parole and Probation, if the registrant is under the supervision of the Division of Parole and Probation**; OR**

(13) THE ~~COURT IN WHICH THE REGISTRANT WAS ADJUDICATED DELINQUENT~~ *SECRETARY OF JUVENILE SERVICES*, IF THE REGISTRANT WAS A MINOR AT THE TIME THE ACT WAS COMMITTED FOR WHICH REGISTRATION IS REQUIRED.

11–704.

(a) **[**A**] SUBJECT TO SUBSECTION (C) OF THIS SECTION, A** person shall register with the person's supervising authority if the person is:

(1) a child sexual offender;

(2) an offender;

(3) a sexually violent offender;

(4) a sexually violent predator;

(5) a child sexual offender who, before moving into this State, was required to register in another state or by a federal, military, or Native American tribal court for a crime that occurred before October 1, 1995;

(6) an offender, sexually violent offender, or sexually violent predator who, before moving into this State, was required to register in another state or by a federal, military, or Native American tribal court for a crime that occurred before July 1, 1997; or

(7) a child sexual offender, offender, sexually violent offender, or sexually violent predator who is required to register in another state, who is not a resident of this State, and who enters this State:

(i) to carry on employment;

(ii) to attend a public or private educational institution, including a secondary school, trade or professional institution, or institution of higher education, as a full–time or part–time student; or

(iii) as a transient.

(b) Notwithstanding any other provision of law, a person is no longer subject to registration under this subtitle if:

(1) the underlying conviction requiring registration is reversed, vacated, or set aside; or

(2) the registrant is pardoned for the underlying conviction.

(C) (1) A PERSON DESCRIBED UNDER § 11–701(C)(5)(I) OF THIS SUBTITLE, OR A PERSON DESCRIBED UNDER § 11–701(J)(3)(I) OF THIS SUBTITLE, SHALL REGISTER WITH THE PERSON'S SUPERVISING AUTHORITY IF:

(I) THE PERSON WAS A MINOR WHO WAS AT LEAST 13 YEARS OLD AT THE TIME THE DELINQUENT ACT WAS COMMITTED;

(II) THE STATE'S ATTORNEY OR THE DEPARTMENT OF JUVENILE SERVICES REQUESTS THAT THE PERSON BE REQUIRED TO REGISTER;

~~(II)~~ *(III)* ~~AT~~ *90 DAYS PRIOR TO* THE TIME THE JUVENILE COURT'S JURISDICTION OVER THE PERSON TERMINATES UNDER § 3–8A–07 OF THE COURTS ARTICLE, THE COURT, AFTER A HEARING, DETERMINES *UNDER A CLEAR AND CONVINCING EVIDENCE STANDARD* THAT THE PERSON IS AT SIGNIFICANT RISK OF COMMITTING ~~ANOTHER~~ *A* SEXUALLY VIOLENT OFFENSE OR ~~CHILD SEXUAL OFFENSE~~ *AN OFFENSE FOR WHICH REGISTRATION AS A CHILD SEXUAL OFFENDER IS REQUIRED*; AND

~~(III)~~ *(IV)* THE PERSON IS AT LEAST 18 YEARS OLD.

(2) IF THE PERSON HAS COMMITTED A DELINQUENT ACT THAT WOULD CAUSE THE COURT TO MAKE A DETERMINATION REGARDING REGISTRATION UNDER PARAGRAPH (1) OF THIS SUBSECTION:

(I) THE STATE'S ATTORNEY SHALL SERVE WRITTEN NOTICE TO THE PERSON OR THE PERSON'S COUNSEL AT LEAST 30 DAYS BEFORE A HEARING TO DETERMINE IF THE PERSON IS REQUIRED TO REGISTER UNDER THIS SECTION; AND

(II) THE DEPARTMENT OF JUVENILE SERVICES SHALL:

1. PROVIDE THE COURT WITH ANY INFORMATION NECESSARY TO MAKE THE DETERMINATION; AND

2. CONDUCT ANY FOLLOW–UP THE COURT REQUIRES.

(3) THE FORM OF PETITIONS AND ALL OTHER PLEADINGS UNDER THIS SUBSECTION AND, EXCEPT AS OTHERWISE PROVIDED UNDER TITLE 3 OF THE COURTS AND JUDICIAL PROCEEDINGS ARTICLE, THE PROCEDURES TO BE FOLLOWED BY THE COURT UNDER THIS SUBSECTION SHALL BE SPECIFIED IN THE MARYLAND RULES.

(4) ~~BEFORE A DETERMINATION IS MADE UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION, THE ALLEGATIONS REGARDING RISK OF COMMITTING A FUTURE SEXUAL OFFENSE SHALL BE PROVED BY CLEAR AND CONVINCING EVIDENCE~~ *THE COURT MAY ORDER AN EVALUATION OF THE PERSON IN MAKING THE DETERMINATION UNDER PARAGRAPH (1) OF THIS SUBSECTION*.

11–705.

(a) In this section, "resident" means a person who lives in this State when the person:

(1) is released;

(2) is granted probation;

(3) is granted a suspended sentence; **[**or**]**

(4) receives a sentence that does not include a term of imprisonment**; OR**

(5) IS RELEASED FROM THE JUVENILE COURT'S JURISDICTION UNDER § 3–8A–07 OF THE COURTS ARTICLE, IF THE PERSON WAS A MINOR WHO LIVED IN THE STATE AT THE TIME THE ACT WAS COMMITTED FOR WHICH REGISTRATION IS REQUIRED.

(b) A registrant shall register with the supervising authority:

(1) if the registrant is a resident, on or before the date that the registrant:

(i) is released;

(ii) is granted probation before judgment;

(iii) is granted probation after judgment;

(iv) is granted a suspended sentence; or

(v) receives a sentence that does not include a term of imprisonment;

(2) IF THE REGISTRANT WAS A RESIDENT WHO WAS A MINOR AT THE TIME THE ACT WAS COMMITTED FOR WHICH REGISTRATION IS REQUIRED, WITHIN 7 DAYS AFTER THE JUVENILE COURT'S JURISDICTION OVER THE PERSON TERMINATES UNDER § 3–8A–07 OF THE COURTS ARTICLE;

[(2)**] (3)** if the registrant moves into the State, within 7 days after the earlier of the date that the registrant:

(i) establishes a temporary or permanent residence in the State; or

(ii) applies for a driver's license in the State; or

[(3)**] (4)** if the registrant is not a resident, within 14 days after the registrant:

(i) begins employment in the State;

(ii) registers as a student in the State; or

(iii) enters the State as a transient.

(c) (1) A child sexual offender shall also register in person with the local law enforcement unit of the county where the child sexual offender will reside:

(i) within 7 days after release**, OR WITHIN 7 DAYS AFTER THE JUVENILE COURT'S JURISDICTION OVER THE PERSON TERMINATES UNDER § 3–8A–07 OF THE COURTS ARTICLE**, if the child sexual offender is a resident; or

(ii) within 7 days after registering with the supervising authority, if the registrant is moving into this State.

(2) Within 7 days after registering with the supervising authority, a child sexual offender who is not a resident and has entered the State under § 11–704(a)(7) of this subtitle shall also register in person with the local law enforcement unit of the county where the child sexual offender is a transient or will work or attend school.

(3) A child sexual offender may be required to give to the local law enforcement unit more information than required under § 11–706 of this subtitle.

(d) A registrant who changes residences shall send written notice of the change to the State registry within 5 days after the change occurs.

(e) (1) A registrant who commences or terminates enrollment as a full–time or part–time student at an institution of higher education in the State shall send written notice to the State registry within 5 days after the commencement or termination of enrollment.

(2) A registrant who commences or terminates carrying on employment at an institution of higher education in the State shall send written notice to the State registry within 5 days after the commencement or termination of employment.

(f) A registrant who is granted a legal change of name by a court shall send written notice of the change to the State registry within 5 days after the change is granted.

11–707.

(a) (1) (i) A child sexual offender shall register in person every 6 months with a local law enforcement unit for the term provided under paragraph (4) of this subsection.

(ii) Registration shall include a photograph that shall be updated at least once each year.

(2) (i) An offender and a sexually violent offender shall register in person every 6 months with a local law enforcement unit for the term provided under paragraph (4) of this subsection.

(ii) Registration shall include a photograph that shall be updated at least once each year.

(3) (i) A sexually violent predator shall register in person every 3 months for the term provided under paragraph (4)(ii) of this subsection.

(ii) Registration shall include a photograph that shall be updated at least once each year.

(4) The term of registration is:

(i) ***EXCEPT AS PROVIDED IN ITEMS (II) AND (III) OF THIS PARAGRAPH,*** 10 years; ~~or~~

(ii) ***EXCEPT AS PROVIDED IN ITEM (III) OF THIS PARAGRAPH, THE*** life ***OF THE REGISTRANT***, if:

1. the registrant is a sexually violent predator;

2. the registrant has been convicted of a sexually violent offense;

3. the registrant has been convicted of a violation of § 3–602 of the Criminal Law Article for commission of a sexual act involving penetration of a child under the age of 12 years; or

4. the registrant has been convicted of a prior crime as a child sexual offender, an offender, or a sexually violent offender***; OR***

(III) UP TO 5 YEARS, IF THE REGISTRANT IS A PERSON DESCRIBED UNDER § 11–701(C)(5)(I) OF THIS SUBTITLE OR A PERSON DESCRIBED UNDER § 11–701(J)(3)(I) OF THIS SUBTITLE, SUBJECT TO REDUCTION BY THE JUVENILE COURT ON THE FILING OF A PETITION BY THE REGISTRANT FOR A REDUCTION IN THE TERM OF REGISTRATION.

(5) A registrant who is not a resident of the State shall register for the appropriate time specified in this subsection or until the registrant's employment, student enrollment, or transient status in the State ends.

(b) A term of registration described in this section shall be computed from:

(1) the last date of release;

(2) the date granted probation; [or]

(3) the date granted a suspended sentence**; OR**

(4) THE DATE THE JUVENILE COURT'S JURISDICTION OVER THE REGISTRANT TERMINATES UNDER § 3–8A–07 OF THE COURTS ARTICLE IF THE REGISTRANT WAS A MINOR WHO LIVED IN THE STATE AT THE TIME THE ACT WAS COMMITTED FOR WHICH REGISTRATION IS REQUIRED.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 525

(Senate Bill 219)

AN ACT concerning

Vehicle Laws – Violations by Drivers Under the Age of 18 Years – Driver's License Suspensions

FOR the purpose of requiring ~~a certain court to order the Motor Vehicle Administration to initiate an action to suspend the driving privilege of a child for certain periods of time on making a finding that the child has committed certain violations relating to alcoholic beverages, leaving the scene of an accident, or fleeing or eluding a police officer; prohibiting the Administration from issuing restricted licenses to individuals whose drivers' licenses are suspended under certain circumstances;~~ *the clerk of the juvenile court to report to the Motor Vehicle Administration an adjudication of a child as delinquent or a finding that the child has committed a delinquent act without an adjudication of the child as delinquent for a violation relating to leaving the scene of an accident or fleeing or eluding a police officer;* requiring the Administration to retain certain reports of certain violations relating to leaving the scene of an accident or fleeing or eluding a police officer; requiring the Administration to suspend a child's license to drive for a certain period of time on notification by the clerk of the court that the child has been adjudicated delinquent for certain violations relating to leaving the scene of an accident or fleeing or eluding a police officer, or that certain findings were made that a child committed certain violations relating to leaving the scene of an accident or fleeing or eluding a police officer; ~~providing that a suspension imposed under certain circumstances is to be consecutive to a certain other suspension;~~ requiring the Administration

to suspend the driver's license of the holder of a provisional driver's license who is under a certain age if the individual accumulates a certain number of points in a certain time period; authorizing an individual to request a hearing on certain suspensions or revocations of drivers' licenses under certain circumstances; establishing that a holder of a provisional driver's license who is under a certain age is guilty of the offense of high–risk driving if the holder commits certain violations of the Maryland Vehicle Law; requiring the Administration to suspend the driver's license of a certain individual for a certain period of time if the ~~Administration receives satisfactory evidence of the commission~~ *individual is convicted* of a certain high–risk driving violation; ~~establishing that a driver's license suspension imposed for high–risk driving is separate from any other penalty imposed for a certain violation and consecutive to any other suspension imposed for a certain violation;~~ and generally relating to the drivers' licenses of children.

BY repealing and reenacting, without amendments,
Article – Courts and Judicial Proceedings
Section 3–8A–01(j)~~,~~ *and* 3–8A–03(d)(2)~~, and 3–8A–19(e)(2)~~
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section ~~3–8A–19(e)(1) and~~ 3–8A–23(a)
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Transportation
Section 16–206(b) and 16–404
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

BY adding to
Article – Transportation
Section 21–905
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,
Article – Transportation
Section 21–1123
Annotated Code of Maryland
(2006 Replacement Volume and 2008 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

3–8A–01.

(j) "Court" means the circuit court for a county sitting as the juvenile court.

3–8A–03.

(d) The court does not have jurisdiction over:

(2) A child at least 16 years old alleged to have done an act in violation of any provision of the Transportation Article or other traffic law or ordinance, except an act that prescribes a penalty of incarceration;

~~3–8A–19.~~

~~(c) (1) (i) Subject to the provisions of subparagraphs (iii) and (iv) of this paragraph, in making a disposition on a finding that the child has committed the violation specified in a citation, the court may order the Motor Vehicle Administration to initiate an action, under the motor vehicle laws, to suspend the driving privilege of a child licensed to operate a motor vehicle by the Motor Vehicle Administration for a specified period of not less than 30 days nor more than 90 days.~~

~~(ii) In this paragraph, "driver's license" means a license or permit to drive a motor vehicle that is issued under the laws of this State or any other jurisdiction.~~

~~(iii) **1.** In making a disposition on a finding that the child has committed a violation of § 10–113**, § 10–114, OR § 10–115** of the Criminal Law Article **[**specified in a citation that involved the use of a driver's license or a document purporting to be a driver's license**]**, the court **[**may**] SHALL** order the Motor Vehicle Administration to initiate an action under the Maryland Vehicle Law to suspend the driving privilege of a child licensed to operate a motor vehicle by the Motor Vehicle Administration:~~

~~**[**1.**] A.** For a first offense, for 6 months; and~~

~~**[**2.**] B.** For a second or subsequent offense, **[**until the child is 21 years old**] FOR AT LEAST 1 YEAR BUT NOT BEYOND THE CHILD'S 21ST BIRTHDAY.~~

~~**2. THE ADMINISTRATION MAY NOT ISSUE A RESTRICTED LICENSE FOR THE PERIOD OF SUSPENSION IMPOSED UNDER THIS SUBPARAGRAPH.**~~

~~(iv) In making a disposition on a finding that the child has committed a violation under § 26–103 of the Education Article, the court shall order the Motor Vehicle Administration to initiate an action, under the motor vehicle laws, to suspend the driving privilege of a child licensed to operate a motor vehicle by the Motor Vehicle Administration for a specified period of not less than 30 days nor more than 90 days.~~

~~(v) If a child subject to a suspension under this subsection does not hold a license to operate a motor vehicle on the date of the disposition, the suspension shall commence:~~

~~1. If the child is at least 16 years of age on the date of the disposition, on the date of the disposition; or~~

~~2. If the child is younger than 16 years of age on the date of the disposition, on the date the child reaches the child's 16th birthday.~~

~~(2) In addition to the dispositions under paragraph (1) of this subsection, the court also may:~~

~~(i) Counsel the child or the parent or both, or order the child to participate in an alcohol education or rehabilitation program that is in the best interest of the child;~~

~~(ii) Impose a civil fine of not more than $25 for the first violation and a civil fine of not more than $100 for the second and subsequent violations; or~~

~~(iii) Order the child to participate in a supervised work program for not more than 20 hours for the first violation and not more than 40 hours for the second and subsequent violations.~~

3–8A–23.

(a) (1) An adjudication of a child pursuant to this subtitle is not a criminal conviction for any purpose and does not impose any of the civil disabilities ordinarily imposed by a criminal conviction.

(2) An adjudication and disposition of a child in which the child's driving privileges have been suspended may not affect the child's driving record or result in a point assessment. The State Motor Vehicle Administration may not disclose information concerning or relating to a suspension under this subtitle to any insurance company or person other than the child, the child's parent or guardian, the court, the child's attorney, a State's Attorney, or law enforcement agency.

(3) Subject to paragraph (4) of this subsection, an adjudication of a child as delinquent by reason of the child's violation of the State vehicle laws, including a violation involving an unlawful taking or unauthorized use of a motor

vehicle under § 7–105 or § 7–203 of the Criminal Law Article or § 14–102 of the Transportation Article shall be reported by the clerk of the court to the Motor Vehicle Administration, which shall assess points against the child under Title 16, Subtitle 4 of the Transportation Article, in the same manner and to the same effect as if the child had been convicted of the offense.

(4) (i) An adjudication of a child as delinquent by reason of the child's violation of § 21–902 of the Transportation Article or a finding that a child has committed a delinquent act by reason of the child's violation of § 21–902 of the Transportation Article, without an adjudication of the child as delinquent, shall be reported by the clerk of the court to the Motor Vehicle Administration which shall suspend the child's license to drive as provided in § 16–206(b) of the Transportation Article:

1. For 1 year for a first adjudication as delinquent or finding of a delinquent act for a violation of § 21–902 of the Transportation Article; and

2. For 2 years for a second or subsequent adjudication as delinquent or finding of a delinquent act for a violation of § 21–902 of the Transportation Article.

(ii) In the case of a finding, without an adjudication, that a child has violated § 21–902 of the Transportation Article, the Motor Vehicle Administration shall retain the report in accordance with § 16–117(b)(2) of the Transportation Article pertaining to records of licensees who receive a disposition of probation before judgment.

(5) (I) AN ADJUDICATION OF A CHILD AS DELINQUENT BY REASON OF THE CHILD'S VIOLATION OF § 20–102, § 20–103, OR § 21–904 OF THE TRANSPORTATION ARTICLE OR A FINDING THAT A CHILD HAS COMMITTED A DELINQUENT ACT BY REASON OF THE CHILD'S VIOLATION OF § 20–102, § 20–103, OR § 21–904 OF THE TRANSPORTATION ARTICLE, WITHOUT AN ADJUDICATION OF THE CHILD AS DELINQUENT, SHALL BE REPORTED BY THE CLERK OF THE COURT TO THE MOTOR VEHICLE ADMINISTRATION THAT SHALL SUSPEND THE CHILD'S LICENSE TO DRIVE AS PROVIDED IN § 16–206(B) OF THE TRANSPORTATION ARTICLE:

1. FOR 6 MONTHS FOR A FIRST ADJUDICATION AS DELINQUENT OR FINDING OF A DELINQUENT ACT FOR A VIOLATION OF § 20–102, § 20–103, OR § 21–904 OF THE TRANSPORTATION ARTICLE; AND

2. FOR 1 YEAR FOR A SECOND OR SUBSEQUENT ADJUDICATION AS DELINQUENT OR FINDING OF A DELINQUENT ACT FOR A VIOLATION OF § 20–102, § 20–103, OR § 21–904 OF THE TRANSPORTATION ARTICLE.

(II) IN THE CASE OF A FINDING, WITHOUT AN ADJUDICATION, THAT A CHILD HAS VIOLATED § 20–102, § 20–103, OR § 21–904 OF THE TRANSPORTATION ARTICLE, THE MOTOR VEHICLE ADMINISTRATION SHALL RETAIN THE REPORT IN ACCORDANCE WITH § 16–117(B)(2) OF THE TRANSPORTATION ARTICLE PERTAINING TO RECORDS OF LICENSEES WHO RECEIVE A DISPOSITION OF PROBATION BEFORE JUDGMENT.

Article – Transportation

16–206.

(b) (1) Upon notification by the clerk of the court that a child has been adjudicated delinquent for a violation of § 21–902 of this article, or that a finding has been made that a child violated § 21–902 of this article, the Administration shall suspend the license to drive of the child in accordance with § 3–8A–23(a)(4)(i) of the Courts Article.

(2) ON NOTIFICATION BY THE CLERK OF THE COURT THAT A CHILD HAS BEEN ADJUDICATED DELINQUENT FOR A VIOLATION OF § 20–102, § 20–103, OR § 21–904 OF THIS ARTICLE, OR THAT A FINDING HAS BEEN MADE THAT A CHILD VIOLATED § 20–102, § 20–103, OR § 21–904 OF THIS ARTICLE, THE ADMINISTRATION SHALL SUSPEND THE CHILD'S LICENSE TO DRIVE IN ACCORDANCE WITH § 3–8A–23(A)(5) OF THE COURTS ARTICLE.

[(2)**] (3)** If a child subject to a suspension under this subsection does not hold a license to operate a motor vehicle on the date of the disposition, the suspension shall commence:

(i) If the child is at least 16 years old on the date of the disposition, on the date of the disposition; or

(ii) If the child is younger than 16 years of age on the date of the disposition, on the date the child reaches the child's 16th birthday.

[(3)**] (4)** A suspension imposed under this subsection shall**[**:

(i) Be concurrent with~~] BE CONSECUTIVE TO~~ any other suspension or revocation imposed by the Administration that arises out of the circumstances of the adjudication of delinquency or finding that the child is in violation of **§ 20–102, § 20–103,** § 21–902**, OR § 21–904** of this article as described in this subsection**[**; and

(ii) Receive credit for any suspension period imposed under § 16–113(f) of this title or § 16–205.1 of this subtitle that arises out of the circumstances of the violation of § 21–902 of this article described in this subsection~~]~~.

(5) ~~**THE ADMINISTRATION MAY NOT ISSUE A RESTRICTED LICENSE FOR THE PERIOD OF SUSPENSION IMPOSED UNDER PARAGRAPH (1) OR (2) OF THIS SUBSECTION.**~~

~~**[(4)] (6)**~~ (i) Subject to the provisions of this paragraph, a person may request on the record that a hearing on a suspension under this subsection and any other hearing on another suspension or revocation under subsection (c) of this section, § 16–213 of this subtitle, or § 16–404 of this title that arises out of the circumstances of the conviction for a violation of § 21–902 of this article described in this subsection be consolidated.

(ii) A person who requests consolidation of hearings under this paragraph shall waive on the record each applicable notice of right to request a hearing required under Title 12, Subtitle 1 or 2 of this article or Title 10, Subtitle 2 of the State Government Article that applies to the other suspensions or revocations arising out of the same circumstances.

(iii) A hearing under this paragraph may not be postponed at the request of the person who requests consolidation of hearings under subparagraph (i) of this paragraph due to a consolidation of the hearings.

(iv) Subject to the provisions of this paragraph, the Administration shall consolidate the hearings described in this paragraph unless the administrative law judge finds in writing that good cause exists not to consolidate the hearings.

16–404.

(a) The Administration shall take the following actions for points accumulated within any 2–year period:

(1) Send a warning letter to each individual who accumulates 3 points;

(2) Require attendance at a conference by each individual who accumulates 5 points, except that a Class A, B, or C licensee who submits evidence acceptable to the Administration that he is a professional driver may not be called in until he accumulates 8 points; and

(3) Except as provided in § 16–405 of this subtitle:

(i) Suspend the license of each individual who accumulates 8 points; and

(ii) Revoke the license of each individual who accumulates 12 points.

(b) (1) Except as provided in § 16–405 of this subtitle:

(i) If an individual accumulates 8 points, the Administration shall issue a notice of suspension; and

(ii) If an individual accumulates 12 points, the Administration shall issue a notice of revocation.

(2) Each notice shall:

(i) Be personally served or sent by certified mail, return receipt requested, bearing a postmark from the United States Postal Service;

(ii) State the duration of the suspension or revocation; and

(iii) Advise the individual of his right, within 10 days after the notice is sent (Saturdays, Sundays, and legal holidays excepted), to file a written request for a hearing before the Administrator.

(3) Unless a hearing is requested, each notice of suspension or revocation is effective at the end of the 10–day period after the notice is sent.

(c) (1) Except as provided in paragraphs (2) and (3) of this subsection:

(i) An initial suspension may not be for less than 2 days nor more than 30 days; and

(ii) Any subsequent suspension may not be for less than 15 days nor more than 90 days.

(2) Subject to the provisions of paragraph (3) of this subsection, the following suspension periods may apply to a suspension for an accumulation of points under § 16–402(a)(24) of this subtitle for a violation of § 21–902(b) or (c) of this article or a suspension imposed under § 16–404.1(b)(4)(iii) of this subtitle:

(i) For a first conviction, not more than 6 months;

(ii) For a second conviction at least 5 years after the date of the first conviction, not more than 9 months;

(iii) For a second conviction less than 5 years after the date of the first conviction or for a third conviction, not more than 12 months; and

(iv) For a fourth or subsequent conviction, not more than 24 months.

(3) The Administration may issue a restrictive license for the period of the suspension to an individual who participates in the Administration's Ignition Interlock System Program under § 16–404.1 of this subtitle.

(4) This subsection does not limit the authority of the Administration to issue a restrictive license or modify a suspension imposed under this subsection.

(D) (1) IF THE HOLDER OF A PROVISIONAL DRIVER'S LICENSE WHO IS UNDER THE AGE OF 18 YEARS ACCUMULATES 5 OR MORE POINTS IN A 12–MONTH PERIOD, THE ADMINISTRATION SHALL SUSPEND THE INDIVIDUAL'S DRIVER'S LICENSE:

(I) FOR A FIRST OFFENSE, FOR 6 MONTHS; AND

(II) FOR A SECOND OR SUBSEQUENT OFFENSE, FOR 1 YEAR.

(2) ~~THE ADMINISTRATION MAY NOT ISSUE A RESTRICTED LICENSE FOR THE PERIOD OF SUSPENSION IMPOSED UNDER PARAGRAPH (1) OF THIS SUBSECTION.~~

~~(3)~~ AN INDIVIDUAL SUBJECT TO A LICENSE SUSPENSION UNDER THIS SUBSECTION MAY REQUEST A HEARING AS PROVIDED FOR A SUSPENSION OR REVOCATION UNDER TITLE 12, SUBTITLE 2 OF THIS ARTICLE.

21–905.

(A) A HOLDER OF A PROVISIONAL DRIVER'S LICENSE WHO IS UNDER THE AGE OF 18 YEARS IS GUILTY OF HIGH–RISK DRIVING IF THE HOLDER OF THE PROVISIONAL LICENSE COMMITS ANY OF THE FOLLOWING VIOLATIONS:

(1) § 21–901.1 OF THIS SUBTITLE (RECKLESS AND NEGLIGENT DRIVING);

(2) § 21–901.2 OF THIS SUBTITLE (AGGRESSIVE DRIVING); OR

(3) § 21–1116 OF THIS TITLE (RACE OR SPEED CONTEST PROHIBITED).

(B) (1) IF THE ~~ADMINISTRATION RECEIVES SATISFACTORY EVIDENCE THAT AN INDIVIDUAL HAS COMMITTED~~ *INDIVIDUAL IS CONVICTED OF* A VIOLATION SPECIFIED IN SUBSECTION (A) OF THIS SECTION, THE ADMINISTRATION SHALL SUSPEND THE INDIVIDUAL'S DRIVER'S LICENSE:

(I) FOR A FIRST OFFENSE, FOR 6 MONTHS; AND

(II) FOR A SECOND OR SUBSEQUENT OFFENSE, FOR 1 YEAR.

(2) ~~**THE ADMINISTRATION MAY NOT ISSUE A RESTRICTED LICENSE FOR THE PERIOD OF SUSPENSION IMPOSED UNDER PARAGRAPH (1) OF THIS SUBSECTION.**~~

~~**(3)**~~ **AN INDIVIDUAL SUBJECT TO A LICENSE SUSPENSION UNDER THIS SUBSECTION MAY REQUEST A HEARING AS PROVIDED FOR A SUSPENSION OR REVOCATION UNDER TITLE 12, SUBTITLE 2 OF THIS ARTICLE.**

~~**(C) A DRIVER'S LICENSE SUSPENSION IMPOSED UNDER THIS SECTION SHALL BE:**~~

~~**(1) SEPARATE FROM ANY OTHER PENALTY IMPOSED FOR THE ACT ESTABLISHING THE VIOLATION OF THIS SECTION; AND**~~

~~**(2) CONSECUTIVE TO ANY OTHER SUSPENSION IMPOSED FOR THE ACT ESTABLISHING THE VIOLATION OF THIS SECTION.**~~

21–1123.

(a) (1) The provisions of this subsection do not apply if the holder of the provisional driver's license is driving while accompanied by and under the immediate supervision of an individual who:

(i) Is at least 21 years old;

(ii) Has been licensed for at least 3 years in this State or in another state to drive vehicles of the class then being driven by the holder of the provisional driver's license; and

(iii) Is seated beside the holder of the provisional driver's license.

(2) Except as provided in paragraph (3) of this subsection, a holder of a provisional driver's license who is under the age of 18 years may not drive a motor vehicle with a passenger under the age of 18 years.

(3) The prohibition under paragraph (2) of this subsection:

(i) Shall be in effect from the date the provisional license is originally issued until the 151st day after the provisional license was issued; and

(ii) Does not apply to a passenger who is:

1. A spouse, daughter, son, stepdaughter, stepson, sister, brother, stepsister, or stepbrother of the licensee; or

2. A relative of the licensee who resides at the same address as the licensee.

(b) A police officer may enforce this section only as a secondary action when the police officer detains a driver for a suspected violation of another provision of the Code.

(c) A violation of this section is a moving violation for the purposes of § 16–402 of this article.

(d) (1) If the Administration receives satisfactory evidence that an individual has violated this section, the Administration may suspend or revoke the individual's driver's license.

(2) An individual may request a hearing as provided for a suspension or revocation under Title 16, Subtitle 2 of this article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 526

(Senate Bill 234)

AN ACT concerning

Education – Maryland's Preschool for All Business Plan – Final Report Requirements

FOR the purpose of requiring the State Department of Education to consult with and accept comments from certain county superintendents and certain local governing bodies regarding the Maryland's Preschool for All Business Plan before preparing and publishing a certain version of a certain Business Plan; requiring the Department to submit to the Governor and General Assembly a copy of a certain report that includes certain information on or before a certain date; <u>prohibiting the Department from implementing the finalized Business Plan unless the Department identifies a certain funding source;</u> defining certain terms; and generally relating to final report requirements for the Maryland's Preschool for All Business Plan.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

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

(2) "Business Plan" means the Maryland's Preschool for All Business Plan: A Draft Proposal published by the State Department of Education in September 2008.

(3) "County superintendents" includes the Chief Executive Officer of the Baltimore City Board of School Commissioners.

(4) "Department" means the State Department of Education.

(b) The Department shall consult with and accept comments from county superintendents and local governing bodies regarding the contents, costs, and staged implementation of the draft Business Plan before preparing and publishing a final version of the Business Plan.

(c) On or before December 1, 2009, the Department shall submit to the Governor, and, in accordance with § 2–1246 of the State Government Article, the General Assembly, a copy of the finalized Business Plan that includes:

(1) any feedback and comments from county superintendents and local governing bodies under subsection (b) of this section;

(2) a cost projection for the staged implementation of the finalized Business Plan;

(3) an evaluation of the State's mandated pre–Kindergarten income eligibility level;

(4) a comparison of income eligibility levels for preschool services in Maryland and other states;

(5) the feasibility of expanding the State's mandated income eligibility levels for preschool services, utilizing all available funding sources;

(6) the feasibility of and a cost projection for identifying pre–Kindergarten students attending public schools as enrolled students under § 5–202(a)(6) of the Education Article;

~~(6)~~ (7) the level of participation in preschool services by the eligible population in the State; and

~~(7)~~ (8) the level of demand for access to preschool services by the noneligible population in the State.

(d) The Department may not implement the finalized Business Plan until the Department has identified an on–going funding source.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 527

(House Bill 184)

AN ACT concerning

Education – Maryland's Preschool for All Business Plan – Final Report Requirements

FOR the purpose of requiring the State Department of Education to consult with and accept comments from certain county superintendents and certain local governing bodies regarding the Maryland's Preschool for All Business Plan before preparing and publishing a certain version of a certain Business Plan; requiring the Department to submit to the Governor and General Assembly a copy of a certain report that includes certain information on or before a certain date; *prohibiting the Department from implementing the finalized Business Plan unless the Department identifies a certain funding source;* defining certain terms; and generally relating to final report requirements for the Maryland's Preschool for All Business Plan.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

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

(2) "Business Plan" means the Maryland's Preschool for All Business Plan: A Draft Proposal published by the State Department of Education in September 2008.

(3) "County superintendents" includes the Chief Executive Officer of the Baltimore City Board of School Commissioners.

(4) "Department" means the State Department of Education.

(b) The Department shall consult with and accept comments from county superintendents and local governing bodies regarding the contents, costs, and staged implementation of the draft Business Plan before preparing and publishing a final version of the Business Plan.

(c) On or before December 1, 2009, the Department shall submit to the Governor, and, in accordance with § 2–1246 of the State Government Article, the General Assembly, a copy of the finalized Business Plan that includes:

(1) any feedback and comments from county superintendents and local governing bodies under subsection (b) of this section;

(2) a cost projection for the staged implementation of the finalized Business Plan;

(3) an evaluation of the State's mandated pre–Kindergarten income eligibility level;

(4) a comparison of income eligibility levels for preschool services in Maryland and other states;

(5) the feasibility of expanding the State's mandated income eligibility levels for preschool services, utilizing all available funding sources;

(6) the feasibility of and a cost projection for identifying pre–Kindergarten students attending public schools as enrolled students under § 5–202(a)(6) of the Education Article;

~~(6)~~ (7) the level of participation in preschool services by the eligible population in the State; and

~~(7)~~ (8) the level of demand for access to preschool services by the noneligible population in the State.

(d) The Department may not implement the finalized Business Plan until the Department has identified an on–going funding source.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 528

(Senate Bill 235)

AN ACT concerning

Education – MDK12 Digital Library

FOR the purpose of establishing the MDK12 Digital Library in the State Department of Education; establishing certain legislative findings; establishing the purpose of the MDK12 Digital Library; establishing a steering committee within the MDK12 Digital Library; establishing the membership of the steering committee; establishing certain duties of the steering committee; establishing the membership of the MDK12 Digital Library, subject to certain limitations; establishing certain limitations to the membership of the MDK12 Digital Library; requiring certain individuals to perform certain duties; authorizing the MDK12 Digital Library to develop certain additional programs that support all residents of Maryland; requiring the Department to employ a certain position; requiring a certain report to be submitted by a certain date to the Department; defining a certain term; and generally relating to the MDK12 Digital Library.

BY adding to
Article – Education
Section 7–9A–01 through 7–9A–05 to be under the new subtitle "Subtitle 9A. MDK12 Digital Library"
Annotated Code of Maryland
(2008 Replacement Volume)

Preamble

WHEREAS, The State of Maryland has made significant progress since 1995 in building the technology infrastructure and the technology knowledge and skills of students and educators in its public schools; and

WHEREAS, Maryland schools have improved and expanded Internet access, thereby enabling schools to provide digital content through the Internet and other developing technologies; and

WHEREAS, Schools face unprecedented challenges due to financial constraints, increased accountability, insufficient resources for professional development, and the unavailability of adequate instructional resources in some schools; and

WHEREAS, There is a need to provide high quality, accurate, reliable, and current digital content aligned with the Maryland content standards and other appropriate standards; and

WHEREAS, School library media programs provide leadership in the instructional use of digital content and in developing information literate citizens; and

WHEREAS, The MDK12 Digital Library Project, established by a federal grant, is precedence for its codification in State law, and the Project has demonstrated multiple benefits from the collaboration between the State Department of Education and the local school systems in the State, including greater equity of access, cost savings to local school systems, shared professional development, and effective partnership among school librarians; and

WHEREAS, The State and its public school systems can benefit from consolidated procurement and coordinated support with respect to digital content; now, therefore,

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

Article – Education

SUBTITLE 9A. MDK12 DIGITAL LIBRARY.

7–9A–01.

IN THIS SUBTITLE, "DIGITAL CONTENT" MEANS ANY ONLINE INFORMATION SUBSCRIPTION DATABASE AND ELECTRONIC RESOURCE APPLICABLE TO THE MARYLAND PREK–12 CURRICULUM.

7–9A–02.

THE GENERAL ASSEMBLY FINDS THAT:

(1) TECHNOLOGY APPLICATIONS CAN PROPEL THE STATE'S SCHOOLS INTO IMMEDIATE AND DRAMATIC REFORM WITHOUT WHICH THE STATE WILL NOT MEET THE AMBITIOUS NO CHILD LEFT BEHIND GOALS, THE DEPARTMENT'S STRATEGIC PLAN, OR THE DEPARTMENT'S TECHNOLOGY PLAN;

(2) ACCESS TO APPROPRIATE HIGH QUALITY DIGITAL CONTENT SUPPORTS THE PREPARATION OF THE STATE'S STUDENTS FOR THE CURRENT AND FUTURE WORKFORCE WITH THE KNOWLEDGE AND SKILLS NECESSARY FOR THE SUCCESS OF AND THE SOCIOECONOMIC BENEFIT TO THE STATE;

(3) PROVIDING EQUITABLE ACCESS TO DIGITAL CONTENT FOR THE STATE'S STUDENTS AND EDUCATORS HELPS TO PREPARE STUDENTS TO

PURSUE HIGH–LEVEL CAREERS IN SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS FOR THE GOOD OF THE STATE AND THE NATION;

(4) CREATIVE USES OF TECHNOLOGY CAN PROVIDE AN ENVIRONMENT WHERE STUDENTS ARE CHALLENGED THROUGH RIGOROUS, RELEVANT LEARNING EXPERIENCES THAT ADDRESS THE LEARNING STYLES OF EACH STUDENT; AND

(5) THERE IS A NEED TO PROVIDE EQUITABLE ACCESS TO HIGH QUALITY DIGITAL CONTENT ACROSS DISTRICTS AND SCHOOLS THROUGH THE INTERNET AND THROUGH DEVELOPING TECHNOLOGIES.

7–9A–03.

THERE IS A MDK12 DIGITAL LIBRARY IN THE DEPARTMENT.

7–9A–04.

THE PURPOSES OF THE MDK12 DIGITAL LIBRARY ARE TO:

(1) PROVIDE EQUITABLE ACCESS TO DIGITAL CONTENT FOR ALL MARYLAND K–12 STUDENTS AND EDUCATORS;

(2) IMPROVE SCHOOL LIBRARY PROGRAMS WITH ADVANCED DIGITAL TECHNOLOGIES;

(3) CREATE FISCAL EFFICIENCIES IN THE PURCHASE OF DIGITAL CONTENT THROUGH ENHANCED COOPERATION AMONG SCHOOLS AND THE DEPARTMENT; AND

(4) SUPPORT EFFECTIVE TEACHING AND LEARNING BY CONNECTING DIGITAL CONTENT WITH THE MARYLAND CONTENT STANDARDS, WORKFORCE DEVELOPMENT, AND SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS INITIATIVES.

7–9A–05.

(A) (1) THE MDK12 DIGITAL LIBRARY IS A PURCHASING CONSORTIUM FOR THE ACQUISITION OF DIGITAL CONTENT.

(2) (I) THE MDK12 DIGITAL LIBRARY SHALL BE ADMINISTERED BY A STEERING COMMITTEE THAT CONSISTS OF:

1. ONE REPRESENTATIVE FROM EACH MEMBER LOCAL SCHOOL SYSTEM;

2. ONE REPRESENTATIVE FROM THE DEPARTMENT; AND

3. ONE INDIVIDUAL SELECTED BY MEMBER PRIVATE NONPROFIT SCHOOLS TO REPRESENT ALL MEMBER PRIVATE NONPROFIT SCHOOLS.

(II) EACH REPRESENTATIVE FROM EACH OF THE MEMBER LOCAL SCHOOL SYSTEMS SHALL BE A SCHOOL LIBRARY ADMINISTRATOR OR THE DESIGNEE OF A SCHOOL LIBRARY ADMINISTRATOR.

(III) THE STEERING COMMITTEE SHALL:

1. ESTABLISH CRITERIA TO EVALUATE AND SELECT DIGITAL CONTENT;

2. MAKE A GOOD FAITH ESTIMATE OF THE DIGITAL CONTENT THAT THEY INTEND TO PURCHASE UNDER EACH BID AND PROVIDE THE ESTIMATE TO THE DEPARTMENT BY THE DATE REQUESTED;

3. COLLECT AND ANALYZE USAGE DATA TO REPORT ON PROGRAM EFFECTIVENESS AND DETERMINE PROFESSIONAL DEVELOPMENT REQUIREMENTS;

4. REQUEST AND AWARD BIDS FOR THE PURCHASE AND DISTRIBUTION OF DIGITAL CONTENT TO ACQUIRE BETTER PRICING THROUGH VOLUME PURCHASES; AND

5. IDENTIFY VENDORS OF DIGITAL CONTENT.

(3) SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, MEMBERS OF THE MDK12 DIGITAL LIBRARY MAY INCLUDE THE PUBLIC SCHOOL SYSTEMS OF THE STATE AND PRIVATE NONPROFIT SCHOOLS THAT ARE APPROVED BY THE DEPARTMENT.

(4) THE MDK12 DIGITAL LIBRARY MEMBERS SHALL AGREE TO:

(I) REPORT DIGITAL CONTENT USAGE DATA TO THE STEERING COMMITTEE;

(II) SOLELY UTILIZE THE PRICING AGREEMENTS ESTABLISHED BY THE STEERING COMMITTEE;

(III) NOT PLACE INDEPENDENT ORDERS WITH IDENTIFIED VENDORS FOR PRICES LESS THAN THOSE NEGOTIATED BY THE STEERING COMMITTEE; AND

(IV) NOTIFY THE STEERING COMMITTEE AND THE DEPARTMENT IF A VENDOR VERBALLY OR BY WRITING OFFERS A BETTER PRICE THAN THAT NEGOTIATED BY THE STEERING COMMITTEE.

(B) THE STATE BOARD AND THE STATE SUPERINTENDENT SHALL ENCOURAGE LOCAL SCHOOL SYSTEMS AND MEMBER PRIVATE NONPROFIT SCHOOLS TO:

(1) PROVIDE PROFESSIONAL DEVELOPMENT FOR SCHOOL LIBRARIANS AND OTHER EDUCATORS TO EFFECTIVELY USE DIGITAL CONTENT IN TEACHING AND LEARNING;

(2) SUPPORT STUDENT USE OF DIGITAL CONTENT THROUGH SCHOOL LIBRARIES IN COLLABORATION WITH CLASSROOM AND RESOURCE TEACHERS;

(3) PROMOTE THE AVAILABILITY OF DIGITAL CONTENT TO STUDENTS, EDUCATORS, AND PARENTS; AND

(4) INSTRUCT STUDENTS AND EDUCATORS HOW TO ACCESS DIGITAL CONTENT.

(C) THE MDK12 DIGITAL LIBRARY MAY DEVELOP PROGRAMS TO SUPPORT ALL RESIDENTS OF THE STATE IN COLLABORATION WITH THE STATE LIBRARY RESOURCE CENTER UNDER § 23–201 OF THIS ARTICLE AND THE MARYLAND DIGITAL LIBRARY UNDER § 11–801 OF THIS ARTICLE.

(D) THE DEPARTMENT SHALL EMPLOY ONE ~~FULL–TIME~~ HALF–TIME POSITION TO COORDINATE THE MDK12 DIGITAL LIBRARY.

(E) ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE MDK12 DIGITAL LIBRARY STEERING COMMITTEE SHALL SUBMIT A REPORT REGARDING THE FINANCIAL STATUS AND OPERATIONS OF THE MDK12 DIGITAL LIBRARY DURING THE PRIOR FISCAL YEAR TO THE DEPARTMENT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 529

(Senate Bill 247)

AN ACT concerning

Health Occupations – Maryland Athletic Trainers Act

FOR the purpose of establishing the Athletic Trainer Advisory Committee as a subunit of the State Board of Physicians; establishing certain fees for services provided by the Board to athletic trainers; providing for the composition, appointment, and terms of the Committee members; establishing certain powers and duties of the Committee; requiring certain persons to be licensed by the Board as athletic trainers before performing certain work in the State; establishing certain education and experience requirements to qualify for a license; establishing certain application fees and requirements for obtaining a license; establishing certain terms and procedures for the renewal and reinstatement of a license; prohibiting a licensee from surrendering a license under certain circumstances; authorizing the Board to deny a license to an applicant, reprimand a licensee, place a licensee on probation, or suspend or revoke a license under certain circumstances; establishing certain requirements for reinstatement of a revoked license; providing for certain criminal and civil penalties; establishing certain hearing and appeal procedures for athletic trainers; providing that the Committee is subject to the provisions of the Maryland Program Evaluation Act; requiring that an evaluation of the Committee and statutes and regulations that relate to the Committee be performed on or before a certain date; defining certain terms; providing for the termination of this Act; specifying the terms of the initial members of the Board; and generally relating to the establishment of an athletic trainer license and the Athletic Trainer Advisory Committee.

BY renumbering
Article – State Government
Section 8–403(b)(6) through (68), respectively
to be Section 8–403(b)(7) through (69), respectively
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

BY adding to
Article – Health Occupations
Section 14–5D–01 through 14–5D–20 to be under the new subtitle "Subtitle 5D. Athletic Trainers"
Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,
Article – State Government
Section 8–403(a)
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

BY adding to
Article – State Government
Section 8–403(b)(6)
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 8–403(b)(6) through (68), respectively, of Article – State Government of the Annotated Code of Maryland be renumbered to be Sections 8–403(b)(7) through (69), respectively.

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

Article – Health Occupations

SUBTITLE 5D. ATHLETIC TRAINERS.

14–5D–01.

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

(B) "ATHLETE" MEANS AN INDIVIDUAL WHO PARTICIPATES IN AN ATHLETIC ACTIVITY.

(C) "ATHLETIC ACTIVITY" MEANS EXERCISE, RECREATION, SPORT, COMPETITION, OR GAME THAT:

(1) REQUIRES PHYSICAL STRENGTH, RANGE OF MOTION, FLEXIBILITY, CONTROL, SPEED, STAMINA, OR AGILITY; AND

(2) IS ASSOCIATED WITH AN EDUCATIONAL INSTITUTION OR A PROFESSIONAL, AMATEUR, OR RECREATIONAL SPORTS CLUB OR ATHLETIC ORGANIZATION.

~~(B)~~ (D) "ATHLETIC INJURY" MEANS AN INJURY ~~OR CONDITION SUSTAINED BY AN INDIVIDUAL~~ THAT AFFECTS ~~THE INDIVIDUAL'S~~ AN ATHLETE'S

PARTICIPATION OR PERFORMANCE IN ~~SPORTS, GAMES, RECREATION, EXERCISE, OR OTHER ACTIVITIES~~ AN ATHLETIC ACTIVITY.

~~(C)~~ (E) "BOARD" MEANS THE STATE BOARD OF PHYSICIANS.

~~(D)~~ (F) "COMMITTEE" MEANS THE ATHLETIC TRAINER ADVISORY COMMITTEE ESTABLISHED UNDER § 14–5D–04 OF THIS SUBTITLE.

(G) "EDUCATIONAL INSTITUTION" INCLUDES:

(1) THE SCHOOLS IN THE PUBLIC ELEMENTARY AND SECONDARY EDUCATION SYSTEM OF THE STATE;

(2) A NONCOLLEGIATE EDUCATIONAL INSTITUTION GOVERNED UNDER § 2–206 OF THE EDUCATION ARTICLE; AND

(3) AN INSTITUTION OF HIGHER EDUCATION AS DEFINED IN § 10–101 OF THE EDUCATION ARTICLE.

~~(E)~~ ~~(G)~~ *(H)* "EVALUATION AND TREATMENT PROTOCOL" MEANS A DOCUMENT THAT IS EXECUTED BY A PHYSICIAN AND AN ATHLETIC TRAINER THAT MEETS THE REQUIREMENTS OF § 14–5D–11 OF THIS SUBTITLE.

~~(F)~~ ~~(H)~~ *(I)* "LICENSE" MEANS A LICENSE ISSUED BY THE BOARD TO PRACTICE ATHLETIC TRAINING.

~~(G)~~ ~~(I)~~ *(J)* "LICENSED ATHLETIC TRAINER" MEANS AN INDIVIDUAL WHO IS LICENSED BY THE BOARD TO PRACTICE ATHLETIC TRAINING.

~~(H)~~ ~~(J)~~ *(K)* "NATIONAL CERTIFYING BOARD" MEANS THE NATIONAL ATHLETIC TRAINERS' ASSOCIATION BOARD OF CERTIFICATION, INC., OR ITS SUCCESSOR ORGANIZATION.

~~(I)~~ ~~(K)~~ *(L)* (1) "PRACTICE ATHLETIC TRAINING" MEANS APPLICATION OF THE FOLLOWING PRINCIPLES AND METHODS FOR MANAGING ATHLETIC INJURIES FOR ~~ACTIVE INDIVIDUALS AND~~ ATHLETES IN GOOD OVERALL HEALTH UNDER THE SUPERVISION OF A LICENSED PHYSICIAN:

(I) PREVENTION;

(II) CLINICAL EVALUATION AND ASSESSMENT;

(III) IMMEDIATE CARE; AND

(IV) TREATMENT, REHABILITATION, AND RECONDITIONING.

(2) "PRACTICE ATHLETIC TRAINING" INCLUDES:

(I) ORGANIZATION AND ADMINISTRATION OF AN ATHLETIC TRAINING PROGRAM; AND

(II) INSTRUCTION TO COACHES, ATHLETES, PARENTS, MEDICAL PERSONNEL, AND COMMUNITY MEMBERS REGARDING THE CARE AND PREVENTION OF ATHLETIC INJURIES.

(3) "PRACTICE ATHLETIC TRAINING" DOES NOT INCLUDE:

(I) THE PRACTICE OF:

1. CHIROPRACTIC, INCLUDING ADJUSTMENTS, MANIPULATION, OR HIGH VELOCITY MOBILIZATIONS OF THE SPINE OR EXTREMITIES;

2. MASSAGE THERAPY;

3. MEDICINE;

4. OCCUPATIONAL THERAPY; OR

5. PHYSICAL THERAPY; ~~OR~~

(II) THE RECONDITIONING OF SYSTEMIC NEUROLOGIC INJURIES, CONDITIONS, OR DISEASE; OR

(III) EXCEPT FOR THE CONDITIONING OF AN ATHLETE UNDER THE SUPERVISION OF A TREATING PHYSICIAN, THE TREATMENT, REHABILITATION, OR RECONDITIONING OF NONATHLETIC INJURIES OR DISEASE.

~~(J)~~ ~~(L)~~ *(M)* "SETTING" MEANS A:

(1) LOCATION WHERE AN ~~ACADEMIC, PROFESSIONAL, OR ORGANIZED AMATEUR ATHLETIC ACTIVITY, INCLUDING A RECREATIONAL OR COMMUNITY ACTIVITY,~~ ATHLETIC ACTIVITY, AS DEFINED IN SUBSECTION (C) OF THIS SECTION, IS BEING HELD;

(2) HEALTH OR FITNESS CLUB;

(3) CLINIC OR HOSPITAL;

(4) CORPORATION; OR

(5) GOVERNMENT AGENCY~~;~~.

~~(6) LAW ENFORCEMENT UNIT; OR~~

~~(7) MILITARY UNIT.~~

~~(K)~~ ~~(M)~~ *(N)* "SUPERVISION" MEANS THE RESPONSIBILITY OF A PHYSICIAN TO PROVIDE ONGOING AND IMMEDIATELY AVAILABLE INSTRUCTION THAT IS ADEQUATE TO ENSURE THE SAFETY AND WELFARE OF A PATIENT AND IS APPROPRIATE TO THE SETTING.

14–5D–02.

THIS SUBTITLE DOES NOT LIMIT THE RIGHT OF AN INDIVIDUAL TO PRACTICE A HEALTH OCCUPATION THAT THE INDIVIDUAL IS AUTHORIZED TO PRACTICE UNDER THIS ARTICLE.

14–5D–03.

(A) (1) THE BOARD SHALL SET REASONABLE FEES FOR THE ISSUANCE AND RENEWAL OF LICENSES AND THE OTHER SERVICES IT PROVIDES TO ATHLETIC TRAINERS.

(2) THE FEES CHARGED SHALL BE SET SO AS TO PRODUCE FUNDS TO APPROXIMATE THE COST OF MAINTAINING THE LICENSURE PROGRAM AND THE OTHER SERVICES PROVIDED TO ATHLETIC TRAINERS.

(B) (1) THE BOARD SHALL PAY ALL FEES COLLECTED UNDER THE PROVISIONS OF THIS SUBTITLE TO THE COMPTROLLER.

(2) THE COMPTROLLER SHALL DISTRIBUTE ALL FEES TO THE BOARD.

(C) THE FEES SHALL BE USED TO COVER THE ACTUAL DOCUMENTED DIRECT AND INDIRECT COSTS OF FULFILLING THE STATUTORY AND REGULATORY DUTIES OF THE BOARD AS PROVIDED BY THE PROVISIONS OF THIS SUBTITLE.

14–5D–04.

THERE IS AN ATHLETIC TRAINER ADVISORY COMMITTEE WITHIN THE BOARD.

14–5D–05.

(A) THE COMMITTEE CONSISTS OF ~~EIGHT~~ 11 MEMBERS APPOINTED BY THE BOARD AS FOLLOWS:

(1) (I) ON OR BEFORE SEPTEMBER 30, 2011, THREE ATHLETIC TRAINERS WHO:

1. ARE CERTIFIED BY A NATIONAL CERTIFYING BOARD; AND

2. HAVE A MINIMUM OF 5 YEARS OF CLINICAL EXPERIENCE; AND

(II) ON OR AFTER OCTOBER 1, 2011, THREE LICENSED ATHLETIC TRAINERS WHO:

1. ARE CERTIFIED BY A NATIONAL CERTIFYING BOARD; AND

2. HAVE A MINIMUM OF 5 YEARS OF CLINICAL EXPERIENCE;

(2) THREE LICENSED PHYSICIANS:

(I) AT LEAST ONE OF WHOM IS A SPECIALIST IN ORTHOPEDIC OR SPORTS MEDICINE; AND

(II) TWO OF WHOM PREVIOUSLY OR CURRENTLY HAVE PARTNERED WITH OR DIRECTED AN ATHLETIC TRAINER;

(3) ONE LICENSED CHIROPRACTOR WHO HAS SPORTS MEDICINE EXPERIENCE; ~~AND~~

(4) ONE LICENSED PHYSICAL THERAPIST;

(5) ONE LICENSED OCCUPATIONAL THERAPIST; AND

~~(4) ONE CONSUMER MEMBER.~~

(6) TWO CONSUMER MEMBERS.

(B) (1) THE ATHLETIC TRAINER MEMBERS MAY BE APPOINTED BY THE BOARD FROM A LIST OF QUALIFIED INDIVIDUALS SUBMITTED TO THE BOARD BY THE MARYLAND ATHLETIC TRAINERS ASSOCIATION, INC.

(2) THE BOARD MAY REQUEST AN ADDITIONAL LIST OF NOMINEES FOR EACH VACANCY.

(C) THE CONSUMER MEMBER OF THE COMMITTEE:

(1) SHALL BE A MEMBER OF THE GENERAL PUBLIC;

(2) MAY NOT BE OR EVER HAVE BEEN:

(I) AN ATHLETIC TRAINER;

(II) A HEALTH CARE PROFESSIONAL; OR

(III) IN TRAINING TO BE AN ATHLETIC TRAINER OR OTHER HEALTH PROFESSIONAL; AND

(3) MAY NOT:

(I) PARTICIPATE OR EVER HAVE PARTICIPATED IN A COMMERCIAL OR PROFESSIONAL FIELD RELATED TO ATHLETIC TRAINING;

(II) HAVE HAD WITHIN 2 YEARS BEFORE APPOINTMENT A FINANCIAL INTEREST IN A PERSON REGULATED BY THE BOARD; OR

(III) HAVE HAD WITHIN 2 YEARS BEFORE APPOINTMENT A FINANCIAL INTEREST IN THE PROVISION OF GOODS OR SERVICES TO ATHLETIC TRAINERS OR TO THE FIELD OF ATHLETIC TRAINING.

(D) (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 COMMITTEE ON OCTOBER 1, 2009.

(3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED.

(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.

(E) FROM AMONG ITS MEMBERS, THE COMMITTEE SHALL ELECT A CHAIR EVERY 2 YEARS.

14–5D–06.

IN ADDITION TO THE POWERS SET FORTH ELSEWHERE IN THIS SUBTITLE, THE COMMITTEE SHALL:

(1) DEVELOP AND RECOMMEND TO THE BOARD REGULATIONS TO CARRY OUT THIS SUBTITLE;

(2) DEVELOP AND RECOMMEND TO THE BOARD CONTINUING EDUCATION REQUIREMENTS FOR LICENSE RENEWAL;

(3) PROVIDE THE BOARD WITH RECOMMENDATIONS CONCERNING THE PRACTICE OF ATHLETIC TRAINING;

(4) DEVELOP AND RECOMMEND TO THE BOARD AN EVALUATION AND TREATMENT PROTOCOL FOR USE BY AN ATHLETIC TRAINER AND THE PHYSICIAN WITH WHOM THE ATHLETIC TRAINER PRACTICES;

(5) PROVIDE ADVICE AND RECOMMENDATIONS TO THE BOARD ON INDIVIDUAL EVALUATION AND TREATMENT PROTOCOLS WHEN REQUESTED; AND

(6) KEEP A RECORD OF ITS PROCEEDINGS.

14–5D–07.

(A) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, ON OR AFTER OCTOBER 1, 2011, AN INDIVIDUAL SHALL BE LICENSED BY THE BOARD BEFORE THE INDIVIDUAL MAY PRACTICE ATHLETIC TRAINING IN THE STATE.

(B) THIS SECTION DOES NOT APPLY TO:

(1) AN INDIVIDUAL EMPLOYED BY THE FEDERAL GOVERNMENT AS AN ATHLETIC TRAINER WHILE THE INDIVIDUAL IS PRACTICING WITHIN THE SCOPE OF THAT EMPLOYMENT;

(2) AN INDIVIDUAL EMPLOYED BY OR UNDER CONTRACT WITH AN ENTITY LOCATED IN ANOTHER STATE WHO ~~IS REPRESENTING THAT ENTITY AT AN ATHLETIC EVENT OR ANY OTHER EVENT FOR LESS THAN 45 DAYS IN THE STATE BY~~ REPRESENTS THAT ENTITY:

(I) AT AN ATHLETIC EVENT IN THE STATE;

(II) FOR A PERIOD OF TIME NOT TO EXCEED 45 DAYS WITHIN A CALENDAR YEAR; AND

(III) BY PROVIDING ATHLETIC TRAINING SERVICES TO INDIVIDUALS REPRESENTING THE ENTITY AT THE EVENT; OR

(3) A STUDENT ENROLLED IN AN EDUCATION PROGRAM THAT MEETS THE CRITERIA OF § 14–5D–08(C)(2) OF THIS SUBTITLE WHILE ENGAGED IN AN UNPAID, CLINICAL EDUCATIONAL EXPERIENCE OF ATHLETIC TRAINING.

14–5D–08.

(A) TO QUALIFY FOR A LICENSE, AN APPLICANT SHALL BE AN INDIVIDUAL WHO MEETS THE REQUIREMENTS OF THIS SECTION.

(B) THE APPLICANT SHALL:

(1) BE OF GOOD MORAL CHARACTER; AND

(2) BE AT LEAST 18 YEARS OLD.

(C) THE APPLICANT SHALL:

(1) HAVE A CURRENT CERTIFICATION BY A NATIONAL CERTIFYING BOARD APPROVED BY THE BOARD;

(2) HAVE RECEIVED A BACHELOR'S OR MASTER'S DEGREE FROM AN ATHLETIC TRAINING EDUCATIONAL PROGRAM THAT IS ACCREDITED BY THE COMMISSION ON ACCREDITATION OF ATHLETIC TRAINING EDUCATION OR ITS SUCCESSOR;

(3) DEMONSTRATE ORAL AND WRITTEN COMPETENCY IN ENGLISH AS REQUIRED BY THE BOARD; AND

(4) MEET ANY OTHER REQUIREMENTS ESTABLISHED BY THE BOARD.

(D) THE BOARD SHALL WAIVE THE EDUCATION REQUIREMENTS UNDER THIS SECTION IF AN INDIVIDUAL WAS CERTIFIED BY THE NATIONAL ATHLETIC TRAINERS' ASSOCIATION BOARD OF CERTIFICATION, INC., BEFORE JANUARY 1, 2004, AND IS CURRENTLY IN GOOD STANDING.

14–5D–09.

(A) TO APPLY FOR A LICENSE, AN APPLICANT SHALL:

(1) SUBMIT AN APPLICATION TO THE BOARD ON THE FORM THAT THE BOARD REQUIRES; AND

(2) PAY TO THE BOARD THE APPLICATION FEE SET BY THE BOARD.

(B) THE BOARD SHALL ISSUE THE APPROPRIATE LICENSE TO AN APPLICANT WHO MEETS THE REQUIREMENTS OF THIS SUBTITLE FOR THAT LICENSE.

14–5D–10.

(A) AN ATHLETIC TRAINER LICENSE AUTHORIZES THE LICENSEE TO PRACTICE ATHLETIC TRAINING SERVICES IN AN APPROVED SETTING WHILE THE LICENSE IS EFFECTIVE.

(B) A LICENSED ATHLETIC TRAINER SHALL PRACTICE ATHLETIC TRAINING IN ACCORDANCE WITH THE EVALUATION AND TREATMENT PROTOCOL BETWEEN THE ATHLETIC TRAINER AND A LICENSED PHYSICIAN.

14–5D–11.

(A) NOTHING IN THIS TITLE MAY BE CONSTRUED TO AUTHORIZE AN ATHLETIC TRAINER TO PRACTICE EXCEPT UNDER THE SUPERVISION OF A LICENSED PHYSICIAN AND IN AN APPROVED SETTING.

(B) BEFORE AN ATHLETIC TRAINER MAY PRACTICE ATHLETIC TRAINING, THE ATHLETIC TRAINER SHALL:

(1) OBTAIN A LICENSE UNDER THIS SUBTITLE;

(2) ENTER INTO A WRITTEN EVALUATION AND TREATMENT PROTOCOL WITH A LICENSED PHYSICIAN; AND

(3) OBTAIN BOARD APPROVAL OF THE EVALUATION AND TREATMENT PROTOCOL.

(C) AN EVALUATION AND TREATMENT PROTOCOL SHALL:

(1) DESCRIBE THE QUALIFICATIONS OF THE LICENSED PHYSICIAN AND LICENSED ATHLETIC TRAINER;

(2) DESCRIBE THE SETTINGS WHERE THE ATHLETIC TRAINER MAY PRACTICE;

(3) DESCRIBE THE PHYSICIAN SUPERVISION MECHANISMS THAT THE PHYSICIAN WILL USE TO GIVE DIRECTION TO THE ATHLETIC TRAINER; AND

(4) SPECIFY THE TREATMENT PROCEDURES THE ATHLETIC TRAINER MAY PERFORM.

14–5D–12.

(A) A LICENSE EXPIRES ON A DATE SET BY THE BOARD, UNLESS THE LICENSE IS RENEWED FOR AN ADDITIONAL TERM AS PROVIDED IN THIS SECTION.

(B) AT LEAST 1 MONTH BEFORE A LICENSE EXPIRES, THE BOARD SHALL SEND TO THE LICENSEE A RENEWAL NOTICE THAT STATES:

(1) THE DATE ON WHICH THE CURRENT LICENSE EXPIRES;

(2) THE DATE BY WHICH THE RENEWAL APPLICATION MUST BE RECEIVED BY THE BOARD FOR THE RENEWAL TO BE ISSUED AND MAILED BEFORE THE LICENSE EXPIRES; AND

(3) THE AMOUNT OF THE RENEWAL FEE.

(C) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, BEFORE A LICENSE EXPIRES, THE LICENSEE PERIODICALLY MAY RENEW IT FOR AN ADDITIONAL TERM, IF THE LICENSEE:

(1) OTHERWISE IS ENTITLED TO BE LICENSED;

(2) PAYS TO THE BOARD A RENEWAL FEE SET BY THE BOARD; AND

(3) SUBMITS TO THE BOARD:

(I) A RENEWAL APPLICATION ON THE FORM THAT THE BOARD REQUIRES;

(II) SATISFACTORY EVIDENCE OF COMPLIANCE WITH ANY CONTINUING EDUCATION OR COMPETENCY REQUIREMENTS; AND

(III) ANY OTHER REQUIREMENTS SET UNDER THIS SECTION FOR LICENSE RENEWAL.

(D) IN ADDITION TO ANY OTHER QUALIFICATIONS AND REQUIREMENTS ESTABLISHED BY THE BOARD, THE BOARD MAY ESTABLISH CONTINUING EDUCATION OR COMPETENCY REQUIREMENTS AS A CONDITION OF THE RENEWAL OF LICENSES UNDER THIS SECTION.

(E) THE BOARD SHALL RENEW THE LICENSE OF EACH LICENSEE WHO MEETS THE REQUIREMENTS OF THIS SECTION.

(F) THE BOARD SHALL REINSTATE THE LICENSE OF AN ATHLETIC TRAINER WHO HAS FAILED TO RENEW THE LICENSE FOR ANY REASON IF THE ATHLETIC TRAINER:

(1) APPLIES FOR REINSTATEMENT;

(2) MEETS RENEWAL AND REINSTATEMENT REQUIREMENTS; AND

(3) PAYS TO THE BOARD THE REINSTATEMENT FEE SET BY THE BOARD.

(G) THE BOARD MAY IMPOSE A CIVIL PENALTY OF UP TO $100 PER CONTINUING EDUCATION CREDIT IN LIEU OF A SANCTION UNDER § 14–5D–14 OF THIS SUBTITLE, FOR A FIRST OFFENSE FOR FAILURE OF A LICENSEE TO OBTAIN THE CONTINUING EDUCATION CREDITS REQUIRED BY THE BOARD.

14–5D–13.

UNLESS THE BOARD AGREES TO ACCEPT THE SURRENDER OF A LICENSE, A LICENSED ATHLETIC TRAINER MAY NOT SURRENDER THE LICENSE NOR MAY THE LICENSE LAPSE BY OPERATION OF LAW WHILE THE LICENSEE IS UNDER INVESTIGATION OR WHILE CHARGES ARE PENDING AGAINST THE LICENSEE.

14–5D–14.

(A) SUBJECT TO THE HEARING PROVISIONS OF § 14–405 OF THIS TITLE, THE BOARD MAY DENY A LICENSE TO ANY APPLICANT, REPRIMAND ANY LICENSEE, PLACE ANY LICENSEE ON PROBATION, OR SUSPEND OR REVOKE A LICENSE IF THE APPLICANT OR LICENSEE:

(1) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO OBTAIN A LICENSE FOR THE APPLICANT, LICENSEE, OR FOR ANOTHER;

(2) FRAUDULENTLY OR DECEPTIVELY USES A LICENSE;

(3) IS GUILTY OF UNPROFESSIONAL OR IMMORAL CONDUCT IN THE PRACTICE OF ATHLETIC TRAINING;

(4) IS PROFESSIONALLY, PHYSICALLY, OR MENTALLY INCOMPETENT;

(5) ABANDONS A PATIENT;

(6) HABITUALLY IS INTOXICATED;

(7) IS ADDICTED TO, OR HABITUALLY ABUSES, ANY NARCOTIC OR CONTROLLED DANGEROUS SUBSTANCE AS DEFINED IN § 5–101 OF THE CRIMINAL LAW ARTICLE;

(8) PROVIDES PROFESSIONAL SERVICES WHILE:

(I) UNDER THE INFLUENCE OF ALCOHOL; OR

(II) USING ANY NARCOTIC OR CONTROLLED DANGEROUS SUBSTANCE AS DEFINED IN § 5–101 OF THE CRIMINAL LAW ARTICLE, OR ANY OTHER DRUG THAT IS IN EXCESS OF THERAPEUTIC AMOUNTS OR WITHOUT VALID MEDICAL INDICATION;

(9) PROMOTES THE SALE OF SERVICES, DRUGS, DEVICES, APPLIANCES, OR GOODS TO A PATIENT SO AS TO EXPLOIT THE PATIENT FOR FINANCIAL GAIN;

(10) WILLFULLY MAKES OR FILES A FALSE REPORT OR RECORD IN THE PRACTICE OF ATHLETIC TRAINING;

(11) WILLFULLY FAILS TO FILE OR RECORD ANY REPORT AS REQUIRED UNDER LAW, WILLFULLY IMPEDES OR OBSTRUCTS THE FILING OR RECORDING OF THE REPORT, OR INDUCES ANOTHER TO FAIL TO FILE OR RECORD THE REPORT;

(12) BREACHES PATIENT CONFIDENTIALITY;

(13) PAYS OR AGREES TO PAY ANY SUM OR PROVIDE ANY FORM OF REMUNERATION OR MATERIAL BENEFIT TO ANY INDIVIDUAL FOR BRINGING OR

REFERRING A PATIENT OR ACCEPTS OR AGREES TO ACCEPT ANY SUM OR ANY FORM OF REMUNERATION OR MATERIAL BENEFIT FROM AN INDIVIDUAL FOR BRINGING OR REFERRING A PATIENT;

(14) KNOWINGLY MAKES A MISREPRESENTATION WHILE PRACTICING ATHLETIC TRAINING;

(15) KNOWINGLY PRACTICES ATHLETIC TRAINING WITH AN UNAUTHORIZED INDIVIDUAL OR AIDS AN UNAUTHORIZED INDIVIDUAL IN THE PRACTICE OF ATHLETIC TRAINER SERVICES;

(16) OFFERS, UNDERTAKES, OR AGREES TO CURE OR TREAT DISEASE BY A SECRET METHOD, TREATMENT, OR MEDICINE;

(17) IS DISCIPLINED BY A LICENSING, CERTIFYING, OR DISCIPLINARY AUTHORITY OR IS CONVICTED OR DISCIPLINED BY A COURT OF ANY STATE OR COUNTRY OR IS DISCIPLINED BY ANY BRANCH OF THE UNITED STATES UNIFORMED SERVICES OR THE VETERANS ADMINISTRATION FOR AN ACT THAT WOULD BE GROUNDS FOR DISCIPLINARY ACTION UNDER THIS SECTION;

(18) FAILS TO MEET APPROPRIATE STANDARDS FOR THE DELIVERY OF ATHLETIC TRAINING SERVICES;

(19) KNOWINGLY SUBMITS FALSE STATEMENTS TO COLLECT FEES FOR WHICH SERVICES HAVE NOT BEEN PROVIDED;

(20) (I) HAS BEEN SUBJECT TO INVESTIGATION OR DISCIPLINARY ACTION BY A LICENSING OR DISCIPLINARY AUTHORITY OR BY A COURT OF ANY STATE OR COUNTRY FOR AN ACT THAT WOULD BE GROUNDS FOR DISCIPLINARY ACTION UNDER THE BOARD'S DISCIPLINARY STATUTES; AND

(II) THE LICENSED INDIVIDUAL:

1. SURRENDERED THE LICENSE ISSUED BY THE STATE OR COUNTRY; OR

2. ALLOWED THE LICENSE ISSUED BY THE STATE OR COUNTRY TO EXPIRE OR LAPSE;

(21) KNOWINGLY FAILS TO REPORT SUSPECTED CHILD ABUSE IN VIOLATION OF § 5–704 OF THE FAMILY LAW ARTICLE;

(22) SELLS, PRESCRIBES, GIVES AWAY, OR ADMINISTERS DRUGS FOR ILLEGAL OR ILLEGITIMATE MEDICAL PURPOSES;

(23) PRACTICES OR ATTEMPTS TO PRACTICE BEYOND THE AUTHORIZED SCOPE OF PRACTICE;

(24) REFUSES, WITHHOLDS FROM, DENIES, OR DISCRIMINATES AGAINST AN INDIVIDUAL WITH REGARD TO THE PROVISION OF PROFESSIONAL SERVICES FOR WHICH THE LICENSEE IS LICENSED AND QUALIFIED TO RENDER BECAUSE THE INDIVIDUAL IS HIV POSITIVE;

(25) PRACTICES OR ATTEMPTS TO PRACTICE AN ATHLETIC TRAINING PROCEDURE OR USES OR ATTEMPTS TO USE ATHLETIC TRAINING EQUIPMENT IF THE APPLICANT OR LICENSEE HAS NOT RECEIVED EDUCATION AND TRAINING IN THE PERFORMANCE OF THE PROCEDURE OR THE USE OF THE EQUIPMENT;

(26) FAILS TO COOPERATE WITH A LAWFUL INVESTIGATION CONDUCTED BY THE BOARD;

(27) FAILS TO PRACTICE UNDER THE SUPERVISION OF A PHYSICIAN OR VIOLATES THE APPROVED EVALUATION AND TREATMENT PROTOCOL; OR

(28) VIOLATES AN ORDER OF THE BOARD, INCLUDING ANY CONDITION OF PROBATION.

(B) (1) ON THE FILING OF CERTIFIED DOCKET ENTRIES WITH THE BOARD BY THE OFFICE OF THE ATTORNEY GENERAL, THE BOARD SHALL ORDER THE SUSPENSION OF A LICENSE IF THE LICENSEE IS CONVICTED OF OR PLEADS GUILTY OR NOLO CONTENDERE WITH RESPECT TO A CRIME INVOLVING MORAL TURPITUDE, WHETHER OR NOT ANY APPEAL OR OTHER PROCEEDING IS PENDING TO HAVE THE CONVICTION OR PLEA SET ASIDE.

(2) AFTER COMPLETION OF THE APPELLATE PROCESS, IF THE CONVICTION HAS NOT BEEN REVERSED OR THE PLEA HAS NOT BEEN SET ASIDE WITH RESPECT TO A CRIME INVOLVING MORAL TURPITUDE, THE BOARD SHALL ORDER THE REVOCATION OF A LICENSE ON THE CERTIFICATION BY THE OFFICE OF THE ATTORNEY GENERAL.

14–5D–15.

(A) (1) EXCEPT AS OTHERWISE PROVIDED IN § 10–226 OF THE STATE GOVERNMENT ARTICLE, BEFORE THE BOARD TAKES ANY ACTION UNDER §

14–5D–14 OF THIS SUBTITLE, IT SHALL GIVE THE INDIVIDUAL AGAINST WHOM THE ACTION IS CONTEMPLATED AN OPPORTUNITY FOR A HEARING BEFORE A HEARING OFFICER.

(2) THE HEARING OFFICER SHALL GIVE NOTICE AND HOLD THE HEARING IN ACCORDANCE WITH TITLE 10, SUBTITLE 2, OF THE STATE GOVERNMENT ARTICLE.

(3) THE BOARD MAY ADMINISTER OATHS IN CONNECTION WITH ANY PROCEEDINGS UNDER THIS SECTION.

(4) AT LEAST 14 DAYS BEFORE THE HEARING, A HEARING NOTICE SHALL BE SENT BY CERTIFIED MAIL TO THE LAST KNOWN ADDRESS OF THE INDIVIDUAL.

(B) (1) ANY PERSON AGGRIEVED BY A FINAL DECISION OF THE BOARD UNDER THIS SUBTITLE MAY NOT APPEAL TO THE SECRETARY OR BOARD OF REVIEW BUT MAY TAKE A DIRECT JUDICIAL APPEAL.

(2) THE APPEAL SHALL BE MADE AS PROVIDED FOR JUDICIAL REVIEW OF FINAL DECISIONS IN THE ADMINISTRATIVE PROCEDURE ACT.

(C) AN ORDER OF THE BOARD MAY NOT BE STAYED PENDING REVIEW.

(D) THE BOARD MAY APPEAL FROM ANY DECISION THAT REVERSES OR MODIFIES ITS ORDER.

14–5D–16.

ON THE APPLICATION OF AN INDIVIDUAL WHOSE LICENSE HAS BEEN REVOKED, THE BOARD MAY REINSTATE A REVOKED LICENSE.

14–5D–17.

UNLESS AUTHORIZED TO PRACTICE ATHLETIC TRAINING UNDER THIS SUBTITLE, A PERSON MAY NOT:

(1) PRACTICE ATHLETIC TRAINING IN THIS STATE;

(2) ATTEMPT TO PRACTICE OR OFFER TO PRACTICE ATHLETIC TRAINING IN THIS STATE;

(3) REPRESENT TO THE PUBLIC BY TITLE, BY DESCRIPTION OF SERVICES, METHODS, OR PROCEDURES, OR OTHERWISE, THAT THE PERSON IS AUTHORIZED TO PRACTICE ATHLETIC TRAINING IN THIS STATE; OR

(4) USE THE ABBREVIATION "A.T.", "A.T.L.", "L.A.T.", OR ANY OTHER WORDS, LETTERS, OR SYMBOLS WITH THE INTENT TO REPRESENT THAT THE PERSON PRACTICES ATHLETIC TRAINING.

14–5D–18.

(A) A PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING $1,000 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.

(B) ANY PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE IS SUBJECT TO A CIVIL FINE OF NOT MORE THAN $5,000 TO BE LEVIED BY THE BOARD.

(C) THE BOARD SHALL PAY ANY PENALTY COLLECTED UNDER THIS SECTION INTO THE BOARD OF PHYSICIANS FUND.

14–5D–19.

THIS SUBTITLE MAY BE CITED AS THE "MARYLAND ATHLETIC TRAINERS ACT."

14–5D–20.

SUBJECT TO THE EVALUATION AND REESTABLISHMENT PROVISIONS OF THE MARYLAND PROGRAM EVALUATION ACT AND SUBJECT TO THE TERMINATION OF THIS TITLE UNDER § 14–702 OF THIS TITLE, THIS SUBTITLE AND ALL RULES AND REGULATIONS ADOPTED UNDER THIS SUBTITLE SHALL TERMINATE AND BE OF NO EFFECT AFTER JULY 1, 2013.

Article – State Government

8–403.

(a) On or before December 15 of the 2nd year before the evaluation date of a governmental activity or unit, the Legislative Policy Committee, based on a preliminary evaluation, may waive as unnecessary the evaluation required under this section.

(b) Except as otherwise provided in subsection (a) of this section, on or before the evaluation date for the following governmental activities or units, an evaluation

shall be made of the following governmental activities or units and the statutes and regulations that relate to the governmental activities or units:

(6) ATHLETIC TRAINING ADVISORY COMMITTEE (§ 14–5D–04 OF THE HEALTH OCCUPATIONS ARTICLE: JULY 1, 2012);

SECTION 3. AND BE IT FURTHER ENACTED, That the terms of the initial members of the Athletic Training Advisory Committee shall expire as follows:

(1) ~~two members~~ one athletic trainer member and one physician member in 2010;

(2) ~~three members~~ one athletic trainer member, one consumer member, and the physical therapist member in 2011; ~~and~~

(3) ~~three members~~ one physician member, the chiropractor member, and the occupational therapist member in 2012; and

(4) one athletic trainer member, one physician member, and one consumer member in 2013.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 530

(House Bill 173)

AN ACT concerning

Health Occupations – Maryland Athletic Trainers Act

FOR the purpose of establishing the Athletic Trainer Advisory Committee as a subunit of the State Board of Physicians; establishing certain fees for services provided by the Board to athletic trainers; providing for the composition, appointment, and terms of the Committee members; establishing certain powers and duties of the Committee; requiring certain persons to be licensed by the Board as athletic trainers before performing certain work in the State; establishing certain education and experience requirements to qualify for a license; establishing certain application fees and requirements for obtaining a license; establishing certain terms and procedures for the renewal and reinstatement of a license; prohibiting a licensee from surrendering a license under certain circumstances; authorizing the Board to deny a license to an applicant, reprimand a licensee,

place a licensee on probation, or suspend or revoke a license under certain circumstances; establishing certain requirements for reinstatement of a revoked license; providing for certain criminal and civil penalties; establishing certain hearing and appeal procedures for athletic trainers; providing that the Committee is subject to the provisions of the Maryland Program Evaluation Act; requiring that an evaluation of the Committee and statutes and regulations that relate to the Committee be performed on or before a certain date; defining certain terms; providing for the termination of this Act; specifying the terms of the initial members of the Board; and generally relating to the establishment of an athletic trainer license and the Athletic Trainer Advisory Committee.

BY renumbering
Article – State Government
Section 8–403(b)(6) through (68), respectively
to be Section 8–403(b)(7) through (69), respectively
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

BY adding to
Article – Health Occupations
Section 14–5D–01 through 14–5D–20 to be under the new subtitle "Subtitle 5D. Athletic Trainers"
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,
Article – State Government
Section 8–403(a)
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

BY adding to
Article – State Government
Section 8–403(b)(6)
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 8–403(b)(6) through (68), respectively, of Article – State Government of the Annotated Code of Maryland be renumbered to be Sections 8–403(b)(7) through (69), respectively.

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

Article – Health Occupations

SUBTITLE 5D. ATHLETIC TRAINERS.

14–5D–01.

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

(B) "ATHLETE" MEANS AN INDIVIDUAL WHO PARTICIPATES IN AN ATHLETIC ACTIVITY.

(C) "ATHLETIC ACTIVITY" MEANS EXERCISE, RECREATION, SPORT, COMPETITION, OR GAME THAT:

(1) REQUIRES PHYSICAL STRENGTH, RANGE OF MOTION, FLEXIBILITY, CONTROL, SPEED, STAMINA, OR AGILITY; AND

(2) IS ASSOCIATED WITH AN EDUCATIONAL INSTITUTION OR A PROFESSIONAL, AMATEUR, OR RECREATIONAL SPORTS CLUB OR ATHLETIC ORGANIZATION.

~~(B)~~ (D) "ATHLETIC INJURY" MEANS AN INJURY ~~OR CONDITION SUSTAINED BY AN INDIVIDUAL~~ THAT AFFECTS ~~THE INDIVIDUAL'S~~ AN ATHLETE'S PARTICIPATION OR PERFORMANCE IN ~~SPORTS, GAMES, RECREATION, EXERCISE, OR OTHER ACTIVITIES~~ AN ATHLETIC ACTIVITY.

~~(C)~~ (E) "BOARD" MEANS THE STATE BOARD OF PHYSICIANS.

~~(D)~~ (F) "COMMITTEE" MEANS THE ATHLETIC TRAINER ADVISORY COMMITTEE ESTABLISHED UNDER § 14–5D–04 OF THIS SUBTITLE.

(G) "EDUCATIONAL INSTITUTION" INCLUDES:

(1) THE SCHOOLS IN THE PUBLIC ELEMENTARY AND SECONDARY EDUCATION SYSTEM OF THE STATE;

(2) A NONCOLLEGIATE EDUCATIONAL INSTITUTION GOVERNED UNDER § 2–206 OF THE EDUCATION ARTICLE; AND

(3) AN INSTITUTION OF HIGHER EDUCATION AS DEFINED IN § 10–101 OF THE EDUCATION ARTICLE.

~~(E)~~ ~~(G)~~ *(H)* "EVALUATION AND TREATMENT PROTOCOL" MEANS A DOCUMENT THAT IS EXECUTED BY A PHYSICIAN AND AN ATHLETIC TRAINER THAT MEETS THE REQUIREMENTS OF § 14–5D–11 OF THIS SUBTITLE.

~~(F)~~ ~~(H)~~ *(I)* "LICENSE" MEANS A LICENSE ISSUED BY THE BOARD TO PRACTICE ATHLETIC TRAINING.

~~(G)~~ ~~(I)~~ *(J)* "LICENSED ATHLETIC TRAINER" MEANS AN INDIVIDUAL WHO IS LICENSED BY THE BOARD TO PRACTICE ATHLETIC TRAINING.

~~(H)~~ ~~(J)~~ *(K)* "NATIONAL CERTIFYING BOARD" MEANS THE NATIONAL ATHLETIC TRAINERS' ASSOCIATION BOARD OF CERTIFICATION, INC., OR ITS SUCCESSOR ORGANIZATION.

~~(I)~~ ~~(K)~~ *(L)* (1) "PRACTICE ATHLETIC TRAINING" MEANS APPLICATION OF THE FOLLOWING PRINCIPLES AND METHODS FOR MANAGING ATHLETIC INJURIES FOR ~~ACTIVE INDIVIDUALS AND~~ ATHLETES IN GOOD OVERALL HEALTH UNDER THE SUPERVISION OF A LICENSED PHYSICIAN:

(I) PREVENTION;

(II) CLINICAL EVALUATION AND ASSESSMENT;

(III) IMMEDIATE CARE; AND

(IV) TREATMENT, REHABILITATION, AND RECONDITIONING.

(2) "PRACTICE ATHLETIC TRAINING" INCLUDES:

(I) ORGANIZATION AND ADMINISTRATION OF AN ATHLETIC TRAINING PROGRAM; AND

(II) INSTRUCTION TO COACHES, ATHLETES, PARENTS, MEDICAL PERSONNEL, AND COMMUNITY MEMBERS REGARDING THE CARE AND PREVENTION OF ATHLETIC INJURIES.

(3) "PRACTICE ATHLETIC TRAINING" DOES NOT INCLUDE:

(I) THE PRACTICE OF:

1. CHIROPRACTIC, INCLUDING ADJUSTMENTS, MANIPULATION, OR HIGH VELOCITY MOBILIZATIONS OF THE SPINE OR EXTREMITIES;

2. MASSAGE THERAPY;

3. MEDICINE;

4. OCCUPATIONAL THERAPY; OR

5. PHYSICAL THERAPY; ~~OR~~

(II) THE RECONDITIONING OF SYSTEMIC NEUROLOGIC INJURIES, CONDITIONS, OR DISEASE; OR

(III) EXCEPT FOR THE CONDITIONING OF AN ATHLETE UNDER THE SUPERVISION OF A TREATING PHYSICIAN, THE TREATMENT, REHABILITATION, OR RECONDITIONING OF NONATHLETIC INJURIES OR DISEASE.

~~(J)~~ ~~(L)~~ *(M)* "SETTING" MEANS A:

(1) LOCATION WHERE AN ~~ACADEMIC, PROFESSIONAL, OR ORGANIZED AMATEUR ATHLETIC ACTIVITY, INCLUDING A RECREATIONAL OR COMMUNITY ACTIVITY,~~ ATHLETIC ACTIVITY, AS DEFINED IN SUBSECTION (C) OF THIS SECTION, IS BEING HELD;

(2) HEALTH OR FITNESS CLUB;

(3) CLINIC OR HOSPITAL;

(4) CORPORATION; OR

(5) GOVERNMENT AGENCY~~;~~.

~~(6) LAW ENFORCEMENT UNIT; OR~~

~~(7) MILITARY UNIT.~~

~~(K)~~ ~~(M)~~ *(N)* "SUPERVISION" MEANS THE RESPONSIBILITY OF A PHYSICIAN TO PROVIDE ONGOING AND IMMEDIATELY AVAILABLE INSTRUCTION THAT IS ADEQUATE TO ENSURE THE SAFETY AND WELFARE OF A PATIENT AND IS APPROPRIATE TO THE SETTING.

14–5D–02.

THIS SUBTITLE DOES NOT LIMIT THE RIGHT OF AN INDIVIDUAL TO PRACTICE A HEALTH OCCUPATION THAT THE INDIVIDUAL IS AUTHORIZED TO PRACTICE UNDER THIS ARTICLE.

14–5D–03.

(A) (1) THE BOARD SHALL SET REASONABLE FEES FOR THE ISSUANCE AND RENEWAL OF LICENSES AND THE OTHER SERVICES IT PROVIDES TO ATHLETIC TRAINERS.

(2) THE FEES CHARGED SHALL BE SET SO AS TO PRODUCE FUNDS TO APPROXIMATE THE COST OF MAINTAINING THE LICENSURE PROGRAM AND THE OTHER SERVICES PROVIDED TO ATHLETIC TRAINERS.

(B) (1) THE BOARD SHALL PAY ALL FEES COLLECTED UNDER THE PROVISIONS OF THIS SUBTITLE TO THE COMPTROLLER.

(2) THE COMPTROLLER SHALL DISTRIBUTE ALL FEES TO THE BOARD.

(C) THE FEES SHALL BE USED TO COVER THE ACTUAL DOCUMENTED DIRECT AND INDIRECT COSTS OF FULFILLING THE STATUTORY AND REGULATORY DUTIES OF THE BOARD AS PROVIDED BY THE PROVISIONS OF THIS SUBTITLE.

14–5D–04.

THERE IS AN ATHLETIC TRAINER ADVISORY COMMITTEE WITHIN THE BOARD.

14–5D–05.

(A) THE COMMITTEE CONSISTS OF ~~EIGHT~~ 11 MEMBERS APPOINTED BY THE BOARD AS FOLLOWS:

(1) (I) ON OR BEFORE SEPTEMBER 30, 2011, THREE ATHLETIC TRAINERS WHO:

1. ARE CERTIFIED BY A NATIONAL CERTIFYING BOARD; AND

2. HAVE A MINIMUM OF 5 YEARS OF CLINICAL EXPERIENCE; AND

(II) ON OR AFTER OCTOBER 1, 2011, THREE LICENSED ATHLETIC TRAINERS WHO:

1. ARE CERTIFIED BY A NATIONAL CERTIFYING BOARD; AND

2. HAVE A MINIMUM OF 5 YEARS OF CLINICAL EXPERIENCE;

(2) THREE LICENSED PHYSICIANS:

(I) AT LEAST ONE OF WHOM IS A SPECIALIST IN ORTHOPEDIC OR SPORTS MEDICINE; AND

(II) TWO OF WHOM PREVIOUSLY OR CURRENTLY HAVE PARTNERED WITH OR DIRECTED AN ATHLETIC TRAINER;

(3) ONE LICENSED CHIROPRACTOR WHO HAS SPORTS MEDICINE EXPERIENCE; ~~AND~~

(4) ONE LICENSED PHYSICAL THERAPIST;

(5) ONE LICENSED OCCUPATIONAL THERAPIST; AND

~~(4) ONE CONSUMER MEMBER.~~

(6) TWO CONSUMER MEMBERS.

(B) (1) THE ATHLETIC TRAINER MEMBERS MAY BE APPOINTED BY THE BOARD FROM A LIST OF QUALIFIED INDIVIDUALS SUBMITTED TO THE BOARD BY THE MARYLAND ATHLETIC TRAINERS ASSOCIATION, INC.

(2) THE BOARD MAY REQUEST AN ADDITIONAL LIST OF NOMINEES FOR EACH VACANCY.

(C) THE CONSUMER MEMBER OF THE COMMITTEE:

(1) SHALL BE A MEMBER OF THE GENERAL PUBLIC;

(2) MAY NOT BE OR EVER HAVE BEEN:

(I) AN ATHLETIC TRAINER;

(II) A HEALTH CARE PROFESSIONAL; OR

(III) IN TRAINING TO BE AN ATHLETIC TRAINER OR OTHER HEALTH PROFESSIONAL; AND

(3) MAY NOT:

(I) PARTICIPATE OR EVER HAVE PARTICIPATED IN A COMMERCIAL OR PROFESSIONAL FIELD RELATED TO ATHLETIC TRAINING;

(II) HAVE HAD WITHIN 2 YEARS BEFORE APPOINTMENT A FINANCIAL INTEREST IN A PERSON REGULATED BY THE BOARD; OR

(III) HAVE HAD WITHIN 2 YEARS BEFORE APPOINTMENT A FINANCIAL INTEREST IN THE PROVISION OF GOODS OR SERVICES TO ATHLETIC TRAINERS OR TO THE FIELD OF ATHLETIC TRAINING.

(D) (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 COMMITTEE ON OCTOBER 1, 2009.

(3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED.

(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.

(E) FROM AMONG ITS MEMBERS, THE COMMITTEE SHALL ELECT A CHAIR EVERY 2 YEARS.

14–5D–06.

IN ADDITION TO THE POWERS SET FORTH ELSEWHERE IN THIS SUBTITLE, THE COMMITTEE SHALL:

(1) DEVELOP AND RECOMMEND TO THE BOARD REGULATIONS TO CARRY OUT THIS SUBTITLE;

(2) DEVELOP AND RECOMMEND TO THE BOARD CONTINUING EDUCATION REQUIREMENTS FOR LICENSE RENEWAL;

(3) PROVIDE THE BOARD WITH RECOMMENDATIONS CONCERNING THE PRACTICE OF ATHLETIC TRAINING;

(4) DEVELOP AND RECOMMEND TO THE BOARD AN EVALUATION AND TREATMENT PROTOCOL FOR USE BY AN ATHLETIC TRAINER AND THE PHYSICIAN WITH WHOM THE ATHLETIC TRAINER PRACTICES;

(5) PROVIDE ADVICE AND RECOMMENDATIONS TO THE BOARD ON INDIVIDUAL EVALUATION AND TREATMENT PROTOCOLS WHEN REQUESTED; AND

(6) KEEP A RECORD OF ITS PROCEEDINGS.

14–5D–07.

(A) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, ON OR AFTER OCTOBER 1, 2011, AN INDIVIDUAL SHALL BE LICENSED BY THE BOARD BEFORE THE INDIVIDUAL MAY PRACTICE ATHLETIC TRAINING IN THE STATE.

(B) THIS SECTION DOES NOT APPLY TO:

(1) AN INDIVIDUAL EMPLOYED BY THE FEDERAL GOVERNMENT AS AN ATHLETIC TRAINER WHILE THE INDIVIDUAL IS PRACTICING WITHIN THE SCOPE OF THAT EMPLOYMENT;

(2) AN INDIVIDUAL EMPLOYED BY OR UNDER CONTRACT WITH AN ENTITY LOCATED IN ANOTHER STATE WHO ~~IS REPRESENTING THAT ENTITY AT AN ATHLETIC EVENT OR ANY OTHER EVENT FOR LESS THAN 45 DAYS IN THE STATE BY~~ REPRESENTS THAT ENTITY:

(I) AT AN ATHLETIC EVENT IN THE STATE;

(II) FOR A PERIOD OF TIME NOT TO EXCEED 45 DAYS WITHIN A CALENDAR YEAR; AND

(III) BY PROVIDING ATHLETIC TRAINING SERVICES TO INDIVIDUALS REPRESENTING THE ENTITY AT THE EVENT; OR

(3) A STUDENT ENROLLED IN AN EDUCATION PROGRAM THAT MEETS THE CRITERIA OF § 14–5D–08(C)(2) OF THIS SUBTITLE WHILE ENGAGED IN AN UNPAID, CLINICAL EDUCATIONAL EXPERIENCE OF ATHLETIC TRAINING.

14–5D–08.

(A) TO QUALIFY FOR A LICENSE, AN APPLICANT SHALL BE AN INDIVIDUAL WHO MEETS THE REQUIREMENTS OF THIS SECTION.

(B) THE APPLICANT SHALL:

(1) BE OF GOOD MORAL CHARACTER; AND

(2) BE AT LEAST 18 YEARS OLD.

(C) THE APPLICANT SHALL:

(1) HAVE A CURRENT CERTIFICATION BY A NATIONAL CERTIFYING BOARD APPROVED BY THE BOARD;

(2) HAVE RECEIVED A BACHELOR'S OR MASTER'S DEGREE FROM AN ATHLETIC TRAINING EDUCATIONAL PROGRAM THAT IS ACCREDITED BY THE COMMISSION ON ACCREDITATION OF ATHLETIC TRAINING EDUCATION OR ITS SUCCESSOR;

(3) DEMONSTRATE ORAL AND WRITTEN COMPETENCY IN ENGLISH AS REQUIRED BY THE BOARD; AND

(4) MEET ANY OTHER REQUIREMENTS ESTABLISHED BY THE BOARD.

(D) THE BOARD SHALL WAIVE THE EDUCATION REQUIREMENTS UNDER THIS SECTION IF AN INDIVIDUAL WAS CERTIFIED BY THE NATIONAL ATHLETIC TRAINERS' ASSOCIATION BOARD OF CERTIFICATION, INC., BEFORE JANUARY 1, 2004, AND IS CURRENTLY IN GOOD STANDING.

14–5D–09.

(A) TO APPLY FOR A LICENSE, AN APPLICANT SHALL:

(1) SUBMIT AN APPLICATION TO THE BOARD ON THE FORM THAT THE BOARD REQUIRES; AND

(2) PAY TO THE BOARD THE APPLICATION FEE SET BY THE BOARD.

(B) THE BOARD SHALL ISSUE THE APPROPRIATE LICENSE TO AN APPLICANT WHO MEETS THE REQUIREMENTS OF THIS SUBTITLE FOR THAT LICENSE.

14–5D–10.

(A) AN ATHLETIC TRAINER LICENSE AUTHORIZES THE LICENSEE TO PRACTICE ATHLETIC TRAINING SERVICES IN AN APPROVED SETTING WHILE THE LICENSE IS EFFECTIVE.

(B) A LICENSED ATHLETIC TRAINER SHALL PRACTICE ATHLETIC TRAINING IN ACCORDANCE WITH THE EVALUATION AND TREATMENT PROTOCOL BETWEEN THE ATHLETIC TRAINER AND A LICENSED PHYSICIAN.

14–5D–11.

(A) NOTHING IN THIS TITLE MAY BE CONSTRUED TO AUTHORIZE AN ATHLETIC TRAINER TO PRACTICE EXCEPT UNDER THE SUPERVISION OF A LICENSED PHYSICIAN AND IN AN APPROVED SETTING.

(B) BEFORE AN ATHLETIC TRAINER MAY PRACTICE ATHLETIC TRAINING, THE ATHLETIC TRAINER SHALL:

(1) OBTAIN A LICENSE UNDER THIS SUBTITLE;

(2) ENTER INTO A WRITTEN EVALUATION AND TREATMENT PROTOCOL WITH A LICENSED PHYSICIAN; AND

(3) OBTAIN BOARD APPROVAL OF THE EVALUATION AND TREATMENT PROTOCOL.

(C) AN EVALUATION AND TREATMENT PROTOCOL SHALL:

(1) DESCRIBE THE QUALIFICATIONS OF THE LICENSED PHYSICIAN AND LICENSED ATHLETIC TRAINER;

(2) DESCRIBE THE SETTINGS WHERE THE ATHLETIC TRAINER MAY PRACTICE;

(3) DESCRIBE THE PHYSICIAN SUPERVISION MECHANISMS THAT THE PHYSICIAN WILL USE TO GIVE DIRECTION TO THE ATHLETIC TRAINER; AND

(4) SPECIFY THE TREATMENT PROCEDURES THE ATHLETIC TRAINER MAY PERFORM.

14–5D–12.

(A) A LICENSE EXPIRES ON A DATE SET BY THE BOARD, UNLESS THE LICENSE IS RENEWED FOR AN ADDITIONAL TERM AS PROVIDED IN THIS SECTION.

(B) AT LEAST 1 MONTH BEFORE A LICENSE EXPIRES, THE BOARD SHALL SEND TO THE LICENSEE A RENEWAL NOTICE THAT STATES:

(1) THE DATE ON WHICH THE CURRENT LICENSE EXPIRES;

(2) THE DATE BY WHICH THE RENEWAL APPLICATION MUST BE RECEIVED BY THE BOARD FOR THE RENEWAL TO BE ISSUED AND MAILED BEFORE THE LICENSE EXPIRES; AND

(3) THE AMOUNT OF THE RENEWAL FEE.

(C) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, BEFORE A LICENSE EXPIRES, THE LICENSEE PERIODICALLY MAY RENEW IT FOR AN ADDITIONAL TERM, IF THE LICENSEE:

(1) OTHERWISE IS ENTITLED TO BE LICENSED;

(2) PAYS TO THE BOARD A RENEWAL FEE SET BY THE BOARD; AND

(3) SUBMITS TO THE BOARD:

(I) A RENEWAL APPLICATION ON THE FORM THAT THE BOARD REQUIRES;

(II) SATISFACTORY EVIDENCE OF COMPLIANCE WITH ANY CONTINUING EDUCATION OR COMPETENCY REQUIREMENTS; AND

(III) ANY OTHER REQUIREMENTS SET UNDER THIS SECTION FOR LICENSE RENEWAL.

(D) IN ADDITION TO ANY OTHER QUALIFICATIONS AND REQUIREMENTS ESTABLISHED BY THE BOARD, THE BOARD MAY ESTABLISH CONTINUING EDUCATION OR COMPETENCY REQUIREMENTS AS A CONDITION OF THE RENEWAL OF LICENSES UNDER THIS SECTION.

(E) THE BOARD SHALL RENEW THE LICENSE OF EACH LICENSEE WHO MEETS THE REQUIREMENTS OF THIS SECTION.

(F) THE BOARD SHALL REINSTATE THE LICENSE OF AN ATHLETIC TRAINER WHO HAS FAILED TO RENEW THE LICENSE FOR ANY REASON IF THE ATHLETIC TRAINER:

(1) APPLIES FOR REINSTATEMENT;

(2) MEETS RENEWAL AND REINSTATEMENT REQUIREMENTS; AND

(3) PAYS TO THE BOARD THE REINSTATEMENT FEE SET BY THE BOARD.

(G) THE BOARD MAY IMPOSE A CIVIL PENALTY OF UP TO $100 PER CONTINUING EDUCATION CREDIT IN LIEU OF A SANCTION UNDER § 14–5D–14 OF THIS SUBTITLE, FOR A FIRST OFFENSE FOR FAILURE OF A LICENSEE TO OBTAIN THE CONTINUING EDUCATION CREDITS REQUIRED BY THE BOARD.

14–5D–13.

UNLESS THE BOARD AGREES TO ACCEPT THE SURRENDER OF A LICENSE, A LICENSED ATHLETIC TRAINER MAY NOT SURRENDER THE LICENSE NOR MAY THE LICENSE LAPSE BY OPERATION OF LAW WHILE THE LICENSEE IS UNDER INVESTIGATION OR WHILE CHARGES ARE PENDING AGAINST THE LICENSEE.

14–5D–14.

(A) SUBJECT TO THE HEARING PROVISIONS OF § 14–405 OF THIS TITLE, THE BOARD MAY DENY A LICENSE TO ANY APPLICANT, REPRIMAND ANY LICENSEE, PLACE ANY LICENSEE ON PROBATION, OR SUSPEND OR REVOKE A LICENSE IF THE APPLICANT OR LICENSEE:

(1) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO OBTAIN A LICENSE FOR THE APPLICANT, LICENSEE, OR FOR ANOTHER;

(2) FRAUDULENTLY OR DECEPTIVELY USES A LICENSE;

(3) IS GUILTY OF UNPROFESSIONAL OR IMMORAL CONDUCT IN THE PRACTICE OF ATHLETIC TRAINING;

(4) IS PROFESSIONALLY, PHYSICALLY, OR MENTALLY INCOMPETENT;

(5) ABANDONS A PATIENT;

(6) HABITUALLY IS INTOXICATED;

(7) IS ADDICTED TO, OR HABITUALLY ABUSES, ANY NARCOTIC OR CONTROLLED DANGEROUS SUBSTANCE AS DEFINED IN § 5–101 OF THE CRIMINAL LAW ARTICLE;

(8) PROVIDES PROFESSIONAL SERVICES WHILE:

(I) UNDER THE INFLUENCE OF ALCOHOL; OR

(II) USING ANY NARCOTIC OR CONTROLLED DANGEROUS SUBSTANCE AS DEFINED IN § 5–101 OF THE CRIMINAL LAW ARTICLE, OR ANY OTHER DRUG THAT IS IN EXCESS OF THERAPEUTIC AMOUNTS OR WITHOUT VALID MEDICAL INDICATION;

(9) PROMOTES THE SALE OF SERVICES, DRUGS, DEVICES, APPLIANCES, OR GOODS TO A PATIENT SO AS TO EXPLOIT THE PATIENT FOR FINANCIAL GAIN;

(10) WILLFULLY MAKES OR FILES A FALSE REPORT OR RECORD IN THE PRACTICE OF ATHLETIC TRAINING;

(11) WILLFULLY FAILS TO FILE OR RECORD ANY REPORT AS REQUIRED UNDER LAW, WILLFULLY IMPEDES OR OBSTRUCTS THE FILING OR RECORDING OF THE REPORT, OR INDUCES ANOTHER TO FAIL TO FILE OR RECORD THE REPORT;

(12) BREACHES PATIENT CONFIDENTIALITY;

(13) PAYS OR AGREES TO PAY ANY SUM OR PROVIDE ANY FORM OF REMUNERATION OR MATERIAL BENEFIT TO ANY INDIVIDUAL FOR BRINGING OR REFERRING A PATIENT OR ACCEPTS OR AGREES TO ACCEPT ANY SUM OR ANY FORM OF REMUNERATION OR MATERIAL BENEFIT FROM AN INDIVIDUAL FOR BRINGING OR REFERRING A PATIENT;

(14) KNOWINGLY MAKES A MISREPRESENTATION WHILE PRACTICING ATHLETIC TRAINING;

(15) KNOWINGLY PRACTICES ATHLETIC TRAINING WITH AN UNAUTHORIZED INDIVIDUAL OR AIDS AN UNAUTHORIZED INDIVIDUAL IN THE PRACTICE OF ATHLETIC TRAINER SERVICES;

(16) OFFERS, UNDERTAKES, OR AGREES TO CURE OR TREAT DISEASE BY A SECRET METHOD, TREATMENT, OR MEDICINE;

(17) IS DISCIPLINED BY A LICENSING, CERTIFYING, OR DISCIPLINARY AUTHORITY OR IS CONVICTED OR DISCIPLINED BY A COURT OF ANY STATE OR COUNTRY OR IS DISCIPLINED BY ANY BRANCH OF THE UNITED STATES UNIFORMED SERVICES OR THE VETERANS ADMINISTRATION FOR AN ACT THAT WOULD BE GROUNDS FOR DISCIPLINARY ACTION UNDER THIS SECTION;

(18) FAILS TO MEET APPROPRIATE STANDARDS FOR THE DELIVERY OF ATHLETIC TRAINING SERVICES;

(19) KNOWINGLY SUBMITS FALSE STATEMENTS TO COLLECT FEES FOR WHICH SERVICES HAVE NOT BEEN PROVIDED;

(20) (I) HAS BEEN SUBJECT TO INVESTIGATION OR DISCIPLINARY ACTION BY A LICENSING OR DISCIPLINARY AUTHORITY OR BY A COURT OF ANY STATE OR COUNTRY FOR AN ACT THAT WOULD BE GROUNDS FOR DISCIPLINARY ACTION UNDER THE BOARD'S DISCIPLINARY STATUTES; AND

(II) THE LICENSED INDIVIDUAL:

1. SURRENDERED THE LICENSE ISSUED BY THE STATE OR COUNTRY; OR

2. ALLOWED THE LICENSE ISSUED BY THE STATE OR COUNTRY TO EXPIRE OR LAPSE;

(21) KNOWINGLY FAILS TO REPORT SUSPECTED CHILD ABUSE IN VIOLATION OF § 5–704 OF THE FAMILY LAW ARTICLE;

(22) SELLS, PRESCRIBES, GIVES AWAY, OR ADMINISTERS DRUGS FOR ILLEGAL OR ILLEGITIMATE MEDICAL PURPOSES;

(23) PRACTICES OR ATTEMPTS TO PRACTICE BEYOND THE AUTHORIZED SCOPE OF PRACTICE;

(24) REFUSES, WITHHOLDS FROM, DENIES, OR DISCRIMINATES AGAINST AN INDIVIDUAL WITH REGARD TO THE PROVISION OF PROFESSIONAL SERVICES FOR WHICH THE LICENSEE IS LICENSED AND QUALIFIED TO RENDER BECAUSE THE INDIVIDUAL IS HIV POSITIVE;

(25) PRACTICES OR ATTEMPTS TO PRACTICE AN ATHLETIC TRAINING PROCEDURE OR USES OR ATTEMPTS TO USE ATHLETIC TRAINING EQUIPMENT IF THE APPLICANT OR LICENSEE HAS NOT RECEIVED EDUCATION AND TRAINING IN THE PERFORMANCE OF THE PROCEDURE OR THE USE OF THE EQUIPMENT;

(26) FAILS TO COOPERATE WITH A LAWFUL INVESTIGATION CONDUCTED BY THE BOARD;

(27) FAILS TO PRACTICE UNDER THE SUPERVISION OF A PHYSICIAN OR VIOLATES THE APPROVED EVALUATION AND TREATMENT PROTOCOL; OR

(28) VIOLATES AN ORDER OF THE BOARD, INCLUDING ANY CONDITION OF PROBATION.

(B) (1) ON THE FILING OF CERTIFIED DOCKET ENTRIES WITH THE BOARD BY THE OFFICE OF THE ATTORNEY GENERAL, THE BOARD SHALL ORDER THE SUSPENSION OF A LICENSE IF THE LICENSEE IS CONVICTED OF OR PLEADS GUILTY OR NOLO CONTENDERE WITH RESPECT TO A CRIME INVOLVING MORAL TURPITUDE, WHETHER OR NOT ANY APPEAL OR OTHER PROCEEDING IS PENDING TO HAVE THE CONVICTION OR PLEA SET ASIDE.

(2) AFTER COMPLETION OF THE APPELLATE PROCESS, IF THE CONVICTION HAS NOT BEEN REVERSED OR THE PLEA HAS NOT BEEN SET ASIDE WITH RESPECT TO A CRIME INVOLVING MORAL TURPITUDE, THE BOARD SHALL ORDER THE REVOCATION OF A LICENSE ON THE CERTIFICATION BY THE OFFICE OF THE ATTORNEY GENERAL.

14–5D–15.

(A) (1) EXCEPT AS OTHERWISE PROVIDED IN § 10–226 OF THE STATE GOVERNMENT ARTICLE, BEFORE THE BOARD TAKES ANY ACTION UNDER § 14–5D–14 OF THIS SUBTITLE, IT SHALL GIVE THE INDIVIDUAL AGAINST WHOM THE ACTION IS CONTEMPLATED AN OPPORTUNITY FOR A HEARING BEFORE A HEARING OFFICER.

(2) THE HEARING OFFICER SHALL GIVE NOTICE AND HOLD THE HEARING IN ACCORDANCE WITH TITLE 10, SUBTITLE 2, OF THE STATE GOVERNMENT ARTICLE.

(3) THE BOARD MAY ADMINISTER OATHS IN CONNECTION WITH ANY PROCEEDINGS UNDER THIS SECTION.

(4) AT LEAST 14 DAYS BEFORE THE HEARING, A HEARING NOTICE SHALL BE SENT BY CERTIFIED MAIL TO THE LAST KNOWN ADDRESS OF THE INDIVIDUAL.

(B) (1) ANY PERSON AGGRIEVED BY A FINAL DECISION OF THE BOARD UNDER THIS SUBTITLE MAY NOT APPEAL TO THE SECRETARY OR BOARD OF REVIEW BUT MAY TAKE A DIRECT JUDICIAL APPEAL.

(2) THE APPEAL SHALL BE MADE AS PROVIDED FOR JUDICIAL REVIEW OF FINAL DECISIONS IN THE ADMINISTRATIVE PROCEDURE ACT.

(C) AN ORDER OF THE BOARD MAY NOT BE STAYED PENDING REVIEW.

(D) THE BOARD MAY APPEAL FROM ANY DECISION THAT REVERSES OR MODIFIES ITS ORDER.

14–5D–16.

ON THE APPLICATION OF AN INDIVIDUAL WHOSE LICENSE HAS BEEN REVOKED, THE BOARD MAY REINSTATE A REVOKED LICENSE.

14–5D–17.

UNLESS AUTHORIZED TO PRACTICE ATHLETIC TRAINING UNDER THIS SUBTITLE, A PERSON MAY NOT:

(1) PRACTICE ATHLETIC TRAINING IN THIS STATE;

(2) ATTEMPT TO PRACTICE OR OFFER TO PRACTICE ATHLETIC TRAINING IN THIS STATE;

(3) REPRESENT TO THE PUBLIC BY TITLE, BY DESCRIPTION OF SERVICES, METHODS, OR PROCEDURES, OR OTHERWISE, THAT THE PERSON IS AUTHORIZED TO PRACTICE ATHLETIC TRAINING IN THIS STATE; OR

(4) USE THE ABBREVIATION "A.T.", "A.T.L.", "L.A.T.", OR ANY OTHER WORDS, LETTERS, OR SYMBOLS WITH THE INTENT TO REPRESENT THAT THE PERSON PRACTICES ATHLETIC TRAINING.

14–5D–18.

(A) A PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING $1,000 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.

(B) ANY PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE IS SUBJECT TO A CIVIL FINE OF NOT MORE THAN $5,000 TO BE LEVIED BY THE BOARD.

(C) THE BOARD SHALL PAY ANY PENALTY COLLECTED UNDER THIS SECTION INTO THE BOARD OF PHYSICIANS FUND.

14–5D–19.

THIS SUBTITLE MAY BE CITED AS THE "MARYLAND ATHLETIC TRAINERS ACT."

14–5D–20.

SUBJECT TO THE EVALUATION AND REESTABLISHMENT PROVISIONS OF THE MARYLAND PROGRAM EVALUATION ACT AND SUBJECT TO THE TERMINATION OF THIS TITLE UNDER § 14–702 OF THIS TITLE, THIS SUBTITLE AND ALL RULES AND REGULATIONS ADOPTED UNDER THIS SUBTITLE SHALL TERMINATE AND BE OF NO EFFECT AFTER JULY 1, 2013.

Article – State Government

8–403.

(a) On or before December 15 of the 2nd year before the evaluation date of a governmental activity or unit, the Legislative Policy Committee, based on a preliminary evaluation, may waive as unnecessary the evaluation required under this section.

(b) Except as otherwise provided in subsection (a) of this section, on or before the evaluation date for the following governmental activities or units, an evaluation shall be made of the following governmental activities or units and the statutes and regulations that relate to the governmental activities or units:

(6) ATHLETIC TRAINING ADVISORY COMMITTEE (§ 14–5D–04 OF THE HEALTH OCCUPATIONS ARTICLE: JULY 1, 2012);

SECTION 3. AND BE IT FURTHER ENACTED, That the terms of the initial members of the Athletic Training Advisory Committee shall expire as follows:

(1) ~~two members~~ <u>one athletic trainer member and one physician member</u> in 2010;

(2) ~~three members~~ <u>one athletic trainer member, one consumer member, and the physical therapist member</u> in 2011; ~~and~~

(3) ~~three members~~ <u>one physician member, the chiropractor member, and the occupational therapist member</u> in 2012<u>; and</u>

<u>(4) one athletic trainer member, one physician member, and one consumer member in 2013</u>.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 531

(Senate Bill 299)

AN ACT concerning

Child Custody and Visitation – Relocation of Child~~ – Consent and Court Approval~~

FOR the purpose of ~~authorizing a court, in a custody or visitation proceeding, to include as a condition of a custody or visitation order a requirement that either party obtain the consent of the other party or the approval of the court before relocating the child outside the State; requiring a court to waive certain consent or court approval requirements under certain circumstances; establishing certain defenses to certain actions brought for violations of certain consent or court approval requirements~~ increasing the period of time, for purposes of a certain condition of certain custody or visitation orders, during which a notice of an intent to relocate must be provided; requiring a court to set, on an expedited basis, a hearing on a petition regarding a proposed relocation that is filed within a certain period of time of a certain notice; clarifying language; and generally relating to child custody and visitation and the relocation of a child.

BY repealing and reenacting, with amendments,
Article – Family Law
Section 9–106
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – Family Law

9–106.

~~(a) (1) Except as provided in subsection (b) of this section, in any custody or visitation proceeding the court may include as a condition of a custody or visitation order a requirement that:~~

~~**(I)** either party provide advance written notice of at least 45 days to the court, the other party, or both, of the intent to relocate the permanent residence of the party or the child either within or outside the State**; AND**~~

~~**(II) EITHER PARTY OBTAIN THE CONSENT OF THE OTHER PARTY OR THE APPROVAL OF THE COURT BEFORE RELOCATING THE PERMANENT RESIDENCE OF THE CHILD OUTSIDE THE STATE.**~~

~~(2) The court may prescribe the form and content of the notice requirement.~~

~~(3) If the court orders that notice be given to the other party, a mailing of the notice by certified mail, return receipt requested, to the last known address of the other party shall be deemed sufficient to comply with the notice requirement.~~

~~(b) On a showing that [notice] **A REQUIREMENT DESCRIBED IN SUBSECTION (A)(1)(I) OR (II) OF THIS SECTION** would expose the child or either party to abuse as defined in § 4–501 of this article or for any other good cause the court shall waive the [notice required by this section] **REQUIREMENT.**~~

~~(c) **(1)** If either party is required to relocate in less than the 45–day period specified in the notice requirement **UNDER SUBSECTION (A)(1)(I) OF THIS SECTION**, the court may consider as a defense to any action brought for a violation of [such] **THE** notice requirement that:~~

~~[(1)] **(I)** relocation was necessary due to financial or other extenuating circumstances; and~~

~~[(2)] **(II)** the required notice was given within a reasonable time after learning of the necessity to relocate.~~

~~**(2) THE COURT MAY CONSIDER AS A DEFENSE TO ANY ACTION BROUGHT FOR A VIOLATION OF THE CONSENT OR COURT APPROVAL REQUIREMENT UNDER SUBSECTION (A)(1)(II) OF THIS SECTION THAT:**~~

~~**(I) RELOCATION WAS NECESSARY DUE TO FINANCIAL OR OTHER EXTENUATING CIRCUMSTANCES; AND**~~

~~**(II) A REASONABLE EFFORT WAS MADE TO OBTAIN CONSENT OR COURT APPROVAL AFTER LEARNING OF THE NECESSITY TO RELOCATE.**~~

~~(d) The court may consider any violation of the notice [requirement]**, CONSENT, OR COURT APPROVAL REQUIREMENTS** as a factor in determining the merits of any subsequent proceeding involving custody or visitation.~~

(a) (1) Except as provided in subsection (b) of this section, in any custody or visitation proceeding the court may include as a condition of a custody or visitation order a requirement that either party provide advance written notice of at least **[**45**] 90** days to the court, the other party, or both, of the intent to relocate the permanent residence of the party or the child either within or outside the State.

(2) The court may prescribe the form and content of the notice requirement.

(3) If the court orders that notice be given to the other party, a mailing of the notice by certified mail, return receipt requested, to the last known address of the other party shall be deemed sufficient to comply with the notice requirement.

(4) IF EITHER PARTY FILES A PETITION REGARDING A PROPOSED RELOCATION WITHIN 20 DAYS OF THE WRITTEN NOTICE OF THE RELOCATION REQUIRED BY PARAGRAPH (1) OF THIS SUBSECTION, THE COURT SHALL SET A HEARING ON THE PETITION ON AN EXPEDITED BASIS.

(b) On a showing that notice would expose the child or either party to abuse as defined in § 4–501 of this article or for any other good cause the court shall waive the notice required by this section.

(c) If either party is required to relocate in less than the **[**45–day**] 90–DAY** period specified in the notice requirement, the court may consider as a defense to any action brought for a violation of **[**such**] THE** notice requirement that:

(1) relocation was necessary due to financial or other extenuating circumstances; and

(2) the required notice was given within a reasonable time after learning of the necessity to relocate.

(d) The court may consider any violation of the notice requirement as a factor in determining the merits of any subsequent proceeding involving custody or visitation.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 532

(Senate Bill 309)

AN ACT concerning

State Board of Pharmacy – Pharmacy Permit – Term and Renewal

FOR the purpose of altering the term of a pharmacy permit; ~~requiring the State Board of Pharmacy to send out a certain notice within a certain time of the expiration of a pharmacy permit~~ *altering the date by which the State Board of Pharmacy is required to send certain renewal notices to pharmacy permit holders; repealing a requirement that the State Board send a renewal application form to each pharmacy permit holder*; and generally relating to a pharmacy permit term and renewal.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 12–407
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

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

Article – Health Occupations

12–407.

(a) A pharmacy permit expires on the December 31 after its effective date, unless the pharmacy permit is renewed for a **[**1–year**]** **2–YEAR** term as provided in this section.

(b) (1) Except as provided in paragraph (2) of this subsection, **[**on or before ~~November 1 of each year,~~**]** ~~**AT LEAST 1 MONTH**~~ **3 MONTHS** ~~**BEFORE THE PERMIT EXPIRES**~~ ***OCTOBER 1 OF THE YEAR THE PERMIT EXPIRES*****,** the Board shall send to each pharmacy permit holder a renewal notice **[**and renewal application form**]** for each pharmacy permit by first–class mail to the last known address of the pharmacy permit holder.

(2) If requested by a pharmacy permit holder, the Board shall send to the pharmacy permit holder, at least two times within the month before a pharmacy permit expires, a renewal notice for each pharmacy permit by electronic means to the last known electronic address of the pharmacy permit holder.

(3) If a renewal notice sent by electronic means under paragraph (2) of this subsection is returned to the Board as undeliverable, the Board shall send to the pharmacy permit holder a renewal notice for each pharmacy permit by first–class mail to the last known address of the pharmacy permit holder.

(4) A renewal notice sent under this subsection shall state:

(i) The date on which the current pharmacy permit expires;

(ii) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the pharmacy permit expires; and

(iii) The amount of the renewal fee.

(c) Before the pharmacy permit expires, the pharmacy permit holder periodically may renew it for an additional **[**1–year**]** **2–YEAR** term, if the pharmacy permit holder:

(1) Otherwise is entitled to the pharmacy permit;

(2) Pays to the Board a renewal fee set by the Board; and

(3) Submits a renewal application to the Board on the form that the Board provides.

(d) The Board shall renew the pharmacy permit of each pharmacy permit holder who meets the requirements of this section.

(e) If application for renewal is not made on or before December 1, the pharmacy permit shall expire on the last day of its term and the Board may not reinstate the pharmacy permit unless the applicant:

(1) Provides reason, sufficient to the Board, for the failure to file within the time required; and

(2) Pays, in addition to the renewal fee, a late fee set by the Board.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 533

(House Bill 252)

AN ACT concerning

State Board of Pharmacy – Pharmacy Permit – Term and Renewal

FOR the purpose of altering the term of a pharmacy permit; ~~requiring the State Board of Pharmacy to send out a certain notice within a certain time of the expiration of a pharmacy permit~~ altering the date by which the State Board of Pharmacy is required to send certain renewal notices to pharmacy permit holders; repealing a requirement that the State Board send a renewal application form to each pharmacy permit holder; and generally relating to a pharmacy permit term and renewal.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 12–407
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

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

Article – Health Occupations

12–407.

(a) A pharmacy permit expires on the December 31 after its effective date, unless the pharmacy permit is renewed for a **[**1–year**]** **2–YEAR** term as provided in this section.

(b) (1) Except as provided in paragraph (2) of this subsection, ~~[~~on or before ~~November 1 of each year,~~ **OCTOBER 1 OF THE YEAR]** ~~**AT LEAST 1 MONTH BEFORE**~~ **THE PERMIT EXPIRES,** the Board shall send to each pharmacy permit holder a renewal notice **[**and renewal application form**]** for each pharmacy permit by first–class mail to the last known address of the pharmacy permit holder.

(2) If requested by a pharmacy permit holder, the Board shall send to the pharmacy permit holder, at least two times within the month before a pharmacy permit expires, a renewal notice for each pharmacy permit by electronic means to the last known electronic address of the pharmacy permit holder.

(3) If a renewal notice sent by electronic means under paragraph (2) of this subsection is returned to the Board as undeliverable, the Board shall send to the pharmacy permit holder a renewal notice for each pharmacy permit by first–class mail to the last known address of the pharmacy permit holder.

(4) A renewal notice sent under this subsection shall state:

(i) The date on which the current pharmacy permit expires;

(ii) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the pharmacy permit expires; and

(iii) The amount of the renewal fee.

(c) Before the pharmacy permit expires, the pharmacy permit holder periodically may renew it for an additional **[**1–year**]** **2–YEAR** term, if the pharmacy permit holder:

(1) Otherwise is entitled to the pharmacy permit;

(2) Pays to the Board a renewal fee set by the Board; and

(3) Submits a renewal application to the Board on the form that the Board provides.

(d) The Board shall renew the pharmacy permit of each pharmacy permit holder who meets the requirements of this section.

(e) If application for renewal is not made on or before December 1, the pharmacy permit shall expire on the last day of its term and the Board may not reinstate the pharmacy permit unless the applicant:

(1) Provides reason, sufficient to the Board, for the failure to file within the time required; and

(2) Pays, in addition to the renewal fee, a late fee set by the Board.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 534

(Senate Bill 350)

AN ACT concerning

Municipal Corporations – Annexations – Small Parcels

FOR the purpose of providing that certain consent provisions and certain referendum provisions do not apply to a proposed annexation by a municipal corporation of a

parcel that is a certain acreage or less and is part of a lot that contains certain parcels under certain circumstances; prohibiting a municipal corporation from annexing a certain maximum number of acres under this Act; providing that this Act does not apply to land zoned for agricultural use; providing for the termination of this Act; and generally relating to annexations by municipal corporations.

BY repealing and reenacting, without amendments,
Article 23A – Corporations – Municipal
Section 19(a) and (b)(1)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY adding to
Article 23A – Corporations – Municipal
Section 19(t)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

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

Article 23A – Corporations – Municipal

19.

(a) The legislative body, by whatever name known, of every municipal corporation in this State may enlarge its corporate boundaries as provided in this subheading; but this power shall apply only to land:

(1) Which is contiguous and adjoining to the existing corporate area; and

(2) Which does not create any unincorporated area which is bounded on all sides by real property presently within the corporate limits of the municipality, real property proposed to be within the corporate limits of the municipality as a result of the proposed annexation, or any combination of such properties.

(b) (1) The proposal for change may be initiated by resolution regularly introduced into the legislative body of the municipal corporation, in accordance with the usual requirements and practices applicable to its legislative enactments, and also in conformity with the several requirements contained in subsections (b) and (c) of § 13 of this subtitle, but only after the legislative body has obtained the consent for the proposal from not less than 25 percent of the persons who reside in the area to be annexed and who are registered as voters in county elections and from the owners of not less than 25 percent of the assessed valuation of the real property located in the area to be annexed. The resolution shall describe by a survey of courses and distances,

and may also describe by landmarks and other well–known terms, the exact area proposed to be included in the change, and shall contain complete and detailed provisions as to the conditions and circumstances applicable to the change in boundaries and to the residents and property within the area to be annexed.

(T) (1) THIS SUBSECTION DOES NOT APPLY TO LAND THAT IS ZONED FOR AGRICULTURAL USE.

(2) THE PROVISIONS OF THIS SECTION REQUIRING CONSENT OF RESIDENTS AND OWNERS OF PROPERTY IN THE AREA TO BE ANNEXED AND PROVIDING FOR A REFERENDUM DO NOT APPLY IF A PARCEL OF LAND PROPOSED FOR ANNEXATION IS:

(I) 5 ACRES OR LESS; AND

(II) PART OF A LOT THAT CONTAINS:

1. AT LEAST ONE OTHER PARCEL THAT IS ALREADY WITHIN THE MUNICIPAL CORPORATE AREA; AND

2. ONLY PARCELS THAT HAVE BEEN INCLUDED IN THE MUNICIPAL CORPORATE AREA FOR 3 YEARS OR MORE.

~~(2)~~ (3) A MUNICIPAL CORPORATION MAY NOT ANNEX MORE THAN 25 ACRES, REGARDLESS OF THE NUMBER OF PARCELS OR LOTS ANNEXED, UNDER THE PROVISIONS OF THIS SUBSECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009. It shall remain effective for a period of 2 years and, at the end of September 30, 2011, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 19, 2009.

Chapter 535

(House Bill 220)

AN ACT concerning

Municipal Corporations – Annexations – Small Parcels

FOR the purpose of providing that certain consent provisions and certain referendum provisions do not apply to a proposed annexation by a municipal corporation of a

parcel that is a certain acreage or less and is part of a lot that contains certain parcels under certain circumstances; prohibiting a municipal corporation from annexing a certain maximum number of acres under this Act; *providing that this Act does not apply to land zoned for agricultural use;* providing for the termination of this Act; and generally relating to annexations by municipal corporations.

BY repealing and reenacting, without amendments,
Article 23A – Corporations – Municipal
Section 19(a) and (b)(1)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY adding to
Article 23A – Corporations – Municipal
Section 19(t)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

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

Article 23A – Corporations – Municipal

19.

(a) The legislative body, by whatever name known, of every municipal corporation in this State may enlarge its corporate boundaries as provided in this subheading; but this power shall apply only to land:

(1) Which is contiguous and adjoining to the existing corporate area; and

(2) Which does not create any unincorporated area which is bounded on all sides by real property presently within the corporate limits of the municipality, real property proposed to be within the corporate limits of the municipality as a result of the proposed annexation, or any combination of such properties.

(b) (1) The proposal for change may be initiated by resolution regularly introduced into the legislative body of the municipal corporation, in accordance with the usual requirements and practices applicable to its legislative enactments, and also in conformity with the several requirements contained in subsections (b) and (c) of § 13 of this subtitle, but only after the legislative body has obtained the consent for the proposal from not less than 25 percent of the persons who reside in the area to be annexed and who are registered as voters in county elections and from the owners of not less than 25 percent of the assessed valuation of the real property located in the area to be annexed. The resolution shall describe by a survey of courses and distances,

and may also describe by landmarks and other well–known terms, the exact area proposed to be included in the change, and shall contain complete and detailed provisions as to the conditions and circumstances applicable to the change in boundaries and to the residents and property within the area to be annexed.

(T) (1) ***THIS SUBSECTION DOES NOT APPLY TO LAND THAT IS ZONED FOR AGRICULTURAL USE.***

(2) **THE PROVISIONS OF THIS SECTION REQUIRING CONSENT OF RESIDENTS AND OWNERS OF PROPERTY IN THE AREA TO BE ANNEXED AND PROVIDING FOR A REFERENDUM DO NOT APPLY IF A PARCEL OF LAND PROPOSED FOR ANNEXATION IS:**

(I) 5 ACRES OR LESS; AND

(II) PART OF A LOT THAT CONTAINS:

1. AT LEAST ONE OTHER PARCEL THAT IS ALREADY WITHIN THE MUNICIPAL CORPORATE AREA; AND

2. ONLY PARCELS THAT HAVE BEEN INCLUDED IN THE MUNICIPAL CORPORATE AREA FOR 3 YEARS OR MORE.

~~**(2)**~~ ***(3)*** **A MUNICIPAL CORPORATION MAY NOT ANNEX MORE THAN 25 ACRES, REGARDLESS OF THE NUMBER OF PARCELS OR LOTS ANNEXED, UNDER THE PROVISIONS OF THIS SUBSECTION.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009. It shall remain effective for a period of 2 years and, at the end of September 30, 2011, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 19, 2009.

Chapter 536

(Senate Bill 362)

AN ACT concerning

Agricultural Land Preservation Easements – Residential Uses

FOR the purpose of authorizing a landowner whose land is subject to an agricultural land preservation easement, subject to the approval of the Maryland

Agricultural Land Preservation Foundation, to convert the landowner's existing dwelling house into a tenant house and to build a replacement dwelling house for the landowner's own use under certain circumstances; ~~providing that such a dwelling house is subject to certain restrictions~~ requiring the Foundation to adopt certain regulations; and generally relating to use of land under an agricultural land preservation easement for residential purposes.

BY repealing and reenacting, with amendments,
Article – Agriculture
Section 2–513
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

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

Article – Agriculture

2–513.

(a) Agricultural land preservation easements may be purchased under this subtitle for any land in agricultural use which meets the minimum criteria established under § 2–509 of this subtitle if the easement and county regulations governing the use of the land include the following provisions:

(1) Any farm use of land is permitted.

(2) Operation at any time of any machinery used in farm production or the primary processing of agricultural products is permitted.

(3) All normal agricultural operations performed in accordance with good husbandry practices which do not cause bodily injury or directly endanger human health are permitted including, but not limited to, sale of farm products produced on the farm where such sales are made.

(b) (1) A landowner whose land is subject to an easement may not use the land for any commercial, industrial, or residential purpose except:

(i) As determined by the Foundation, for farm and forest related uses and home occupations; or

(ii) As otherwise provided under this section.

(2) Except as provided in paragraphs (3) and **[**(6)**]** **(7)** of this subsection, on written application, the Foundation shall release free of easement restrictions only for the landowner who originally sold an easement, 1 acre or less for the purpose of constructing a dwelling house for the use only of that landowner or

child of the landowner, up to a maximum of three lots, subject to the following conditions:

(i) The number of lots allowed to be released under this section, except as provided in paragraph **[**(6)**] (7)** of this subsection, may not exceed:

1. 1 lot if the size of the easement property is 20 acres or more but fewer than 70 acres;

2. 2 lots if the size of the easement property is 70 acres or more but fewer than 120 acres; or

3. 3 lots if the size of the easement property is 120 acres or more.

(ii) The resulting density on the property may not exceed the density allowed under zoning of the property before the Foundation purchased the easement.

(iii) The landowner shall pay the State for any acre or portion released at the price per acre that the State paid the owner for the easement.

(iv) Before any conveyance or release, the landowner and the child, if there is a conveyance to a child, shall agree not to subdivide further for residential purposes any acreage allowed to be released. The agreement shall be recorded among the land records where the land is located and shall bind all future owners.

(v) After certifying that the landowner or child of the landowner has met the conditions provided in subparagraphs (i) through (iv) of this paragraph, the Foundation shall issue a preliminary release which shall:

1. Become final when the Foundation receives and certifies a nontransferable building permit in the name of the landowner or child of the landowner for construction of a dwelling house; or

2. Become void upon the death of the person for whose benefit the release was intended if the Foundation has not yet received a building permit as provided in this subparagraph.

(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;

2. A statement by the landowner or child of the landowner that acknowledges that:

A. Adjacent farmland that is subject to an agricultural land preservation easement may be used for any agricultural purpose and may interfere with the use and enjoyment of the property through noise, odor, vibration, fumes, dust, glare, or other interference;

B. There is no recourse against the effects of any normal agricultural operation performed in accordance with good husbandry practices; 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

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.

(vii) Any release, preliminary release, building permit, or other document issued or submitted in accordance with this paragraph shall be recorded among the land records where the land is located and shall bind all future owners.

(viii) The Foundation may not restrict the ability of a landowner who originally sold an easement to acquire a release under this paragraph beyond the requirements provided in this section.

(3) A landowner may reserve the right to exclude 1 unrestricted lot from an easement in lieu of all owner's and children's lots to which the landowner would otherwise be entitled under paragraph (2) of this subsection, subject to the following conditions:

(i) The resulting density on the property shall be less than the density allowed under zoning of the property before the Foundation purchased the easement;

(ii) An unrestricted lot may be subdivided by the landowner from the easement and sold to anyone to construct one residential dwelling;

(iii) The size of an unrestricted lot shall be 1 acre or less, except as provided in paragraph **[**(6)**]** **(7)** of this subsection;

(iv) The landowner shall agree not to subdivide further for residential purposes any acreage allowed to be released, and the agreement shall be recorded among the land records where the land is located and shall bind all future owners;

(v) The right to the lot is taken into consideration in the appraisal of fair market value and determination of easement value;

(vi) The lot can be subdivided at any time and the location of the lot to be subdivided is subject to the approval of the local agricultural advisory board and the Foundation; and

(vii) If the property is transferred before the right to exclude the lot has been exercised, the right may be transferred with the property.

(4) (i) Subject to the approval of the Foundation, **AND BASED ON A SHOWING OF A CURRENT COMPELLING NEED,** a landowner may construct housing for tenants fully engaged in operation of the farm.

(ii) Construction may not exceed 1 tenant house per 100 acres, unless the Foundation grants an exception based on a showing of compelling need.

(iii) The land on which a tenant house is constructed may not be subdivided or conveyed to any person. In addition, the tenant house may not be conveyed separately from the original parcel.

(iv) The Foundation shall adopt regulations ~~for the size and location of tenant houses~~ **TO:**

1. ESTABLISH CRITERIA FOR A LANDOWNER TO SHOW THE BASIS OF A CURRENT COMPELLING NEED TO CONSTRUCT A TENANT HOUSE; AND

2. ESTABLISH THE SIZE AND LOCATION OF TENANT HOUSES.

(5) **(I)** ~~**SUBJECT TO THE APPROVAL OF THE FOUNDATION, A LANDOWNER MAY, INSTEAD OF CONSTRUCTING A TENANT HOUSE UNDER PARAGRAPH (4) OF THIS SUBSECTION, CONVERT THE LANDOWNER'S EXISTING DWELLING HOUSE INTO A TENANT HOUSE AND CONSTRUCT ONE DWELLING HOUSE FOR THE LANDOWNER'S OWN USE**~~ **AFTER OBTAINING APPROVAL FOR THE CONSTRUCTION OF A TENANT HOUSE UNDER PARAGRAPH (4) OF THIS SUBSECTION, A LANDOWNER MAY, INSTEAD OF CONSTRUCTING A NEW TENANT HOUSE, CONVERT AN EXISTING DWELLING HOUSE INTO A TENANT HOUSE AND CONSTRUCT ONE REPLACEMENT DWELLING HOUSE RESTRICTED TO THE**

LANDOWNER'S OWN USE, SUBJECT TO THE CONDITIONS PROVIDED UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH.

(II) ~~**A DWELLING HOUSE FOR THE LANDOWNER'S USE CONSTRUCTED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH IS SUBJECT TO THE SAME RESTRICTIONS THAT WOULD HAVE APPLIED TO A TENANT HOUSE UNDER PARAGRAPH (4) OF THIS SUBSECTION**~~

1. BEFORE A REPLACEMENT DWELLING HOUSE MAY BE CONSTRUCTED UNDER THIS SUBSECTION, THE LANDOWNER SHALL:

A. OBTAIN THE FOUNDATION'S APPROVAL; AND

B. EXECUTE AN AGREEMENT WITH THE FOUNDATION TO PROHIBIT THE REPLACEMENT DWELLING HOUSE FROM BEING SEPARATELY CONVEYED FROM THE ORIGINAL PARCEL.

2. THE AGREEMENT REQUIRED UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH SHALL BE RECORDED AMONG THE LAND RECORDS IN THE COUNTY WHERE THE LAND UPON WHICH THE REPLACEMENT DWELLING HOUSE IS TO BE LOCATED AND SHALL BIND FUTURE OWNERS OF THE LAND.

3. THE SIZE AND LOCATION OF A REPLACEMENT DWELLING HOUSE CONSTRUCTED IN ACCORDANCE WITH THIS PARAGRAPH SHALL BE SUBJECT TO THE FOUNDATION'S APPROVAL.

4. A REPLACEMENT DWELLING HOUSE CONSTRUCTED IN ACCORDANCE WITH THIS PARAGRAPH SHALL BE TREATED AS A RELOCATED EXISTING DWELLING HOUSE AS DESCRIBED IN PARAGRAPH (8) OF THIS SUBSECTION, BUT IS EXEMPT FROM THE REQUIREMENTS UNDER PARAGRAPH (8)(II) OF THIS SUBSECTION.

(III) THE FOUNDATION SHALL ADOPT REGULATIONS TO ESTABLISH THE SIZE AND LOCATION OF REPLACEMENT DWELLING HOUSES.

(6) Except as provided in paragraph **[**(6)**] (7)** of this subsection, on request to the Foundation, an owner may exclude from the easement restrictions 1 acre per each single dwelling, which existed at the time of the sale of the easement, as an owner's, children's, or unrestricted lot to which the owner is entitled under paragraph (2) of this subsection, by a land survey and recordation provided at the expense of the owner. However, before any exclusion is granted, an owner shall agree with the Foundation not to subdivide further for residential purposes any acreage

allowed to be released. This agreement shall be recorded among the land records where the land is located and shall bind all future owners.

[(6)**] (7)** (i) The restrictions of paragraphs (2) and **[**(5)**] (6)** of this subsection concerning maximum lot sizes are altered so that the maximum lot size is:

1. As determined by the Department of the Environment in accordance with regulations adopted by the Department of the Environment 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. 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.

(ii) For exclusions provided under paragraph **[**(5)**] (6)** of this subsection, the landowner shall pay the State for any acre or portion released in excess of the 1 acre per single dwelling that existed at the time of easement.

[(7)**] (8)** The Foundation may approve a landowner's request to relocate the site of an existing dwelling to another location on a farm subject to an easement or district agreement, provided:

(i) The new location does not interfere with any agricultural use; and

(ii) Subject to the Foundation's approval, the landowner agrees either to demolish the existing dwelling at the current location or permanently convert the existing dwelling at the current location to a use that is nonresidential and integral to the farm operation.

[(8)**] (9)** The restrictions of paragraphs (2) and **[**(5)**] (6)** of this subsection concerning maximum lot sizes may be waived by the Foundation so that the maximum lot size is 2 acres if:

(i) The Foundation receives a recommendation to allow a maximum lot size of more than 1 acre from the county agricultural preservation advisory board and the planning and zoning authority of the jurisdiction where the land is situated; and

(ii) The Foundation makes a determination that a lot size greater than 1 acre will not interfere significantly with the agricultural use of the land under easement.

(c) Purchase of an easement by the Foundation does not grant the public any right of access or right of use of the subject property.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 537

(Senate Bill 367)

AN ACT concerning

Commission on the Establishment of a Maryland Women in Military Service Monument ~~– Extension of Termination Date~~

FOR the purpose of ~~codifying the provisions of law enacted in 2006 that created and provided~~ reestablishing the Commission on the Establishment of a Maryland Women in Military Service Monument; providing for the membership, staff, and duties of the Commission ~~on the Establishment of a Maryland Women in Military Service Monument~~; authorizing the Commission to enter into a written agreement or memorandum of understanding regarding the funding, design, construction, or placement of an appropriate monument with certain government entities; providing for the termination ~~date for~~ of the Commission; ~~repealing a certain termination date in certain prior Acts of the General Assembly relating to the Commission that are rendered obsolete by this Act~~ stating the intent of the General Assembly; and generally relating to the Commission on the Establishment of a Maryland Women in Military Service Monument.

BY adding to
Article – State Government
Section 9–8A–01 to be under the new subtitle "Subtitle 8A. Commission on the Establishment of a Maryland Women in Military Service Monument"
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

~~BY repealing and reenacting, with amendments,~~
~~Chapter 281 of the Acts of the General Assembly of 2006~~
~~Section 2~~

~~BY repealing and reenacting, with amendments,~~
~~Chapter 282 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:

Article – State Government

SUBTITLE 8A. COMMISSION ON THE ESTABLISHMENT OF A MARYLAND WOMEN IN MILITARY SERVICE MONUMENT.

9–8A–01.

(A) THERE IS A COMMISSION ON THE ESTABLISHMENT OF A MARYLAND WOMEN IN MILITARY SERVICE MONUMENT.

(B) THE COMMISSION CONSISTS OF THE FOLLOWING MEMBERS:

(1) ONE MEMBER OF THE SENATE OF MARYLAND WHO SERVES ON THE MARYLAND GENERAL ASSEMBLY'S VETERAN'S CAUCUS, APPOINTED BY THE PRESIDENT OF THE SENATE;

(2) ONE MEMBER OF THE HOUSE OF DELEGATES WHO SERVES ON THE MARYLAND GENERAL ASSEMBLY'S VETERAN'S CAUCUS, APPOINTED BY THE SPEAKER OF THE HOUSE;

(3) THE SECRETARY OF VETERANS AFFAIRS OR THE SECRETARY'S DESIGNEE;

(4) THE SECRETARY OF GENERAL SERVICES OR THE SECRETARY'S DESIGNEE; AND

(5) THE FOLLOWING MEMBERS, APPOINTED BY THE GOVERNOR ON OR BEFORE SEPTEMBER 1, ~~2006~~ 2009:

(I) TWO REPRESENTATIVES OF THE MARYLAND VETERANS COMMISSION; AND

(II) FOUR REPRESENTATIVES OF WOMEN'S VETERANS ORGANIZATIONS.

(C) THE MEMBERS OF THE COMMISSION SHALL ELECT THE CHAIR FROM AMONG THE COMMISSION'S MEMBERS.

(D) THE DEPARTMENT OF VETERANS AFFAIRS 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:

(1) REFER TO THE "REPORT TO THE GOVERNOR AND THE GENERAL ASSEMBLY ON WOMEN VETERANS MONUMENT" SUBMITTED BY THE TASK FORCE ON THE ESTABLISHMENT OF A MARYLAND WOMEN VETERANS MONUMENT ON DECEMBER 31, 2005; ~~AND~~

(2) ~~IDENTIFY AND RECOMMEND~~ MONITOR COMPLIANCE WITH THE RECOMMENDATIONS MADE IN REPORTS OF THE COMMISSION ISSUED UNDER CHAPTERS 281 AND 282 OF THE ACTS OF THE GENERAL ASSEMBLY OF 2006 REGARDING THE FUNDING, DESIGN, CONSTRUCTION, AND PLACEMENT OF AN APPROPRIATE MONUMENT DEDICATED TO WOMEN FROM MARYLAND WHO SERVED IN THE UNIFORMED FORCES OF THE UNITED STATES OF AMERICA; AND

(3) COORDINATE AND MONITOR THE EFFORT TO ERECT THE MARYLAND WOMEN IN MILITARY SERVICE MONUMENT DESCRIBED IN ITEM (2) OF THIS SUBSECTION.

(G) THE COMMISSION MAY ENTER INTO A WRITTEN AGREEMENT OR MEMORANDUM OF UNDERSTANDING REGARDING THE FUNDING, DESIGN, CONSTRUCTION, OR PLACEMENT OF AN APPROPRIATE MONUMENT WITH OTHER GOVERNMENT ENTITIES, INCLUDING THE FEDERAL GOVERNMENT, A UNIT OF STATE GOVERNMENT, A COUNTY, OR A MUNICIPALITY.

~~(G) THE COMMISSION SHALL SUBMIT A PRELIMINARY REPORT ON ITS FINDINGS AND RECOMMENDATIONS TO THE GOVERNOR AND, SUBJECT TO § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON OR BEFORE FEBRUARY 1, 2010.~~

(H) THE COMMISSION SHALL SUBMIT A FINAL REPORT ON ITS ~~FINDINGS~~ ACTIVITIES, INCLUDING A REPORT ON THE STATUS OF THE MARYLAND WOMEN IN MILITARY SERVICE MONUMENT AND ANY ADDITIONAL RECOMMENDATIONS TO THE GOVERNOR AND, SUBJECT TO § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON OR BEFORE SEPTEMBER 30, 2014.

~~Chapter 281 of the Acts of 2006~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2006. [It shall remain effective for a period of 1 year and 3 months and, at the end of September 30, 2007, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.]~~

~~Chapter 282 of the Acts of 2006~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2006. [It shall remain effective for a period of 1 year and 3 months and, at the end of September 30, 2007, 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 it is the intent of the General Assembly that:

(1) The Governor appoint to the Commission on the Establishment of a Maryland Women in Military Service Monument those individuals who formerly were appointed to the predecessor Commission established under Chapters 281 and 282 of the Acts of the General Assembly of 2006 and who were serving on the Commission as of September 30, 2007; and

(2) Notwithstanding Section 3 of this Act, if a monument to honor Maryland women in military service is completed and erected before the termination of this Act, the Commission established under this Act shall terminate its operations and cease to meet after that monument is erected.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009. It shall remain effective for a period of 5 years and 4 months and, at the end of September 30, 2014, with no further action required by the General Assembly, this Act shall be abrogated and of further force and effect. ~~However, if a monument to honor Maryland women in military service is completed and erected before September 30, 2014, the Commission on the Establishment of a Maryland Women in Military Service Monument no longer needs to continue meeting after that occurrence.~~

Approved by the Governor, May 19, 2009.

Chapter 538

(House Bill 944)

AN ACT concerning

Commission on the Establishment of a Maryland Women in Military Service Monument ~~— Extension of Termination Date~~

FOR the purpose of ~~codifying the provisions of law enacted in 2006 that created and provided~~ reestablishing the Commission on the Establishment of a Maryland Women in Military Service Monument; providing for the membership, staff, and duties of the Commission ~~on the Establishment of a Maryland Women in Military Service Monument~~; *authorizing the Commission to enter into a written agreement or memorandum of understanding regarding the funding, design, construction, or placement of an appropriate monument with certain government entities;* providing for the termination ~~date for~~ of the Commission; ~~repealing a certain termination date in certain prior Acts of the General Assembly relating to the Commission that are rendered obsolete by this Act~~ stating the intent of the General Assembly; and generally relating to the Commission on the Establishment of a Maryland Women in Military Service Monument.

BY adding to
Article – State Government
Section 9–8A–01 to be under the new subtitle "Subtitle 8A. Commission on the Establishment of a Maryland Women in Military Service Monument"
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

~~BY repealing and reenacting, with amendments,~~
~~Chapter 281 of the Acts of the General Assembly of 2006~~
~~Section 2~~

~~BY repealing and reenacting, with amendments,~~
~~Chapter 282 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:

Article – State Government

SUBTITLE 8A. COMMISSION ON THE ESTABLISHMENT OF A MARYLAND WOMEN IN MILITARY SERVICE MONUMENT.

9–8A–01.

(A) THERE IS A COMMISSION ON THE ESTABLISHMENT OF A MARYLAND WOMEN IN MILITARY SERVICE MONUMENT.

(B) THE COMMISSION CONSISTS OF THE FOLLOWING MEMBERS:

(1) ONE MEMBER OF THE SENATE OF MARYLAND WHO SERVES ON THE MARYLAND GENERAL ASSEMBLY'S VETERAN'S CAUCUS, APPOINTED BY THE PRESIDENT OF THE SENATE;

(2) ONE MEMBER OF THE HOUSE OF DELEGATES WHO SERVES ON THE MARYLAND GENERAL ASSEMBLY'S VETERAN'S CAUCUS, APPOINTED BY THE SPEAKER OF THE HOUSE;

(3) THE SECRETARY OF VETERANS AFFAIRS OR THE SECRETARY'S DESIGNEE;

(4) THE SECRETARY OF GENERAL SERVICES OR THE SECRETARY'S DESIGNEE; AND

(5) THE FOLLOWING MEMBERS, APPOINTED BY THE GOVERNOR ON OR BEFORE SEPTEMBER 1, ~~2006~~ 2009:

(I) TWO REPRESENTATIVES OF THE MARYLAND VETERANS COMMISSION; AND

(II) FOUR REPRESENTATIVES OF WOMEN'S VETERANS ORGANIZATIONS.

(C) THE MEMBERS OF THE COMMISSION SHALL ELECT THE CHAIR FROM AMONG THE COMMISSION'S MEMBERS.

(D) THE DEPARTMENT OF VETERANS AFFAIRS 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:

(1) REFER TO THE "REPORT TO THE GOVERNOR AND THE GENERAL ASSEMBLY ON WOMEN VETERANS MONUMENT" SUBMITTED BY THE TASK FORCE ON THE ESTABLISHMENT OF A MARYLAND WOMEN VETERANS MONUMENT ON DECEMBER 31, 2005; ~~AND~~

(2) ~~IDENTIFY AND RECOMMEND~~ MONITOR COMPLIANCE WITH THE RECOMMENDATIONS MADE IN REPORTS OF THE COMMISSION ISSUED UNDER CHAPTERS 281 AND 282 OF THE ACTS OF THE GENERAL ASSEMBLY OF 2006 REGARDING THE FUNDING, DESIGN, CONSTRUCTION, AND PLACEMENT OF AN APPROPRIATE MONUMENT DEDICATED TO WOMEN FROM MARYLAND WHO SERVED IN THE UNIFORMED FORCES OF THE UNITED STATES OF AMERICA; AND

(3) COORDINATE AND MONITOR THE EFFORT TO ERECT THE MARYLAND WOMEN IN MILITARY SERVICE MONUMENT DESCRIBED IN ITEM (2) OF THIS SUBSECTION.

~~(G) THE COMMISSION SHALL SUBMIT A PRELIMINARY REPORT ON ITS FINDINGS AND RECOMMENDATIONS TO THE GOVERNOR AND, SUBJECT TO § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON OR BEFORE FEBRUARY 1, 2010.~~

(G) THE COMMISSION MAY ENTER INTO A WRITTEN AGREEMENT OR MEMORANDUM OF UNDERSTANDING REGARDING THE FUNDING, DESIGN, CONSTRUCTION, OR PLACEMENT OF AN APPROPRIATE MONUMENT WITH OTHER GOVERNMENT ENTITIES, INCLUDING THE FEDERAL GOVERNMENT, A UNIT OF STATE GOVERNMENT, A COUNTY, OR A MUNICIPALITY.

~~(H)~~ ~~(G)~~ *(H)* THE COMMISSION SHALL SUBMIT A FINAL REPORT ON ITS ~~FINDINGS~~ ACTIVITIES, INCLUDING A REPORT ON THE STATUS OF THE MARYLAND WOMEN IN MILITARY SERVICE MONUMENT AND ANY ADDITIONAL RECOMMENDATIONS TO THE GOVERNOR AND, SUBJECT TO § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON OR BEFORE SEPTEMBER 30, 2014.

~~**Chapter 281 of the Acts of 2006**~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2006. [It shall remain effective for a period of 1 year and 3 months and, at the end of September 30, 2007, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.]~~

~~**Chapter 282 of the Acts of 2006**~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2006. [It shall remain effective for a period of 1 year and 3 months and, at the end of September 30, 2007, 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 it is the intent of the General Assembly, That:

(1) The Governor appoint to the Commission on the Establishment of a Maryland Women in Military Service Monument those individuals who formerly were appointed to the predecessor Commission established under Chapters 281 and 282 of the Acts of the General Assembly of 2006 and who were serving on the Commission as of September 30, 2007; and

(2) Notwithstanding Section 3 of this Act, if a monument to honor Maryland women in military service is completed and erected before the termination of this Act, the Commission established under this Act shall terminate its operations and cease to meet after that monument is erected.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009. It shall remain effective for a period of 5 years and 4 months and, at the end of September 30, 2014, with no further action required by the General Assembly, this Act shall be abrogated and of further force and effect. ~~However, if a monument to honor Maryland women in military service is completed and erected before September 30, 2014, the Commission on the Establishment of a Maryland Women in Military Service Monument no longer needs to continue meeting after that occurrence.~~

Approved by the Governor, May 19, 2009.

Chapter 539

(Senate Bill 376)

AN ACT concerning

Charles County – Workers' Compensation – Auxiliary Volunteer of Sheriff's Office

FOR the purpose of establishing that each auxiliary volunteer of the Charles County Sheriff's Office is a covered employee while performing work assigned by the Sheriff of the county; specifying the computation of the average weekly wage of a certain auxiliary volunteer; and generally relating to workers' compensation coverage of volunteers in the Charles County Sheriff's Office.

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 9–233 and 9–602(j)
Annotated Code of Maryland
(2008 Replacement Volume)

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

Article – Labor and Employment

9–233.

(a) Each volunteer deputy sheriff of Cecil County is a covered employee while performing work assigned by the sheriff of the county.

(b) Each volunteer police officer of Frederick County is a covered employee entitled to medical benefits under §§ 9–660 and 9–661 of this title while performing work assigned by the Sheriff of Frederick County.

(C) EACH AUXILIARY VOLUNTEER OF THE CHARLES COUNTY SHERIFF'S OFFICE IS A COVERED EMPLOYEE WHILE PERFORMING WORK ASSIGNED BY THE SHERIFF OF THE COUNTY.

9–602.

(j) For the purpose of computing the average weekly wage of a volunteer deputy sheriff of Cecil County **OR AN AUXILIARY VOLUNTEER OF THE CHARLES COUNTY SHERIFF'S OFFICE** who is a covered employee under § 9–233 of this title, the wages of the covered employee shall be:

(1) if the covered employee had other employment at the time of the accidental personal injury or last injurious exposure, the wages from the other employment;

(2) if the covered employee had had other employment but was not otherwise employed at the time of the accidental personal injury or last injurious exposure, the wages last received by the covered employee from the other employment; or

(3) if the covered employee had never had other employment at the time of the accidental personal injury or last injurious exposure, an amount that allows minimum compensation under this title.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 540

(House Bill 380)

AN ACT concerning

Charles County – Workers' Compensation – Auxiliary Volunteer of Sheriff's Office

FOR the purpose of establishing that each auxiliary volunteer of the Charles County Sheriff's Office is a covered employee while performing work assigned by the Sheriff of the county; *specifying the computation of the average weekly wage of a certain auxiliary volunteer;* and generally relating to workers' compensation coverage of volunteers in the Charles County Sheriff's Office.

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 9–233 *and 9–602(j)*
Annotated Code of Maryland
(2008 Replacement Volume)

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

Article – Labor and Employment

9–233.

(a) Each volunteer deputy sheriff of Cecil County is a covered employee while performing work assigned by the sheriff of the county.

(b) Each volunteer police officer of Frederick County is a covered employee entitled to medical benefits under §§ 9–660 and 9–661 of this title while performing work assigned by the Sheriff of Frederick County.

(C) EACH AUXILIARY VOLUNTEER OF THE CHARLES COUNTY SHERIFF'S OFFICE IS A COVERED EMPLOYEE WHILE PERFORMING WORK ASSIGNED BY THE SHERIFF OF THE COUNTY.

9–602.

(j) For the purpose of computing the average weekly wage of a volunteer deputy sheriff of Cecil County ***OR AN AUXILIARY VOLUNTEER OF THE CHARLES COUNTY SHERIFF'S OFFICE*** *who is a covered employee under § 9–233 of this title, the wages of the covered employee shall be:*

(1) if the covered employee had other employment at the time of the accidental personal injury or last injurious exposure, the wages from the other employment;

(2) if the covered employee had had other employment but was not otherwise employed at the time of the accidental personal injury or last injurious exposure, the wages last received by the covered employee from the other employment; or

(3) if the covered employee had never had other employment at the time of the accidental personal injury or last injurious exposure, an amount that allows minimum compensation under this title.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 541

(Senate Bill 425)

AN ACT concerning

Criminal Procedure – Offender Registry – Retroactivity

FOR the purpose of providing that certain provisions requiring the registration on a certain offender registry of certain persons convicted of committing certain offenses are to be applied retroactively to include a person convicted on or after a certain date of an offense committed before a certain date; requiring the Department of Public Safety and Correctional Services to contact and notify certain individuals of the registration requirements under this Act; and generally relating to the offender registry.

BY repealing and reenacting, with amendments,
Article – Criminal Procedure
Section 11–702.1
Annotated Code of Maryland
(2008 Replacement Volume)

BY repealing and reenacting, without amendments,
Article – Criminal Procedure
Section 11–704
Annotated Code of Maryland
(2008 Replacement Volume)

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

Article – Criminal Procedure

11–702.1.

(a) Notwithstanding any other provision of law to the contrary, except as provided in subsection (b) of this section, this subtitle shall be applied retroactively to include a registrant convicted of an offense committed before July 1, 1997, and who is under the custody or supervision of a supervising authority on October 1, 2001.

(b) Notwithstanding any other provision of law to the contrary, this subtitle shall be applied retroactively to a child sexual offender who committed the sexual offense on or before October 1, 1995, and who is under the custody or supervision of a supervising authority on October 1, 2001.

(C) (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THIS SUBTITLE SHALL BE APPLIED RETROACTIVELY TO INCLUDE:

(I) A PERSON CONVICTED ON OR AFTER JULY 1, 1997, OF AN OFFENSE COMMITTED BEFORE JULY 1, 1997, FOR WHICH REGISTRATION AS A SEXUALLY VIOLENT PREDATOR OR SEXUALLY VIOLENT OFFENDER IS REQUIRED UNDER THIS SUBTITLE; AND

***(II)* A PERSON CONVICTED ON OR AFTER OCTOBER 1, 1995, ~~OF ONE OF THE FOLLOWING OFFENSES COMMITTED BEFORE OCTOBER 1, 1995:~~**

~~**(1) RAPE IN THE FIRST DEGREE UNDER § 3–303 OF THE CRIMINAL LAW ARTICLE;**~~

~~**(2) RAPE IN THE SECOND DEGREE UNDER § 3–304(A)(1) OR (2) OF THE CRIMINAL LAW ARTICLE;**~~

~~**(3) SEXUAL OFFENSE IN THE FIRST DEGREE UNDER § 3–305 OF THE CRIMINAL LAW ARTICLE;**~~

~~**(4) SEXUAL OFFENSE IN THE SECOND DEGREE UNDER § 3–306(A)(1) OR (2) OF THE CRIMINAL LAW ARTICLE; OR**~~

~~**(5) SEXUAL ABUSE OF A MINOR UNDER § 3–602 OF THE CRIMINAL LAW ARTICLE**~~ **OF AN OFFENSE COMMITTED BEFORE OCTOBER 1, 1995, FOR WHICH REGISTRATION AS A ~~SEXUALLY VIOLENT PREDATOR, SEXUALLY VIOLENT OFFENDER, OR A CHILD SEX~~ *CHILD SEXUAL* OFFENDER IS REQUIRED UNDER THIS SUBTITLE.**

(2) THE DEPARTMENT SHALL CONTACT AND NOTIFY EACH PERSON WHO IS NOT UNDER THE CUSTODY OR SUPERVISION OF A SUPERVISING AUTHORITY ON OCTOBER 1, 2009, FOR WHOM REGISTRATION IS REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

11–704.

(a) A person shall register with the person's supervising authority if the person is:

(1) a child sexual offender;

(2) an offender;

(3) a sexually violent offender;

(4) a sexually violent predator;

(5) a child sexual offender who, before moving into this State, was required to register in another state or by a federal, military, or Native American tribal court for a crime that occurred before October 1, 1995;

(6) an offender, sexually violent offender, or sexually violent predator who, before moving into this State, was required to register in another state or by a federal, military, or Native American tribal court for a crime that occurred before July 1, 1997; or

(7) a child sexual offender, offender, sexually violent offender, or sexually violent predator who is required to register in another state, who is not a resident of this State, and who enters this State:

(i) to carry on employment;

(ii) to attend a public or private educational institution, including a secondary school, trade or professional institution, or institution of higher education, as a full–time or part–time student; or

(iii) as a transient.

(b) Notwithstanding any other provision of law, a person is no longer subject to registration under this subtitle if:

(1) the underlying conviction requiring registration is reversed, vacated, or set aside; or

(2) the registrant is pardoned for the underlying conviction.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 542

(Senate Bill 447)

AN ACT concerning

Public Safety – SWAT Team Activation and Deployment – Reports

FOR the purpose of requiring, at certain intervals beginning on a certain date, a law enforcement agency that maintains a SWAT team to report certain information to the ~~Office of the Attorney General~~ Governor's Office of Crime Control and Prevention using a certain format; requiring the Police Training Commission, in consultation with the ~~Office~~ Governor's Office of Crime Control and Prevention, to develop a standardized format that certain law enforcement agencies shall use in reporting certain data relating to the activation and deployment of certain SWAT teams to the ~~Office~~ Governor's Office of Crime Control and Prevention and to certain local officials; requiring a law enforcement agency to compile certain information as a report in a certain format and to submit the report to the ~~Office~~ Governor's Office of Crime Control and Prevention no later than a certain date following the period that is the subject of the report; requiring the ~~Office~~ Governor's Office of Crime Control and Prevention to analyze and summarize certain reports of law enforcement agencies and to submit a report of the analyses and summaries to the Governor, the General Assembly, and each law enforcement agency before a certain date of each year; providing that, if a law enforcement agency fails to comply with the reporting provisions of this Act, the ~~Office~~ Governor's Office of Crime Control and Prevention shall report the noncompliance to the Police Training Commission; providing that the Commission shall contact a certain law enforcement agency and request that the agency comply with this Act under certain circumstances; providing that, if a certain law enforcement agency fails to comply with certain reporting provisions within a certain period after being contacted by the Commission, the ~~Office of the Attorney General~~ Governor's Office of Crime Control and Prevention and the Commission jointly shall make a certain report to the Governor and the Legislative Policy Committee of the General Assembly; *providing for the termination of this Act;* defining certain terms; and generally relating to the activation and deployment of SWAT teams.

BY adding to
Article – Public Safety

Section 3–507
Annotated Code of Maryland
(2003 Volume and 2008 Supplement)

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

Article – Public Safety

3–507.

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

(2) "LAW ENFORCEMENT AGENCY" MEANS AN AGENCY THAT IS LISTED IN § 3–101(E) OF THIS TITLE.

(3) "LAW ENFORCEMENT OFFICER" MEANS ANY PERSON WHO, IN AN OFFICIAL CAPACITY, IS AUTHORIZED BY LAW TO MAKE ARRESTS AND WHO IS AN EMPLOYEE OF A LAW ENFORCEMENT AGENCY THAT IS SUBJECT TO THIS SECTION.

(4) "POLICE TRAINING COMMISSION" MEANS THE UNIT WITHIN THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES ESTABLISHED UNDER § 3–202 OF THIS TITLE.

(5) "SWAT TEAM" MEANS A SPECIAL UNIT COMPOSED OF TWO OR MORE LAW ENFORCEMENT OFFICERS WITHIN A LAW ENFORCEMENT AGENCY TRAINED TO DEAL WITH UNUSUALLY DANGEROUS OR VIOLENT SITUATIONS AND HAVING SPECIAL EQUIPMENT AND WEAPONS, SUCH AS RIFLES MORE POWERFUL THAN THOSE CARRIED BY REGULAR POLICE OFFICERS.

(B) ~~ON A MONTHLY BASIS~~ EVERY 6 MONTHS, BEGINNING JANUARY 1, 2010, A LAW ENFORCEMENT AGENCY THAT MAINTAINS A SWAT TEAM SHALL REPORT THE FOLLOWING INFORMATION TO THE ~~OFFICE OF THE ATTORNEY GENERAL~~ GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION USING THE FORMAT DEVELOPED UNDER SUBSECTION (C) OF THIS SECTION:

(1) THE NUMBER OF TIMES THE SWAT TEAM WAS ACTIVATED AND DEPLOYED BY THE LAW ENFORCEMENT AGENCY IN THE PREVIOUS ~~MONTH~~ 6 MONTHS;

(2) ~~WITHOUT IDENTIFYING AN EXACT ADDRESS, THE APPROXIMATE LOCATION WITHIN OR OUTSIDE OF THE JURISDICTION OF THE LAW ENFORCEMENT AGENCY TO WHICH THE SWAT TEAM WAS DEPLOYED FOR~~

~~EACH ACTIVATION~~ THE NAME OF THE COUNTY OR COUNTY AND MUNICIPAL CORPORATION AND THE ZIP CODE OF THE LOCATION WHERE THE SWAT TEAM WAS DEPLOYED FOR EACH ACTIVATION;

(3) THE REASON FOR EACH ACTIVATION AND DEPLOYMENT OF THE SWAT TEAM;

(4) THE LEGAL AUTHORITY, INCLUDING TYPE OF WARRANT, IF ANY, FOR EACH ACTIVATION AND DEPLOYMENT OF THE SWAT TEAM; AND

(5) THE RESULT OF EACH ACTIVATION AND DEPLOYMENT OF THE SWAT TEAM, INCLUDING:

(I) THE NUMBER OF ARRESTS MADE, IF ANY;

(II) ~~THE TYPE OF EVIDENCE SEIZED, IF ANY~~ WHETHER PROPERTY WAS SEIZED;

(III) WHETHER A FORCIBLE ENTRY WAS MADE;

(IV) WHETHER A WEAPON WAS DISCHARGED BY A SWAT TEAM MEMBER; AND

(V) WHETHER A PERSON OR DOMESTIC ANIMAL WAS INJURED OR KILLED BY A SWAT TEAM MEMBER.

(C) THE POLICE TRAINING COMMISSION, IN CONSULTATION WITH THE ~~OFFICE OF THE ATTORNEY GENERAL~~ GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION, SHALL DEVELOP A STANDARDIZED FORMAT THAT EACH LAW ENFORCEMENT AGENCY SHALL USE IN REPORTING DATA TO THE ~~OFFICE OF THE ATTORNEY GENERAL~~ GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION UNDER SUBSECTION (B) OF THIS SECTION.

(D) A LAW ENFORCEMENT AGENCY SHALL:

(1) COMPILE THE DATA DESCRIBED IN SUBSECTION (B) OF THIS SECTION FOR EACH ~~MONTH~~ 6–MONTH PERIOD AS A REPORT IN THE FORMAT REQUIRED UNDER SUBSECTION (C) OF THIS SECTION; AND

(2) NO LATER THAN THE 15TH DAY OF THE MONTH FOLLOWING THE ~~MONTH~~ 6–MONTH PERIOD THAT IS THE SUBJECT OF THE REPORT, SUBMIT THE REPORT TO:

(I) THE ~~OFFICE OF THE ATTORNEY GENERAL~~ GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION; AND

(II) 1. THE LOCAL GOVERNING BODY OF THE JURISDICTION SERVED BY THE LAW ENFORCEMENT AGENCY THAT EMPLOYS THE SWAT TEAM THAT IS THE SUBJECT OF THE REPORT; OR

2. IF THE JURISDICTION SERVED BY THE LAW ENFORCEMENT AGENCY THAT EMPLOYS THE SWAT TEAM THAT IS THE SUBJECT OF THE REPORT IS A MUNICIPAL CORPORATION, THE CHIEF EXECUTIVE OFFICER OF THE JURISDICTION.

(E) (1) THE ~~OFFICE OF THE ATTORNEY GENERAL~~ GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION SHALL ANALYZE AND SUMMARIZE THE ~~MONTHLY~~ REPORTS OF LAW ENFORCEMENT AGENCIES SUBMITTED UNDER SUBSECTION (D) OF THIS SECTION.

(2) THE ~~OFFICE OF THE ATTORNEY GENERAL~~ GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION SHALL SUBMIT A REPORT OF THE ANALYSES AND SUMMARIES OF THE REPORTS OF LAW ENFORCEMENT AGENCIES DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION TO THE GOVERNOR, THE GENERAL ASSEMBLY AS PROVIDED IN § 2–1246 OF THE STATE GOVERNMENT ARTICLE, AND EACH LAW ENFORCEMENT AGENCY BEFORE SEPTEMBER 1 OF EACH YEAR.

(F) (1) IF A LAW ENFORCEMENT AGENCY FAILS TO COMPLY WITH THE REPORTING PROVISIONS OF THIS SECTION, THE ~~OFFICE OF THE ATTORNEY GENERAL~~ GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION SHALL REPORT THE NONCOMPLIANCE TO THE POLICE TRAINING COMMISSION.

(2) ON RECEIPT OF A REPORT OF NONCOMPLIANCE, THE POLICE TRAINING COMMISSION SHALL CONTACT THE LAW ENFORCEMENT AGENCY AND REQUEST THAT THE AGENCY COMPLY WITH THE REQUIRED REPORTING PROVISIONS.

(3) IF THE LAW ENFORCEMENT AGENCY FAILS TO COMPLY WITH THE REQUIRED REPORTING PROVISIONS OF THIS SECTION WITHIN 30 DAYS AFTER BEING CONTACTED BY THE POLICE TRAINING COMMISSION WITH A REQUEST TO COMPLY, THE ~~OFFICE OF THE ATTORNEY GENERAL~~ GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION AND THE POLICE TRAINING COMMISSION JOINTLY SHALL REPORT THE NONCOMPLIANCE TO THE GOVERNOR AND THE LEGISLATIVE POLICY COMMITTEE OF THE GENERAL ASSEMBLY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2009. *It shall remain effective for a period of 5 years and, at the end of June 30, 2014, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.*

Approved by the Governor, May 19, 2009.

Chapter 543

(House Bill 1267)

AN ACT concerning

Public Safety – SWAT Team Activation and Deployment – Reports

FOR the purpose of requiring, at certain intervals beginning on a certain date, a law enforcement agency that maintains a SWAT team to report certain information to the ~~Office of the Attorney General~~ Governor's Office of Crime Control and Prevention using a certain format; requiring the Police Training Commission, in consultation with the ~~Office~~ Governor's Office of Crime Control and Prevention, to develop a standardized format that certain law enforcement agencies shall use in reporting certain data relating to the activation and deployment of certain SWAT teams to the ~~Office~~ Governor's Office of Crime Control and Prevention and to certain local officials; requiring a law enforcement agency to compile certain information as a report in a certain format and to submit the report to the ~~Office~~ Governor's Office of Crime Control and Prevention no later than a certain date following the period that is the subject of the report; requiring the ~~Office~~ Governor's Office of Crime Control and Prevention to analyze and summarize certain reports of law enforcement agencies and to submit a report of the analyses and summaries to the Governor, the General Assembly, and each law enforcement agency before a certain date of each year; providing that, if a law enforcement agency fails to comply with the reporting provisions of this Act, the ~~Office~~ Governor's Office of Crime Control and Prevention shall report the noncompliance to the Police Training Commission; providing that the Commission shall contact a certain law enforcement agency and request that the agency comply with this Act under certain circumstances; providing that, if a certain law enforcement agency fails to comply with certain reporting provisions within a certain period after being contacted by the Commission, the ~~Office of the Attorney General~~ Governor's Office of Crime Control and Prevention and the Commission jointly shall make a certain report to the Governor and the Legislative Policy Committee of the General Assembly; providing for the termination of this Act; defining certain terms; and generally relating to the activation and deployment of SWAT teams.

BY adding to

Article – Public Safety
Section 3–507
Annotated Code of Maryland
(2003 Volume and 2008 Supplement)

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

Article – Public Safety

3–507.

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

(2) "LAW ENFORCEMENT AGENCY" MEANS AN AGENCY THAT IS LISTED IN § 3–101(E) OF THIS TITLE.

(3) "LAW ENFORCEMENT OFFICER" MEANS ANY PERSON WHO, IN AN OFFICIAL CAPACITY, IS AUTHORIZED BY LAW TO MAKE ARRESTS AND WHO IS AN EMPLOYEE OF A LAW ENFORCEMENT AGENCY THAT IS SUBJECT TO THIS SECTION.

(4) "POLICE TRAINING COMMISSION" MEANS THE UNIT WITHIN THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES ESTABLISHED UNDER § 3–202 OF THIS TITLE.

(5) "SWAT TEAM" MEANS A SPECIAL UNIT COMPOSED OF TWO OR MORE LAW ENFORCEMENT OFFICERS WITHIN A LAW ENFORCEMENT AGENCY TRAINED TO DEAL WITH UNUSUALLY DANGEROUS OR VIOLENT SITUATIONS AND HAVING SPECIAL EQUIPMENT AND WEAPONS, SUCH AS RIFLES MORE POWERFUL THAN THOSE CARRIED BY REGULAR POLICE OFFICERS.

(B) ~~ON A MONTHLY BASIS~~ EVERY 6 MONTHS, BEGINNING JANUARY 1, 2010, A LAW ENFORCEMENT AGENCY THAT MAINTAINS A SWAT TEAM SHALL REPORT THE FOLLOWING INFORMATION TO THE ~~OFFICE OF THE ATTORNEY GENERAL~~ GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION USING THE FORMAT DEVELOPED UNDER SUBSECTION (C) OF THIS SECTION:

(1) THE NUMBER OF TIMES THE SWAT TEAM WAS ACTIVATED AND DEPLOYED BY THE LAW ENFORCEMENT AGENCY IN THE PREVIOUS ~~MONTH~~ 6 MONTHS;

(2) ~~WITHOUT IDENTIFYING AN EXACT ADDRESS, THE APPROXIMATE LOCATION WITHIN OR OUTSIDE OF THE JURISDICTION OF THE~~

~~LAW ENFORCEMENT AGENCY TO WHICH THE SWAT TEAM WAS DEPLOYED FOR EACH ACTIVATION~~ THE NAME OF THE COUNTY OR COUNTY AND MUNICIPAL CORPORATION AND THE ZIP CODE OF THE LOCATION WHERE THE SWAT TEAM WAS DEPLOYED FOR EACH ACTIVATION;

(3) THE REASON FOR EACH ACTIVATION AND DEPLOYMENT OF THE SWAT TEAM;

(4) THE LEGAL AUTHORITY, INCLUDING TYPE OF WARRANT, IF ANY, FOR EACH ACTIVATION AND DEPLOYMENT OF THE SWAT TEAM; AND

(5) THE RESULT OF EACH ACTIVATION AND DEPLOYMENT OF THE SWAT TEAM, INCLUDING:

(I) THE NUMBER OF ARRESTS MADE, IF ANY;

(II) ~~THE TYPE OF EVIDENCE SEIZED, IF ANY~~ WHETHER PROPERTY WAS SEIZED;

(III) WHETHER A FORCIBLE ENTRY WAS MADE;

(IV) WHETHER A WEAPON WAS DISCHARGED BY A SWAT TEAM MEMBER; AND

(V) WHETHER A PERSON OR DOMESTIC ANIMAL WAS INJURED OR KILLED BY A SWAT TEAM MEMBER.

(C) THE POLICE TRAINING COMMISSION, IN CONSULTATION WITH THE ~~OFFICE OF THE ATTORNEY GENERAL~~ GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION, SHALL DEVELOP A STANDARDIZED FORMAT THAT EACH LAW ENFORCEMENT AGENCY SHALL USE IN REPORTING DATA TO THE ~~OFFICE OF THE ATTORNEY GENERAL~~ GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION UNDER SUBSECTION (B) OF THIS SECTION.

(D) A LAW ENFORCEMENT AGENCY SHALL:

(1) COMPILE THE DATA DESCRIBED IN SUBSECTION (B) OF THIS SECTION FOR EACH ~~MONTH~~ 6–MONTH PERIOD AS A REPORT IN THE FORMAT REQUIRED UNDER SUBSECTION (C) OF THIS SECTION; AND

(2) NO LATER THAN THE 15TH DAY OF THE MONTH FOLLOWING THE ~~MONTH~~ 6–MONTH PERIOD THAT IS THE SUBJECT OF THE REPORT, SUBMIT THE REPORT TO:

(I) THE ~~OFFICE OF THE ATTORNEY GENERAL~~ GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION; AND

(II) 1. THE LOCAL GOVERNING BODY OF THE JURISDICTION SERVED BY THE LAW ENFORCEMENT AGENCY THAT EMPLOYS THE SWAT TEAM THAT IS THE SUBJECT OF THE REPORT; OR

2. IF THE JURISDICTION SERVED BY THE LAW ENFORCEMENT AGENCY THAT EMPLOYS THE SWAT TEAM THAT IS THE SUBJECT OF THE REPORT IS A MUNICIPAL CORPORATION, THE CHIEF EXECUTIVE OFFICER OF THE JURISDICTION.

(E) (1) THE ~~OFFICE OF THE ATTORNEY GENERAL~~ GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION SHALL ANALYZE AND SUMMARIZE THE ~~MONTHLY~~ REPORTS OF LAW ENFORCEMENT AGENCIES SUBMITTED UNDER SUBSECTION (D) OF THIS SECTION.

(2) THE ~~OFFICE OF THE ATTORNEY GENERAL~~ GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION SHALL SUBMIT A REPORT OF THE ANALYSES AND SUMMARIES OF THE REPORTS OF LAW ENFORCEMENT AGENCIES DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION TO THE GOVERNOR, THE GENERAL ASSEMBLY AS PROVIDED IN § 2–1246 OF THE STATE GOVERNMENT ARTICLE, AND EACH LAW ENFORCEMENT AGENCY BEFORE SEPTEMBER 1 OF EACH YEAR.

(F) (1) IF A LAW ENFORCEMENT AGENCY FAILS TO COMPLY WITH THE REPORTING PROVISIONS OF THIS SECTION, THE ~~OFFICE OF THE ATTORNEY GENERAL~~ GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION SHALL REPORT THE NONCOMPLIANCE TO THE POLICE TRAINING COMMISSION.

(2) ON RECEIPT OF A REPORT OF NONCOMPLIANCE, THE POLICE TRAINING COMMISSION SHALL CONTACT THE LAW ENFORCEMENT AGENCY AND REQUEST THAT THE AGENCY COMPLY WITH THE REQUIRED REPORTING PROVISIONS.

(3) IF THE LAW ENFORCEMENT AGENCY FAILS TO COMPLY WITH THE REQUIRED REPORTING PROVISIONS OF THIS SECTION WITHIN 30 DAYS AFTER BEING CONTACTED BY THE POLICE TRAINING COMMISSION WITH A REQUEST TO COMPLY, THE ~~OFFICE OF THE ATTORNEY GENERAL~~ GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION AND THE POLICE TRAINING COMMISSION JOINTLY SHALL REPORT THE NONCOMPLIANCE TO THE GOVERNOR AND THE LEGISLATIVE POLICY COMMITTEE OF THE GENERAL ASSEMBLY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2009. It shall remain effective for a period of 5 years and, at the end of June 30, 2014, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 19, 2009.

Chapter 544

(Senate Bill 448)

AN ACT concerning

Local School Systems – Biannual Financial Status Report Requirement – Repeal

FOR the purpose of repealing the requirement that a local superintendent of schools or chief executive officer of a local school system file a certain biannual report on the financial status of a local school system; requiring a certain local school system that has a certain financial deficit to include certain information in a certain annual audit; and generally relating to reporting requirements for local school systems.

BY repealing and reenacting, with amendments,
Article – Education
Section 5–114
Annotated Code of Maryland
(2008 Replacement Volume)

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

Article – Education

5–114.

(a) In this section, "deficit" means a negative fund balance in the General Fund of 1% or more of General Fund revenue at the end of the fiscal year.

(b) The State Superintendent and the Department shall**[**:

(1) Monitor**]** **MONITOR** the financial status of each local school system**[**; and

(2) Report on a biannual basis the financial status of each local school system to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly**]**.

[(c) A local superintendent or chief executive officer of a local school system shall:

(1) File a biannual report on the financial status of the local school system with the Superintendent and county governing body on or before April 30 and December 31 of each fiscal year; and

(2) Attest to the accuracy of each biannual report when the report is submitted to the Superintendent and county governing body.**]**

[(d)**] (C)** If a local school system does not file the annual audit results in a timely manner with the State Superintendent as required by § 5–109 of this subtitle, the State Superintendent shall:

(1) Immediately notify:

(i) The Department of Legislative Services;

(ii) The county governing body; and

(iii) The local board and local superintendent or chief executive officer of the local school system; and

(2) Order that the audit report be filed within 10 days.

[(e)**] (D)** (1) A local school system may not carry a deficit as reported in the annual audit under § 5–109 of this subtitle.

(2) If a local school system has a deficit, the State Superintendent shall immediately notify the Governor, the General Assembly, the Department of Legislative Services, and county governing body and shall require the local school system to:

(i) Develop and submit for approval a corrective action cost containment plan within 15 days;

(ii) File monthly status reports with the State Superintendent and county governing body demonstrating actions taken to close the deficit and the effect of the actions taken on the deficit; and

(iii) Include information on the corrective action cost containment plan, actions taken to close the deficit, and status of the deficit in the

[biannual financial status reports] **ANNUAL AUDIT UNDER § 5–109 OF THIS SUBTITLE** filed with the State Superintendent and county governing body.

(3) The State Superintendent shall include information on any local school system deficit, corrective action cost containment plan, actions taken to close a local school system deficit, and status of any local school system deficit in a quarterly report to the Governor and the General Assembly, in accordance with § 2–1246 of the State Government Article.

(4) If a local school system has a deficit:

(i) The Office of Legislative Audits may request any financial information pertaining to the deficit and the corrective action cost containment plan; and

(ii) The local superintendent or chief executive officer of a local school system shall provide the requested information.

[(f)**] (E)** If a local school system fails to comply with the requirements of this section, the State Superintendent, with the approval of the State Board of Education, shall notify the State Comptroller, who shall withhold 10% of the next installment and each subsequent installment due the local school system from the General State School Fund until the State Superintendent notifies the Comptroller that the local school system is in full compliance with the requirements of this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 545

(House Bill 623)

AN ACT concerning

Local School Systems – Biannual Financial Status Report Requirement – Repeal

FOR the purpose of repealing the requirement that a local superintendent of schools or chief executive officer of a local school system file a certain biannual report on the financial status of a local school system; requiring a certain local school system that has a certain financial deficit to include certain information in a certain annual audit; and generally relating to reporting requirements for local school systems.

BY repealing and reenacting, with amendments,
Article – Education
Section 5–114
Annotated Code of Maryland
(2008 Replacement Volume)

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

Article – Education

5–114.

(a) In this section, "deficit" means a negative fund balance in the General Fund of 1% or more of General Fund revenue at the end of the fiscal year.

(b) The State Superintendent and the Department shall**[**:

(1) Monitor**]** **MONITOR** the financial status of each local school system**[**; and

(2) Report on a biannual basis the financial status of each local school system to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly**]**.

[(c) A local superintendent or chief executive officer of a local school system shall:

(1) File a biannual report on the financial status of the local school system with the Superintendent and county governing body on or before April 30 and December 31 of each fiscal year; and

(2) Attest to the accuracy of each biannual report when the report is submitted to the Superintendent and county governing body.**]**

[(d)**]** **(C)** If a local school system does not file the annual audit results in a timely manner with the State Superintendent as required by § 5–109 of this subtitle, the State Superintendent shall:

(1) Immediately notify:

(i) The Department of Legislative Services;

(ii) The county governing body; and

(iii) The local board and local superintendent or chief executive officer of the local school system; and

(2) Order that the audit report be filed within 10 days.

[(e)**] (D)** (1) A local school system may not carry a deficit as reported in the annual audit under § 5–109 of this subtitle.

(2) If a local school system has a deficit, the State Superintendent shall immediately notify the Governor, the General Assembly, the Department of Legislative Services, and county governing body and shall require the local school system to:

(i) Develop and submit for approval a corrective action cost containment plan within 15 days;

(ii) File monthly status reports with the State Superintendent and county governing body demonstrating actions taken to close the deficit and the effect of the actions taken on the deficit; and

(iii) Include information on the corrective action cost containment plan, actions taken to close the deficit, and status of the deficit in the **[**biannual financial status reports**] ANNUAL AUDIT UNDER § 5–109 OF THIS SUBTITLE** filed with the State Superintendent and county governing body.

(3) The State Superintendent shall include information on any local school system deficit, corrective action cost containment plan, actions taken to close a local school system deficit, and status of any local school system deficit in a quarterly report to the Governor and the General Assembly, in accordance with § 2–1246 of the State Government Article.

(4) If a local school system has a deficit:

(i) The Office of Legislative Audits may request any financial information pertaining to the deficit and the corrective action cost containment plan; and

(ii) The local superintendent or chief executive officer of a local school system shall provide the requested information.

[(f)**] (E)** If a local school system fails to comply with the requirements of this section, the State Superintendent, with the approval of the State Board of Education, shall notify the State Comptroller, who shall withhold 10% of the next installment and each subsequent installment due the local school system from the General State School Fund until the State Superintendent notifies the Comptroller that the local school system is in full compliance with the requirements of this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 546

(Senate Bill 464)

AN ACT concerning

Maryland Trauma Physician Services Fund – Rural Trauma Centers – Reimbursement

FOR the purpose of ~~altering the definition of trauma center to include Peninsula Regional Medical Center, the Western Maryland Health System, and Washington County Hospital~~ altering the maximum number of trauma on–call hours per year that a Level III trauma center is eligible for reimbursement for from the Maryland Trauma Physician Services Fund; providing that the cost incurred by a Level III trauma center to maintain trauma physicians on call shall include certain practice areas under certain circumstances; requiring the Maryland Health Care Commission to make a certain determination on or before a certain date each year; prohibiting the Commission from making certain reimbursements under certain circumstances; providing for the termination of this Act; and generally relating to the Maryland Trauma Physician Services Fund.

BY repealing and reenacting, ~~with~~ without amendments,
Article – Health – General
Section 19–130(a), (b), and (d)(1), (2), and (3)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, ~~without~~ with amendments,
Article – Health – General
Section ~~19–130(b)~~ 19–130(d)(4)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY adding to
Article – Health – General
Section 19–130(d)(7)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

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

Article – Health – General

19–130.

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

(2) "Fund" means the Maryland Trauma Physician Services Fund.

(3) "Maryland Trauma Specialty Referral Centers" means:

(i) The Johns Hopkins Health System Burn Program;

(ii) The Eye Trauma Center at the Wilmer Eye Institute at The Johns Hopkins Hospital; and

(iii) The Curtis National Hand Center at Union Memorial Hospital.

(4) "Rehabilitation hospital" means a facility classified as a special rehabilitation hospital as described in § 19–307 of this title that is affiliated with a trauma center by common ownership.

(5) (i) "Trauma center" means a facility designated by the Maryland Institute for Emergency Medical Services Systems as:

1. The State primary adult resource center;

2. A Level I trauma center;

3. A Level II trauma center;

4. A Level III trauma center;

5. A pediatric trauma center; or

6. The Maryland Trauma Specialty Referral Centers.

(ii) "Trauma center" includes ~~[~~an~~]~~~~:~~

~~1.~~ ~~AN~~ out–of–state pediatric trauma center that has entered into an agreement with the Maryland Institute for Emergency Medical Services Systems~~;~~

~~2. PENINSULA REGIONAL MEDICAL CENTER;~~

~~3. THE WESTERN MARYLAND HEALTH SYSTEM; AND~~

~~4. WASHINGTON COUNTY HOSPITAL~~.

(6) "Trauma physician" means a physician who provides care in a trauma center or in a rehabilitation hospital to trauma patients on the State trauma registry as defined by the Maryland Institute for Emergency Medical Services Systems.

(7) "Uncompensated care" means care provided by a trauma physician to a trauma patient on the State trauma registry who:

(i) Has no health insurance, including Medicare Part B coverage;

(ii) Is not eligible for medical assistance coverage; and

(iii) Has not paid the trauma physician for care provided by the trauma physician, after documented attempts by the trauma physician to collect payment.

(b) (1) There is a Maryland Trauma Physician Services Fund.

(2) The purpose of the Fund is to subsidize the documented costs:

(i) Of uncompensated care incurred by a trauma physician in providing trauma care to a trauma patient on the State trauma registry;

(ii) Of undercompensated care incurred by a trauma physician in providing trauma care to an enrollee of the Maryland Medical Assistance Program who is a trauma patient on the State trauma registry;

(iii) Incurred by a trauma center to maintain trauma physicians on–call as required by the Maryland Institute for Emergency Medical Services Systems; and

(iv) Incurred by the Commission and the Health Services Cost Review Commission to administer the Fund and audit reimbursement requests to assure appropriate payments are made from the Fund.

(3) The Commission and the Health Services Cost Review Commission shall administer the Fund.

(4) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(5) Interest on and other income from the Fund shall be separately accounted for and credited to the Fund, and are not subject to § 6–226(a) of the State Finance and Procurement Article.

(d) (1) Disbursements from the Fund shall be made in accordance with a methodology established jointly by the Commission and the Health Services Cost Review Commission to calculate costs incurred by trauma physicians and trauma centers that are eligible to receive reimbursement under subsection (b) of this section.

(2) The Fund shall transfer to the Department of Health and Mental Hygiene an amount sufficient to fully cover the State's share of expenditures for the costs of undercompensated care incurred by a trauma physician in providing trauma care to an enrollee of the Maryland Medical Assistance Program who is a trauma patient on the State trauma registry.

(3) The methodology developed under paragraph (1) of this subsection shall:

(i) Take into account:

1. The amount of uncompensated care provided by trauma physicians;

2. The amount of undercompensated care attributable to the treatment of Medicaid enrollees in trauma centers;

3. The cost of maintaining trauma physicians on–call;

4. The number of patients served by trauma physicians in trauma centers;

5. The number of Maryland residents served by trauma physicians in trauma centers; and

6. The extent to which trauma–related costs are otherwise subsidized by hospitals, the federal government, and other sources; and

(ii) Include an incentive to encourage hospitals to continue to subsidize trauma–related costs not otherwise included in hospital rates.

(4) The methodology developed under paragraph (1) of this subsection shall use the following parameters to determine the amount of reimbursement made to trauma physicians and trauma centers from the Fund:

(i) 1. The cost incurred by a Level II trauma center to maintain trauma surgeons, orthopedic surgeons, and neurosurgeons on–call shall be reimbursed:

A. At a rate of up to 30% of the reasonable cost equivalents hourly rate for the specialty, inflated to the current year by the physician compensation component of the Medicare economic index as designated by the Centers for Medicare and Medicaid Services; and

B. For the minimum number of trauma physicians required to be on–call, as specified by the Maryland Institute for Emergency Medical Services Systems in its criteria for Level II trauma centers;

2. The cost incurred by a Level III trauma center to maintain trauma surgeons, orthopedic surgeons, neurosurgeons, and anesthesiologists on–call shall be reimbursed:

A. At a rate of up to 35% of the reasonable cost equivalents hourly rate for the specialty, inflated to the current year by the physician compensation component of the Medicare economic index as designated by the Centers for Medicare and Medicaid Services; and

B. For the minimum number of trauma physicians required to be on–call, as specified by the Maryland Institute for Emergency Medical Services Systems in its criteria for Level III trauma centers;

3. The cost incurred by a Level I trauma center or pediatric trauma center to maintain trauma surgeons, orthopedic surgeons, and neurosurgeons on–call when a post–graduate resident is attending in the trauma center shall be reimbursed:

A. At a rate of up to 30% of the reasonable cost equivalents hourly rate for the specialty, inflated to the current year by the physician compensation component of the Medicare economic index as designated by the Centers for Medicare and Medicaid Services; and

B. When a post–graduate resident is permitted to be in the trauma center, as specified by the Maryland Institute for Emergency Medical Services Systems in its criteria for Level I trauma centers or pediatric trauma centers;

4. The cost incurred by a Maryland Trauma Specialty Referral Center to maintain trauma surgeons on–call in the specialty of the Center when a post–graduate resident is attending in the Center shall be reimbursed:

A. At a rate of up to 30% of the reasonable cost equivalents hourly rate for the specialty, inflated to the current year by the physician compensation component of the Medicare economic index as designated by the Centers for Medicare and Medicaid Services; and

B. When a post–graduate resident is permitted to be in the Center, as specified by the Maryland Institute for Emergency Medical Services Systems in its criteria for a Maryland Trauma Specialty Referral Center; **[**and**]**

5. A. A Level II trauma center is eligible for a maximum of 24,500 hours of trauma on–call per year;

B. A Level III trauma center is eligible for a maximum of **[**35,040**]70,080** hours of trauma on–call per year;

C. A Level I trauma center shall be eligible for a maximum of 4,380 hours of trauma on–call per year;

D. A pediatric trauma center shall be eligible for a maximum of 4,380 hours of trauma on–call per year; and

E. A Maryland Trauma Specialty Referral Center shall be eligible for a maximum of 2,190 hours of trauma on–call per year; **AND**

6. SUBJECT TO PARAGRAPH (7) OF THIS SUBSECTION, THE COST INCURRED BY A LEVEL III TRAUMA CENTER TO MAINTAIN TRAUMA PHYSICIANS ON–CALL IN THE FOLLOWING PRACTICE AREAS SHALL BE REIMBURSED IN ACCORDANCE WITH ITEM (I)2 OF THIS PARAGRAPH:

A. PLASTIC SURGERY;

B. MAJOR VASCULAR SURGERY;

C. ORAL OR MAXILLOFACIAL SURGERY; AND

D. THORACIC.

(ii) The cost of undercompensated care incurred by a trauma physician in providing trauma care to enrollees of the Maryland Medical Assistance Program who are trauma patients on the State trauma registry shall be reimbursed at a rate of up to 100% of the Medicare payment for the service, minus any amount paid by the Maryland Medical Assistance Program;

(iii) The cost of uncompensated care incurred by a trauma physician in providing trauma care to trauma patients on the State trauma registry shall be reimbursed at a rate of 100% of the Medicare payment for the service, minus any recoveries made by the trauma physician for the care;

(iv) The Commission, in consultation with the Health Services Cost Review Commission, may establish a payment rate for uncompensated care

incurred by a trauma physician in providing trauma care to trauma patients on the State trauma registry that is above 100% of the Medicare payment for the service if:

1. The Commission determines that increasing the payment rate above 100% of the Medicare payment for the service will address an unmet need in the State trauma system; and

2. The Commission reports on its intention to increase the payment rate to the Senate Finance Committee and the House Health and Government Operations Committee, in accordance with § 2–1246 of the State Government Article, at least 60 days before any adjustment to the rate; and

(v) The total reimbursement to emergency physicians from the Fund may not exceed $300,000 annually.

(7) (I) ON OR BEFORE MAY 1 OF EACH YEAR, THE COMMISSION SHALL DETERMINE APPROPRIATE LEVELS OF PAYMENT THAT CAN BE SUSTAINED FOR THE UPCOMING FISCAL YEAR, GIVEN THE EXPECTED REVENUE IN THE FUND.

(II) IF EXPECTED REVENUE IN THE FUND IS INSUFFICIENT TO MEET EXPECTED PAYMENTS, THE COMMISSION MAY NOT REIMBURSE LEVEL III TRAUMA CENTERS FOR TRAUMA ON–CALL HOURS UNDER PARAGRAPH (4)(I)6 OF THIS SUBSECTION OR FOR TRAUMA ON–CALL HOURS EXCEEDING 35,040 HOURS UNTIL THE REMAINING COSTS ELIGIBLE FOR REIMBURSEMENT UNDER PARAGRAPH (4) OF THIS SUBSECTION ARE FULLY FUNDED.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009. It shall remain effective for a period of 4 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, May 19, 2009.

Chapter 547

(House Bill 521)

AN ACT concerning

Maryland Trauma Physician Services Fund – Rural Trauma Centers – Reimbursement

FOR the purpose of ~~altering the definition of trauma center to include Peninsula Regional Medical Center, the Western Maryland Health System, and Washington County Hospital~~ altering the maximum number of trauma on–call hours per year that a Level III trauma center is eligible for reimbursement for from the Maryland Trauma Physician Services Fund; providing that the cost incurred by a Level III trauma center to maintain trauma physicians on call shall include certain practice areas under certain circumstances; requiring the Maryland Health Care Commission to make a certain determination on or before a certain date each year; prohibiting the Commission from making certain reimbursements under certain circumstances; providing for the termination of this Act; and generally relating to the Maryland Trauma Physician Services Fund.

BY repealing and reenacting, ~~with~~ without amendments,
Article – Health – General
Section 19–130(a), (b), and (d)(1), (2), and (3)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, ~~without~~ with amendments,
Article – Health – General
Section ~~19–130(b)~~ 19–130(d)(4)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY adding to
Article – Health – General
Section 19–130(d)(7)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

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

Article – Health – General

19–130.

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

(2) "Fund" means the Maryland Trauma Physician Services Fund.

(3) "Maryland Trauma Specialty Referral Centers" means:

(i) The Johns Hopkins Health System Burn Program;

(ii) The Eye Trauma Center at the Wilmer Eye Institute at The Johns Hopkins Hospital; and

(iii) The Curtis National Hand Center at Union Memorial Hospital.

(4) "Rehabilitation hospital" means a facility classified as a special rehabilitation hospital as described in § 19–307 of this title that is affiliated with a trauma center by common ownership.

(5) (i) "Trauma center" means a facility designated by the Maryland Institute for Emergency Medical Services Systems as:

1. The State primary adult resource center;

2. A Level I trauma center;

3. A Level II trauma center;

4. A Level III trauma center;

5. A pediatric trauma center; or

6. The Maryland Trauma Specialty Referral Centers.

(ii) "Trauma center" includes ~~[~~an~~]~~~~:~~

~~1.~~ ~~AN~~ out–of–state pediatric trauma center that has entered into an agreement with the Maryland Institute for Emergency Medical Services Systems~~;~~

~~2. PENINSULA REGIONAL MEDICAL CENTER;~~

~~3. THE WESTERN MARYLAND HEALTH SYSTEM; AND~~

~~4. WASHINGTON COUNTY HOSPITAL~~.

(6) "Trauma physician" means a physician who provides care in a trauma center or in a rehabilitation hospital to trauma patients on the State trauma registry as defined by the Maryland Institute for Emergency Medical Services Systems.

(7) "Uncompensated care" means care provided by a trauma physician to a trauma patient on the State trauma registry who:

(i) Has no health insurance, including Medicare Part B coverage;

(ii) Is not eligible for medical assistance coverage; and

(iii) Has not paid the trauma physician for care provided by the trauma physician, after documented attempts by the trauma physician to collect payment.

(b) (1) There is a Maryland Trauma Physician Services Fund.

(2) The purpose of the Fund is to subsidize the documented costs:

(i) Of uncompensated care incurred by a trauma physician in providing trauma care to a trauma patient on the State trauma registry;

(ii) Of undercompensated care incurred by a trauma physician in providing trauma care to an enrollee of the Maryland Medical Assistance Program who is a trauma patient on the State trauma registry;

(iii) Incurred by a trauma center to maintain trauma physicians on–call as required by the Maryland Institute for Emergency Medical Services Systems; and

(iv) Incurred by the Commission and the Health Services Cost Review Commission to administer the Fund and audit reimbursement requests to assure appropriate payments are made from the Fund.

(3) The Commission and the Health Services Cost Review Commission shall administer the Fund.

(4) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(5) Interest on and other income from the Fund shall be separately accounted for and credited to the Fund, and are not subject to § 6–226(a) of the State Finance and Procurement Article.

<u>(d) (1) Disbursements from the Fund shall be made in accordance with a methodology established jointly by the Commission and the Health Services Cost Review Commission to calculate costs incurred by trauma physicians and trauma centers that are eligible to receive reimbursement under subsection (b) of this section.</u>

<u>(2) The Fund shall transfer to the Department of Health and Mental Hygiene an amount sufficient to fully cover the State's share of expenditures for the costs of undercompensated care incurred by a trauma physician in providing trauma</u>

care to an enrollee of the Maryland Medical Assistance Program who is a trauma patient on the State trauma registry.

(3) The methodology developed under paragraph (1) of this subsection shall:

(i) Take into account:

1. The amount of uncompensated care provided by trauma physicians;

2. The amount of undercompensated care attributable to the treatment of Medicaid enrollees in trauma centers;

3. The cost of maintaining trauma physicians on–call;

4. The number of patients served by trauma physicians in trauma centers;

5. The number of Maryland residents served by trauma physicians in trauma centers; and

6. The extent to which trauma–related costs are otherwise subsidized by hospitals, the federal government, and other sources; and

(ii) Include an incentive to encourage hospitals to continue to subsidize trauma–related costs not otherwise included in hospital rates.

(4) The methodology developed under paragraph (1) of this subsection shall use the following parameters to determine the amount of reimbursement made to trauma physicians and trauma centers from the Fund:

(i) 1. The cost incurred by a Level II trauma center to maintain trauma surgeons, orthopedic surgeons, and neurosurgeons on–call shall be reimbursed:

A. At a rate of up to 30% of the reasonable cost equivalents hourly rate for the specialty, inflated to the current year by the physician compensation component of the Medicare economic index as designated by the Centers for Medicare and Medicaid Services; and

B. For the minimum number of trauma physicians required to be on–call, as specified by the Maryland Institute for Emergency Medical Services Systems in its criteria for Level II trauma centers;

2. The cost incurred by a Level III trauma center to maintain trauma surgeons, orthopedic surgeons, neurosurgeons, and anesthesiologists on–call shall be reimbursed:

A. At a rate of up to 35% of the reasonable cost equivalents hourly rate for the specialty, inflated to the current year by the physician compensation component of the Medicare economic index as designated by the Centers for Medicare and Medicaid Services; and

B. For the minimum number of trauma physicians required to be on–call, as specified by the Maryland Institute for Emergency Medical Services Systems in its criteria for Level III trauma centers;

3. The cost incurred by a Level I trauma center or pediatric trauma center to maintain trauma surgeons, orthopedic surgeons, and neurosurgeons on–call when a post–graduate resident is attending in the trauma center shall be reimbursed:

A. At a rate of up to 30% of the reasonable cost equivalents hourly rate for the specialty, inflated to the current year by the physician compensation component of the Medicare economic index as designated by the Centers for Medicare and Medicaid Services; and

B. When a post–graduate resident is permitted to be in the trauma center, as specified by the Maryland Institute for Emergency Medical Services Systems in its criteria for Level I trauma centers or pediatric trauma centers;

4. The cost incurred by a Maryland Trauma Specialty Referral Center to maintain trauma surgeons on–call in the specialty of the Center when a post–graduate resident is attending in the Center shall be reimbursed:

A. At a rate of up to 30% of the reasonable cost equivalents hourly rate for the specialty, inflated to the current year by the physician compensation component of the Medicare economic index as designated by the Centers for Medicare and Medicaid Services; and

B. When a post–graduate resident is permitted to be in the Center, as specified by the Maryland Institute for Emergency Medical Services Systems in its criteria for a Maryland Trauma Specialty Referral Center; **[**and**]**

5. A. A Level II trauma center is eligible for a maximum of 24,500 hours of trauma on–call per year;

B. A Level III trauma center is eligible for a maximum of **[**35,040**]70,080** hours of trauma on–call per year;

C. A Level I trauma center shall be eligible for a maximum of 4,380 hours of trauma on–call per year;

D. A pediatric trauma center shall be eligible for a maximum of 4,380 hours of trauma on–call per year; and

E. A Maryland Trauma Specialty Referral Center shall be eligible for a maximum of 2,190 hours of trauma on–call per year; **AND**

6. SUBJECT TO PARAGRAPH (7) OF THIS SUBSECTION, THE COST INCURRED BY A LEVEL III TRAUMA CENTER TO MAINTAIN TRAUMA PHYSICIANS ON–CALL IN THE FOLLOWING PRACTICE AREAS SHALL BE REIMBURSED IN ACCORDANCE WITH ITEM (I)2 OF THIS PARAGRAPH:

A. PLASTIC SURGERY;

B. MAJOR VASCULAR SURGERY;

C. ORAL OR MAXILLOFACIAL SURGERY; AND

D. THORACIC.

(ii) The cost of undercompensated care incurred by a trauma physician in providing trauma care to enrollees of the Maryland Medical Assistance Program who are trauma patients on the State trauma registry shall be reimbursed at a rate of up to 100% of the Medicare payment for the service, minus any amount paid by the Maryland Medical Assistance Program;

(iii) The cost of uncompensated care incurred by a trauma physician in providing trauma care to trauma patients on the State trauma registry shall be reimbursed at a rate of 100% of the Medicare payment for the service, minus any recoveries made by the trauma physician for the care;

(iv) The Commission, in consultation with the Health Services Cost Review Commission, may establish a payment rate for uncompensated care incurred by a trauma physician in providing trauma care to trauma patients on the State trauma registry that is above 100% of the Medicare payment for the service if:

1. The Commission determines that increasing the payment rate above 100% of the Medicare payment for the service will address an unmet need in the State trauma system; and

2. The Commission reports on its intention to increase the payment rate to the Senate Finance Committee and the House Health and Government Operations Committee, in accordance with § 2–1246 of the State Government Article, at least 60 days before any adjustment to the rate; and

(v) The total reimbursement to emergency physicians from the Fund may not exceed $300,000 annually.

(7) (I) ON OR BEFORE MAY 1 OF EACH YEAR, THE COMMISSION SHALL DETERMINE APPROPRIATE LEVELS OF PAYMENT THAT CAN BE SUSTAINED FOR THE UPCOMING FISCAL YEAR, GIVEN THE EXPECTED REVENUE IN THE FUND.

(II) IF EXPECTED REVENUE IN THE FUND IS INSUFFICIENT TO MEET EXPECTED PAYMENTS, THE COMMISSION MAY NOT REIMBURSE LEVEL III TRAUMA CENTERS FOR TRAUMA ON–CALL HOURS UNDER PARAGRAPH (4)(I)6 OF THIS SUBSECTION OR FOR TRAUMA ON–CALL HOURS EXCEEDING 35,040 HOURS UNTIL THE REMAINING COSTS ELIGIBLE FOR REIMBURSEMENT UNDER PARAGRAPH (4) OF THIS SUBSECTION ARE FULLY FUNDED.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009. It shall remain effective for a period of 4 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, May 19, 2009.

Chapter 548

(Senate Bill 470)

AN ACT concerning

Unemployment Insurance – Recreational Sports Officials – Coverage

FOR the purpose of providing that certain work performed by a recreational sports official under certain circumstances is not covered employment for purposes of unemployment insurance; defining certain terms; and generally relating to coverage of recreational sports officials under unemployment insurance law.

BY repealing and reenacting, without amendments,
Article – Labor and Employment
Section 8–205
Annotated Code of Maryland
(2008 Replacement Volume)

BY adding to
Article – Labor and Employment

Section 8–206(g)
Annotated Code of Maryland
(2008 Replacement Volume)

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

Article – Labor and Employment

8–205.

Work that an individual performs under any contract of hire is not covered employment if the Secretary is satisfied that:

(1) the individual who performs the work is free from control and direction over its performance both in fact and under the contract;

(2) the individual customarily is engaged in an independent business or occupation of the same nature as that involved in the work; and

(3) the work is:

(i) outside of the usual course of business of the person for whom the work is performed; or

(ii) performed outside of any place of business of the person for whom the work is performed.

8–206.

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

(II) "OFFICIATING SERVICES" MEANS:

1. OVERSEEING THE PLAY OF A SPORTS EVENT;

2. JUDGING WHETHER THE RULES OF THE EVENT ARE BEING FOLLOWED; AND

3. PENALIZING PARTICIPANTS FOR FOULS OR INFRINGEMENTS OF THE RULES.

(III) 1. "RECREATIONAL SPORTS OFFICIAL" MEANS AN UMPIRE, A REFEREE, OR A JUDGE WHO CONTRACTS WITH A GOVERNMENTAL OR

NONGOVERNMENTAL ENTITY TO PERFORM OFFICIATING SERVICES AT AMATEUR SPORTS EVENTS SPONSORED BY:

A. A UNIT OF COUNTY GOVERNMENT;

B. A UNIT OF A MUNICIPAL CORPORATION; OR

C. AN ENTITY ASSOCIATED WITH A COUNTY GOVERNMENT OR A MUNICIPAL CORPORATION.

2. "RECREATIONAL SPORTS OFFICIAL" DOES NOT INCLUDE ANY INDIVIDUAL WHO PERFORMS OFFICIATING SERVICES IN COVERED EMPLOYMENT UNDER § 8–208(A) OR § 8–212(C) OF THIS SUBTITLE. ~~EMPLOYED BY A SCHOOL WHO SERVES AS A SPORTS OFFICIAL:~~

~~A. AS REQUIRED BY THE EMPLOYING SCHOOL; OR~~

~~B. AS PART OF THE SPORTS OFFICIAL'S RESPONSIBILITIES DURING NORMAL SCHOOL HOURS.~~

(2) WORK THAT CONSISTS OF OFFICIATING SERVICES PERFORMED BY A RECREATIONAL SPORTS OFFICIAL IS NOT COVERED EMPLOYMENT ~~WHEN PERFORMED BY A RECREATIONAL SPORTS OFFICIAL UNDER THIS SUBSECTION IF THE SECRETARY IS SATISFIED THAT:~~

~~(I) THE RECREATIONAL SPORTS OFFICIAL HAS ENTERED INTO A WRITTEN AGREEMENT THAT IS IN EFFECT;~~

~~(II) THE AGREEMENT PROVIDES THAT THE RECREATIONAL SPORTS OFFICIAL:~~

~~1. MAY ACCEPT OR DECLINE AN ASSIGNMENT TO PROVIDE SERVICES FOR A GAME;~~

~~2. MAY PROVIDE OFFICIATING SERVICES FOR ANOTHER ORGANIZATION OR LEAGUE; AND~~

~~3. HAS SOLE CONTROL OVER THE CONDUCT OF THE GAME; AND~~

~~(III) THE AGREEMENT EXPRESSLY STATES THAT THE RECREATIONAL SPORTS OFFICIAL KNOWS THAT:~~

~~**1. THE SPORTS OFFICIAL IS RESPONSIBLE TO PAY STATE AND FEDERAL INCOME TAXES AND MAKE ANY REQUIRED SOCIAL SECURITY CONTRIBUTIONS FOR SELF–EMPLOYMENT; AND**~~

~~**2. THE WORK IS NOT COVERED EMPLOYMENT.**~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 549

(Senate Bill 481)

AN ACT concerning

Health Insurance – Dental Provider Panels – Provider Contracts

FOR the purpose of ~~repealing the exception of certain provider contracts for dental provider panels from certain provisions of law; requiring a provider contract for a dental provider panel to disclose the carriers that comprise each provider panel; prohibiting a provider contract for a dental provider panel from containing a provision requiring a provider to accept certain schedules of fees under certain circumstances; prohibiting a provider contract for a dental provider panel from requiring a provider to treat certain enrollees of certain carriers under certain circumstances;~~ prohibiting a provider contract from containing a provision that requires a provider, as a condition of participating in a fee–for–service dental provider panel, to participate in a capitated dental provider panel; requiring the Maryland Insurance Administration to conduct a certain review and report its findings and certain recommendations to certain committees of the General Assembly on or before a certain date; defining a certain term; altering a certain definition; providing for the application of certain provisions of this Act; providing for the effective ~~date~~ dates of this Act; and generally relating to health insurance provider contracts for dental provider panels.

BY repealing and reenacting, with amendments,
Article – Insurance
Section 15–112.2
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)
(As enacted by Chapter 688 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 – Insurance

15–112.2.

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

(2) "CAPITATED DENTAL PROVIDER PANEL" MEANS A PROVIDER PANEL FOR ONE OR MORE DENTAL PLAN ORGANIZATIONS OFFERING CONTRACTS ONLY FOR DENTAL SERVICES REIMBURSED ON A CAPITATED BASIS FOR CERTAIN SERVICES.

~~(2)~~ **(3)** "Carrier" means:

(i) an insurer;

(ii) a nonprofit health service plan;

(iii) a health maintenance organization; or

(iv) a dental plan organization.

~~(3)~~ **(4)** "~~Dental~~ **FEE–FOR–SERVICE DENTAL** provider panel" means a provider panel for one or more dental plan organizations, insurers, or nonprofit health service plans offering contracts only for dental services **REIMBURSED ON A FULL OR DISCOUNTED FEE–FOR–SERVICE BASIS**.

~~(4)~~ **(5)** "Enrollee" means a person entitled to health care benefits from a carrier.

~~(5)~~ **(6)** "HMO provider panel" means a provider panel for one or more health maintenance organizations.

~~(6)~~ **(7)** "Managed care organization" has the meaning stated in § 15–101 of the Health – General Article.

~~(7)~~ **(8)** "Non–HMO provider panel" means a provider panel for one or more nonprofit health service plans or insurers.

~~(8)~~ **(9)** "Provider" has the meaning stated in § 19–701 of the Health – General Article.

~~(9)~~ **(10)** "Provider contract" means a contract:

(i) between a provider and a carrier, an affiliate of a carrier, or an entity that contracts with a provider to serve a carrier; and

(ii) under which the provider agrees to provide health care services to enrollees.

~~(10)~~ **(11)** "Provider panel" means the providers that contract either directly or through a subcontracting entity with a carrier to provide health care services to enrollees.

(b) (1) A provider contract may not contain a provision that requires a provider~~,~~ **:**

(I) as a condition of participating in a non–HMO provider panel, to participate in an ~~HMO provider panel or dental provider panel~~ **HMO PROVIDER PANEL; OR**

(II) AS A CONDITION OF PARTICIPATING IN A FEE–FOR–SERVICE DENTAL PROVIDER PANEL, TO PARTICIPATE IN A CAPITATED DENTAL PROVIDER PANEL.

(2) Notwithstanding paragraph (1) of this subsection, a provider contract may contain a provision that requires a provider, as a condition of participating in a non–HMO provider panel, an HMO provider panel, or a dental provider panel, to participate in a managed care organization.

(c) ~~[~~(1) This subsection does not apply to a provider contract for a dental provider panel.

(2)~~]~~ Each provider contract shall disclose the carriers comprising each provider panel.

(d) ~~[~~(1) This subsection does not apply to a provider contract for a dental provider panel.

(2)~~]~~ ~~(1)~~ If a provider contract includes more than one schedule of applicable fees, the provider contract may not contain a provision that requires a provider as a condition of participation to accept each schedule of applicable fees included in the provider contract.

~~[~~(3)~~]~~ ~~(2)~~ If a provider rejects a schedule of applicable fees, the provider contract may not require the provider to treat the enrollees of the carriers that reimburse the provider in accordance with any of the rejected schedules of applicable fees.

~~[~~(4)~~]~~ ~~(3)~~ ~~[~~Notwithstanding the provisions of paragraph (1) of this subsection, a~~]~~ ~~A~~ provider contract may include a provision that requires a provider, as a condition of participation, to accept each schedule of applicable fees for a carrier that is not affiliated through common ownership with the entity arranging the provider panel.

(e) If a provider elects to terminate participation on a provider panel, the provider shall:

(1) notify the carrier at least 90 days before the date of termination; and

(2) for at least 90 days after the date of the notice of termination, continue to furnish health care services to an enrollee of the carrier for whom the provider was responsible for the delivery of health care services before the notice of termination.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The Maryland Insurance Administration shall conduct a review of dental provider contracts, the terms and conditions of the contracts, and the impact that the contracts have on the dental profession.

(b) (1) On or before December 31, 2009, the Administration shall report its findings, in accordance with § 2–1246 of the State Government Article, to the House Health and Government Operations Committee and the Senate Finance Committee.

(2) In the report required under this subsection, the Administration shall provide recommendations to the committees concerning whether the provisions of § 15–112.2(c) and (d) of the Insurance Article should apply to provider contracts for dental provider panels.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall apply to all provider contracts issued or renewed in the State on or after October 1, 2009, or, for provider contracts in effect in the State on October 1, 2009, but not subject to renewal before October 1, 2010, no later than October 1, 2010.

SECTION ~~3.~~ 4. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take effect October 1, 2009, the effective date of Chapter 688 of the Acts of the General Assembly of 2008. If the effective date of Chapter 688 is amended, this Act shall take effect on the taking effect of Chapter 688.

SECTION 5. AND BE IT FURTHER ENACTED, That, except as provided in Section 4 of this Act, this Act shall take effect June 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 550

(House Bill 145)

AN ACT concerning

Health Insurance – Dental Provider Panels – Provider Contracts

FOR the purpose of ~~repealing the exception of certain provider contracts for dental provider panels from certain provisions of law; requiring a provider contract for a dental provider panel to disclose the carriers that comprise each provider panel; prohibiting a provider contract for a dental provider panel from containing a provision requiring a provider to accept certain schedules of fees under certain circumstances; prohibiting a provider contract for a dental provider panel from requiring a provider to treat certain enrollees of certain carriers under certain circumstances;~~ *prohibiting a provider contract from containing a provision that requires a provider, as a condition of participating in a fee–for–service dental provider panel, to participate in a capitated dental provider panel; requiring the Maryland Insurance Administration to conduct a certain review and report its findings and certain recommendations to certain committees of the General Assembly on or before a certain date; defining a certain term; altering a certain definition;* providing for the application of *certain provisions of* this Act; providing for the effective ~~date~~ *dates* of this Act; and generally relating to health insurance provider contracts for dental provider panels.

BY repealing and reenacting, with amendments,
Article – Insurance
Section 15–112.2
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)
(As enacted by Chapter 688 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 – Insurance

15–112.2.

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

(2) "CAPITATED DENTAL PROVIDER PANEL" MEANS A PROVIDER PANEL FOR ONE OR MORE DENTAL PLAN ORGANIZATIONS OFFERING CONTRACTS

ONLY FOR DENTAL SERVICES REIMBURSED ON A CAPITATED BASIS FOR CERTAIN SERVICES.

~~(2)~~ ***(3)*** "Carrier" means:

(i) an insurer;

(ii) a nonprofit health service plan;

(iii) a health maintenance organization; or

(iv) a dental plan organization.

~~(3)~~ ***(4)*** "~~Dental~~ ***FEE–FOR–SERVICE DENTAL*** provider panel" means a provider panel for one or more dental plan organizations, insurers, or nonprofit health service plans offering contracts only for dental services ***REIMBURSED ON A FULL OR DISCOUNTED FEE–FOR–SERVICE BASIS***.

~~(4)~~ ***(5)*** "Enrollee" means a person entitled to health care benefits from a carrier.

~~(5)~~ ***(6)*** "HMO provider panel" means a provider panel for one or more health maintenance organizations.

~~(6)~~ ***(7)*** "Managed care organization" has the meaning stated in § 15–101 of the Health – General Article.

~~(7)~~ ***(8)*** "Non–HMO provider panel" means a provider panel for one or more nonprofit health service plans or insurers.

~~(8)~~ ***(9)*** "Provider" has the meaning stated in § 19–701 of the Health – General Article.

~~(9)~~ ***(10)*** "Provider contract" means a contract:

(i) between a provider and a carrier, an affiliate of a carrier, or an entity that contracts with a provider to serve a carrier; and

(ii) under which the provider agrees to provide health care services to enrollees.

~~(10)~~ ***(11)*** "Provider panel" means the providers that contract either directly or through a subcontracting entity with a carrier to provide health care services to enrollees.

(b) (1) A provider contract may not contain a provision that requires a provider~~,~~***:***

(I) as a condition of participating in a non–HMO provider panel, to participate in an ~~HMO provider panel or dental provider panel~~ ***HMO PROVIDER PANEL; OR***

(II) AS A CONDITION OF PARTICIPATING IN A FEE–FOR–SERVICE DENTAL PROVIDER PANEL, TO PARTICIPATE IN A CAPITATED DENTAL PROVIDER PANEL.

(2) Notwithstanding paragraph (1) of this subsection, a provider contract may contain a provision that requires a provider, as a condition of participating in a non–HMO provider panel, an HMO provider panel, or a dental provider panel, to participate in a managed care organization.

(c) ~~[~~(1) This subsection does not apply to a provider contract for a dental provider panel.

(2)~~]~~ Each provider contract shall disclose the carriers comprising each provider panel.

(d) ~~[~~(1) This subsection does not apply to a provider contract for a dental provider panel.

(2)~~]~~ ~~(1)~~ If a provider contract includes more than one schedule of applicable fees, the provider contract may not contain a provision that requires a provider as a condition of participation to accept each schedule of applicable fees included in the provider contract.

~~[~~(3)~~]~~ ~~(2)~~ If a provider rejects a schedule of applicable fees, the provider contract may not require the provider to treat the enrollees of the carriers that reimburse the provider in accordance with any of the rejected schedules of applicable fees.

~~[~~(4)~~]~~ ~~(3)~~ ~~[~~Notwithstanding the provisions of paragraph (1) of this subsection, a~~]~~ ~~A~~ provider contract may include a provision that requires a provider, as a condition of participation, to accept each schedule of applicable fees for a carrier that is not affiliated through common ownership with the entity arranging the provider panel.

(e) If a provider elects to terminate participation on a provider panel, the provider shall:

(1) notify the carrier at least 90 days before the date of termination; and

(2) for at least 90 days after the date of the notice of termination, continue to furnish health care services to an enrollee of the carrier for whom the provider was responsible for the delivery of health care services before the notice of termination.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The Maryland Insurance Administration shall conduct a review of dental provider contracts, the terms and conditions of the contracts, and the impact that the contracts have on the dental profession.

(b) (1) On or before December 31, 2009, the Administration shall report its findings, in accordance with § 2–1246 of the State Government Article, to the House Health and Government Operations Committee and the Senate Finance Committee.

(2) In the report required under this subsection, the Administration shall provide recommendations to the committees concerning whether the provisions of § 15–112.2(c) and (d) of the Insurance Article should apply to provider contracts for dental provider panels.

SECTION ~~2.~~ *3.* AND BE IT FURTHER ENACTED, That *Section 1 of* this Act shall apply to all provider contracts issued or renewed in the State on or after ~~October 1, 2009~~ ~~July 1, 2010~~ *October 1, 2009*, or, for provider contracts in effect in the State on ~~October 1, 2009~~ ~~July 1, 2010~~ *October 1, 2009*, but not subject to renewal before ~~October 1, 2010~~ ~~July 1, 2011~~ *October 1, 2010*, no later than ~~October 1, 2010~~ ~~July 1, 2011~~ *October 1, 2010*.

SECTION ~~3.~~ *4.* AND BE IT FURTHER ENACTED, That *Section 1 of* this Act shall take effect ~~October 1, 2009~~ ~~July 1, 2010~~ *October 1, 2009*, ~~the effective date contingent on the taking effect~~ *the effective date* of Chapter 688 of the Acts of the General Assembly of 2008 ~~on or before July 1, 2010~~. If the effective date of Chapter 688 is amended ~~to be later than July 1, 2010~~, this Act shall take effect on the taking effect of Chapter 688.

SECTION 5. AND BE IT FURTHER ENACTED, That, except as provided in Section 4 of this Act, this Act shall take effect June 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 551

(Senate Bill 507)

AN ACT concerning

Maryland Locksmiths Act

FOR the purpose of requiring a certain business to be licensed by the Secretary of Labor, Licensing, and Regulation before the business may provide locksmith services; providing for the purpose of this Act; providing that this Act does not limit the rights of certain individuals to engage in locksmith services; authorizing the Secretary to adopt certain regulations for the licensure and regulation of locksmiths; requiring all money collected by the Secretary to be paid into the General Fund of the State; establishing certain application procedures for obtaining a locksmith license; providing that before an individual may begin work for a licensed locksmith the licensee shall submit the individual's name to the Secretary and the individual shall apply for a national and State criminal history records check; requiring certain owners of businesses that are applicants and licensees to apply to the Central Repository for a certain criminal history records check; requiring certain applicants to submit fingerprints and a certain fee to the Central Repository; requiring the Central Repository to provide the Secretary with certain information; requiring certain information to be confidential and used for certain purposes; requiring licensees to maintain certain general liability insurance that meets certain requirements; requiring a licensee to provide a certain notice of cancellation of a certain general liability insurance policy within a certain time period; authorizing the issuance and renewal of certain licenses by the Secretary; authorizing the issuance of certain photo identification cards by certain licensed locksmiths; providing for the expiration and renewal of certain licenses; establishing requirements for the display, carrying, replacement, and change of name for certain licenses; authorizing the Secretary to deny a license to an applicant, refuse to renew a license, reprimand a licensee, suspend or revoke a license, or impose certain penalties under certain circumstances; establishing certain hearing and appeal procedures for locksmiths; establishing certain content, keeping, reporting, and transmittal requirements for certain invoices or receipts for service; requiring certain advertisements to include the name and license number of a licensed locksmith; prohibiting certain acts; providing for certain civil and criminal penalties; requiring certain persons performing locksmith services to be licensed on or before a certain date; requiring the Secretary to submit a certain report including certain information to certain committees of the General Assembly on or before a certain date; defining certain terms; and generally relating to the licensure and regulation of locksmiths.

BY adding to
Article – Business Regulation
Section 12.5–101 through 12.5–601 to be under the new title "Title 12.5. Locksmiths"
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

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

Article – Business Regulation

TITLE 12.5. LOCKSMITHS.

SUBTITLE 1. DEFINITIONS; GENERAL PROVISIONS.

12.5–101.

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

(B) "BUSINESS" MEANS A COMMERCIAL ENTITY THAT PROVIDES LOCKSMITH SERVICES.

(C) "EMPLOYEE" MEANS AN INDIVIDUAL EMPLOYED BY A LICENSED LOCKSMITH TO PROVIDE LOCKSMITH SERVICES ON BEHALF OF THE LICENSED LOCKSMITH.

~~(C)~~ (D) "FIXED BUSINESS ADDRESS" MEANS A SINGLE PHYSICAL LOCATION IN THE STATE WHERE A LICENSEE REGULARLY CONDUCTS BUSINESS AND AT WHICH THE LICENSEE OR AN EMPLOYEE OF THE LICENSEE IS PHYSICALLY PRESENT:

(1) DURING NORMAL BUSINESS HOURS; OR

(2) OTHER HOURS AS PROVIDED IN THE APPLICATION FOR THE LICENSE.

~~(D)~~ (E) "LICENSE" MEANS A LICENSE ISSUED BY THE SECRETARY TO PROVIDE LOCKSMITH SERVICES.

~~(E)~~ (F) "LICENSED LOCKSMITH" MEANS, UNLESS THE CONTEXT REQUIRES OTHERWISE, A BUSINESS THAT IS LICENSED BY THE SECRETARY TO PROVIDE LOCKSMITH SERVICES.

~~(F)~~ (G) "LOCAL LAW ENFORCEMENT UNIT" MEANS THE DEPARTMENT OF STATE POLICE, A POLICE DEPARTMENT, OR SHERIFF, AS DESIGNATED BY THE COUNTY OR MUNICIPAL GOVERNING BODY.

~~(G)~~ (H) "PROVIDE LOCKSMITH SERVICES" MEANS TO ENGAGE PROFESSIONALLY AND FOR COMPENSATION IN:

(1) REPAIRING, REBUILDING, REKEYING, REPINNING, RECOMBINATING, ADJUSTING, OR INSTALLING MECHANICAL, ELECTRICAL, OR ELECTROMECHANICAL LOCKING DEVICES, SAFES, VAULTS, OR SAFE DEPOSIT BOXES; OR

(2) OPERATING A MECHANICAL, ELECTRICAL, OR ELECTROMECHANICAL LOCKING DEVICE OR OPENING SAFES, VAULTS, OR SAFE DEPOSIT BOXES BY A MEANS OTHER THAN THAT INTENDED BY THE MANUFACTURER OF SUCH LOCKING DEVICES.

12.5–102.

THE PURPOSE OF THIS TITLE IS TO SAFEGUARD THE LIFE, HEALTH, AND PROPERTY OF THE RESIDENTS OF MARYLAND TO PROMOTE THEIR WELFARE BY REGULATING PERSONS THAT PROVIDE LOCKSMITH SERVICES.

12.5–103.

THE PROVISIONS OF THIS TITLE MAY NOT BE CONSTRUED TO PROHIBIT THE FOLLOWING:

(1) BONA FIDE SALES DEMONSTRATIONS TO LOCKSMITHS OR LOCKSMITH SUPPLIERS BY SALES REPRESENTATIVES WHO ARE NOT LICENSED;

(2) EMERGENCY OPENING SERVICES BY MEMBERS OF POLICE DEPARTMENTS, FIRE DEPARTMENTS, OR OTHER GOVERNMENT AGENCIES IN THEIR OFFICIAL LINE OF DUTY IN ORDER TO PROTECT AGAINST LOSS OF LIFE OR PROPERTY;

(3) THE ACQUISITION, MAKING, OR USE OF ANY KEY DUPLICATION OR KEY BLANKS;

(4) THE REPLACING OF A REMOVABLE OR INTERCHANGEABLE CORE OR RECOMBINATING A CYLINDER IN A LOCK THAT WAS SPECIFICALLY DESIGNED BY THE MANUFACTURER TO BE CHANGED BY THE END USER BY USE OF A KEY;

(5) THE INSTALLATION, REPAIR, REPLACEMENT, OR REBUILDING OF A LOCK BY THE MANUFACTURER OF THE LOCK;

(6) THE INSTALLATION, REPAIR, REPLACEMENT, OR REBUILDING OF AN AUTOMOTIVE LOCK BY AN AUTOMOTIVE REPAIR AND SERVICE FACILITY, THE LOCK MANUFACTURER, OR THE MANUFACTURER'S AGENT;

(7) THE INSTALLATION OF LOCKS BY BUILDING TRADES PERSONNEL ON PROJECTS THAT REQUIRE A BUILDING PERMIT; ~~AND~~

(8) THE INSTALLATION OR REPLACEMENT OF LOCKS BY A RETAILER OR THE RETAILER'S AGENT ~~ON THE PREMISES OF THE RETAILER~~:

(I) ON THE PREMISES OF THE RETAILER; OR

(II) OFF THE PREMISES OF THE RETAILER IF THE INSTALLATION OR REPLACEMENT OF LOCKS IS INCIDENTAL TO THE RETAILER'S NORMAL COURSE OF BUSINESS;

(9) THE INSTALLATION OR REPLACEMENT OF LOCKS BY A SECURITY SYSTEMS TECHNICIAN WHO IS LICENSED UNDER TITLE 18 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE; AND

(10) THE INSTALLATION, REPAIR, REPLACEMENT, REKEYING, OR ADJUSTING OF LOCKS OR LOCK COMPONENTS FOR PROPERTY BY AN EMPLOYEE OR AGENT OF THE PROPERTY OWNER OR A MANAGEMENT COMPANY.

12.5–104.

THE SECRETARY MAY ADOPT AND ENFORCE REGULATIONS TO CARRY OUT THIS TITLE.

12.5–105.

THE SECRETARY SHALL PAY ALL MONEY COLLECTED UNDER THIS TITLE INTO THE GENERAL FUND OF THE STATE.

SUBTITLE 2. LICENSING.

12.5–201.

EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, A BUSINESS SHALL BE LICENSED BY THE SECRETARY BEFORE THE BUSINESS AND EMPLOYEES OF THE BUSINESS PROVIDE LOCKSMITH SERVICES IN THE STATE.

12.5–202.

(A) THE OWNER OF A BUSINESS OR THE OWNER'S DESIGNEE SHALL APPLY ON BEHALF OF THE BUSINESS FOR A LICENSE UNDER THIS SUBTITLE.

(B) (1) AN APPLICANT FOR A LICENSE SHALL:

(I) SUBMIT TO THE SECRETARY AN APPLICATION ON THE FORM THAT THE SECRETARY PROVIDES;

(II) SUBMIT A PASSPORT–SIZE PHOTOGRAPH, TAKEN WITHIN 6 MONTHS IMMEDIATELY PRECEDING THE DATE OF THE FILING OF THE APPLICATION, OF EACH OF THE FOLLOWING INDIVIDUALS:

1. THE OWNER OF THE BUSINESS; AND

2. EACH EMPLOYEE OF THE APPLICANT;

(III) PROVIDE ANY OTHER DOCUMENTS OR INFORMATION REQUIRED BY THIS SECTION OR REQUIRED BY THE SECRETARY; AND

(IV) PAY TO THE SECRETARY AN APPLICATION FEE SET BY THE SECRETARY.

(2) THE APPLICATION OWNER OR DESIGNEE FEE IS NONREFUNDABLE.

(C) THE APPLICANT SHALL SIGN THE APPLICATION UNDER OATH.

(D) IN ADDITION TO ANY OTHER INFORMATION THAT THE SECRETARY REQUIRES, THE APPLICATION SHALL STATE:

(1) THE NAME, BIRTH DATE, AND RESIDENCE ADDRESS OF THE FOLLOWING INDIVIDUALS:

(I) THE APPLICANT OWNER OR DESIGNEE; AND

(II) EACH EMPLOYEE OF THE APPLICANT;

(2) THE FIXED BUSINESS ADDRESS OF THE APPLICANT;

(3) A TELEPHONE NUMBER AT WHICH THE APPLICANT CAN BE REACHED DURING NORMAL BUSINESS HOURS, AND, IF APPLICABLE, AN ELECTRONIC MAIL ADDRESS;

(4) EACH ADDRESS WHERE THE APPLICANT HAS CONDUCTED ANY BUSINESS DURING THE 36 MONTHS BEFORE APPLICATION;

(5) THE DRIVER'S LICENSE NUMBER OF THE APPLICANT OWNER OR DESIGNEE AND EACH EMPLOYEE OF THE APPLICANT; AND

(6) THE NAME OF THE INSURER AND POLICY NUMBER OF THE GENERAL LIABILITY INSURANCE COVERAGE REQUIRED UNDER § ~~12.5–204~~ 12.5–205 OF THIS SUBTITLE.

(E) THE APPLICATION FORM PROVIDED BY THE SECRETARY SHALL CONTAIN A STATEMENT ADVISING THE APPLICANT THAT WILLFULLY MAKING A FALSE STATEMENT ON AN APPLICATION IS A MISDEMEANOR, SUBJECT TO A FINE OR IMPRISONMENT OR BOTH, AS PROVIDED UNDER § 12.5–504 OF THIS TITLE.

12.5–203.

BEFORE AN INDIVIDUAL MAY BEGIN WORK FOR A LICENSEE AS AN EMPLOYEE:

(1) THE LICENSEE SHALL SUBMIT TO THE SECRETARY, ON THE FORM THAT THE SECRETARY PROVIDES, THE NAME OF THE INDIVIDUAL; AND

(2) THE INDIVIDUAL SHALL APPLY FOR A NATIONAL AND STATE CRIMINAL HISTORY RECORDS CHECK REQUIRED UNDER § 12.5–204(B) OF THIS SUBTITLE.

~~12.5–203.~~ 12.5–204.

(A) IN THIS SECTION, "CENTRAL REPOSITORY" MEANS THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.

(B) (1) THE OWNER OF A BUSINESS THAT IS AN APPLICANT FOR A LICENSE UNDER § 12.5–202 OF THIS SUBTITLE AND AN INDIVIDUAL WHOSE NAME IS REQUIRED TO BE SUBMITTED TO THE SECRETARY UNDER § 12.5–203 OF THIS SUBTITLE SHALL APPLY TO THE CENTRAL REPOSITORY FOR A NATIONAL AND STATE CRIMINAL HISTORY RECORDS CHECK ON A FORM APPROVED BY THE DIRECTOR OF THE CENTRAL REPOSITORY.

(2) AS A PART OF AN APPLICATION TO THE CENTRAL REPOSITORY FOR A NATIONAL AND STATE CRIMINAL HISTORY RECORDS CHECK, THE OWNER OF A BUSINESS THAT IS AN APPLICANT AND AN INDIVIDUAL WHOSE NAME IS REQUIRED TO BE SUBMITTED TO THE SECRETARY UNDER § 12.5–203 OF THIS SUBTITLE SHALL SUBMIT TO THE CENTRAL REPOSITORY:

(I) TWO COMPLETE SETS OF 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 THE CRIMINAL PROCEDURE ARTICLE FOR ACCESS TO THE STATE CRIMINAL HISTORY RECORDS; AND

(III) THE MANDATORY PROCESSING FEE REQUIRED BY THE FEDERAL BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORDS CHECK.

(C) A LICENSEE OR APPLICANT MAY PAY FOR THE COSTS BORNE BY THE EMPLOYEE OR OTHER INDIVIDUAL REQUIRING A CRIMINAL HISTORY RECORDS CHECK UNDER SUBSECTION (B) OF THIS SECTION.

~~(C)~~ (D) THE CENTRAL REPOSITORY SHALL PROVIDE TO THE SECRETARY:

(1) THE NATIONAL AND STATE CRIMINAL HISTORY RECORDS OF EACH INDIVIDUAL REQUIRING A CRIMINAL HISTORY RECORDS CHECK UNDER SUBSECTION (B) OF THIS SECTION AND ISSUE A PRINTED STATEMENT LISTING ANY CONVICTIONS AND PLEAS OF GUILTY OR NOLO CONTENDERE TO ANY CRIMINAL CHARGE;

(2) AN UPDATE OF THE INITIAL CRIMINAL HISTORY RECORDS CHECK FOR AN INDIVIDUAL REQUIRING A CRIMINAL HISTORY RECORDS CHECK AND ISSUE A REVISED PRINTED STATEMENT LISTING ANY CONVICTIONS AND PLEAS OF GUILTY OR NOLO CONTENDERE TO ANY CRIMINAL CHARGE OCCURRING IN THE STATE AFTER THE DATE OF THE INITIAL CRIMINAL HISTORY RECORDS CHECK; AND

(3) AN ACKNOWLEDGED RECEIPT OF THE APPLICATION FOR A CRIMINAL HISTORY RECORDS CHECK BY AN INDIVIDUAL REQUIRING A CRIMINAL HISTORY RECORDS CHECK.

~~(D)~~ (E) (1) INFORMATION OBTAINED BY THE SECRETARY FROM THE CENTRAL REPOSITORY UNDER THIS SECTION:

~~(1)~~ (I) IS CONFIDENTIAL;

~~(2)~~ (II) MAY NOT BE REDISSEMINATED; AND

~~(3)~~ (III) MAY BE USED ONLY FOR THE LICENSE PURPOSE AUTHORIZED BY THIS TITLE.

(2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT PRECLUDE THE SECRETARY FROM NOTIFYING A LICENSEE OR AN APPLICANT OF THE

APPROVAL OR DISQUALIFICATION OF THE EMPLOYEE FOR EMPLOYMENT BASED ON INFORMATION OBTAINED BY THE SECRETARY UNDER THIS SECTION.

~~(E)~~ (F) 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 THE CRIMINAL PROCEDURE ARTICLE.

(G) THE SECRETARY SHALL VERIFY PERIODICALLY THE CONTINUED EMPLOYMENT OR LICENSURE OF INDIVIDUALS REQUIRING CRIMINAL HISTORY RECORDS CHECKS IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.

~~12.5–204.~~ 12.5–205.

(A) EACH LICENSED LOCKSMITH SHALL MAINTAIN GENERAL LIABILITY INSURANCE:

(1) IN THE AMOUNT OF AT LEAST $300,000;

(2) WITH COVERAGE APPROPRIATE FOR THE INDIVIDUAL'S CIRCUMSTANCES; AND

(3) IN ACCORDANCE WITH THE REGULATIONS ADOPTED BY THE SECRETARY UNDER THIS SECTION.

(B) A LICENSEE SHALL GIVE THE SECRETARY NOTICE OF THE CANCELLATION OF INSURANCE AT LEAST 10 DAYS BEFORE THE EFFECTIVE DATE OF THE CANCELLATION.

~~12.5–205.~~ 12.5–206.

(A) THE SECRETARY SHALL ISSUE A LICENSE TO EACH APPLICANT THAT MEETS THE REQUIREMENTS OF THIS SUBTITLE AND ON RECEIPT OF:

(1) A COMPLETE NATIONAL AND STATE CRIMINAL HISTORY RECORD REPORT FROM THE CENTRAL REPOSITORY IN ACCORDANCE WITH § ~~12.5–203~~ 12.5–204 OF THIS SUBTITLE; AND

(2) DOCUMENTATION OF CURRENT GENERAL LIABILITY INSURANCE IN THE AMOUNT REQUIRED UNDER § ~~12.5–204~~ 12.5–205 OF THIS SUBTITLE.

(B) THE SECRETARY SHALL DETERMINE THE SIZE, FORM, AND CONTENT OF ANY LICENSE CERTIFICATE THAT THE SECRETARY ISSUES.

(C) THE SECRETARY:

(1) MAY ISSUE A LICENSE ONLY FOR A FIXED BUSINESS ADDRESS; BUT

(2) MAY NOT ISSUE A LICENSE FOR AN ADDRESS THAT IS:

(I) A HOTEL OR MOTEL ROOM;

(II) A MOTOR VEHICLE;

(III) A POST OFFICE BOX; OR

(IV) A LOCATION THAT DOES NOT MEET THE QUALIFICATIONS OF A FIXED BUSINESS ADDRESS AS DEFINED IN § 12.5–101(D) OF THIS TITLE.

(D) THE SECRETARY MAY NOT ISSUE A LICENSE TO AN INDIVIDUAL WHO IS 18 YEARS OLD OR YOUNGER.

(E) A LICENSE ISSUED UNDER THIS TITLE IS NOT TRANSFERABLE.

~~12.5–206.~~ 12.5–207.

(A) EACH LICENSED LOCKSMITH SHALL ISSUE A PHOTO IDENTIFICATION CARD TO EACH INDIVIDUAL PROVIDING LOCKSMITH SERVICES ON BEHALF OF THE LICENSED LOCKSMITH, INCLUDING EACH INDIVIDUAL IDENTIFIED AS AN EMPLOYEE OF THE LICENSED LOCKSMITH UNDER § 12.5–202 OF THIS SUBTITLE.

(B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE LICENSED LOCKSMITH SHALL DETERMINE THE SIZE, FORM, AND CONTENT OF A PHOTO IDENTIFICATION CARD THAT THE LICENSED LOCKSMITH ISSUES.

(2) THE PHOTO IDENTIFICATION CARD ISSUED BY A LICENSED LOCKSMITH UNDER THIS SECTION SHALL:

(I) BE COMPOSED OF DURABLE MATERIAL;

(II) INCLUDE A CURRENT PASSPORT–SIZE PHOTOGRAPH OF THE INDIVIDUAL TO WHOM THE PHOTO IDENTIFICATION CARD IS ISSUED; AND

(III) INCLUDE THE LICENSE NUMBER AND LICENSE EXPIRATION DATE OF THE LICENSED LOCKSMITH'S LICENSE.

~~12.5–207.~~ 12.5–208.

WHILE A LICENSE IS IN EFFECT, THE LICENSE AUTHORIZES THE LICENSEE AND THE EMPLOYEES OF THE LICENSEE TO PROVIDE LOCKSMITH SERVICES IN THE STATE.

~~12.5–208.~~ 12.5–209.

(A) A LICENSE IS ISSUED FOR A TERM OF 2 YEARS.

(B) UNLESS A LICENSEE MEETS THE INSURANCE REQUIREMENTS OF § ~~12.5–204~~ 12.5–205 OF THIS SUBTITLE, THE SECRETARY MAY NOT RENEW THE LICENSE OF THE LICENSEE.

(C) (1) UNLESS A LICENSE IS RENEWED FOR A 2–YEAR TERM AS PROVIDED IN THIS SECTION, THE LICENSE EXPIRES ON THE SECOND ANNIVERSARY OF THE EFFECTIVE DATE OF THE LICENSE.

(2) A LICENSEE THAT MEETS THE REQUIREMENTS OF THIS SECTION MAY OBTAIN A RENEWAL OF A LICENSE BEFORE THE LICENSE EXPIRES FOR AN ADDITIONAL 2–YEAR TERM.

(3) ONCE EXPIRED, A LICENSE MAY NOT BE RENEWED.

(D) AT LEAST 60 DAYS BEFORE A LICENSE EXPIRES, THE SECRETARY SHALL MAIL TO THE LICENSEE, AT THE LAST KNOWN ADDRESS OF THE LICENSEE:

(1) A RENEWAL APPLICATION FORM;

(2) A FORM THAT ALLOWS A LICENSEE TO UPDATE THE INFORMATION SUBMITTED IN THE ORIGINAL APPLICATION OR STATE THAT THE INFORMATION IS CURRENT AND ACCURATE;

(3) EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, A FORM THAT REQUIRES THE LICENSEE TO AGREE TO CONTINUE TO COMPLY WITH EACH REQUIREMENT APPLICABLE TO THE ORIGINAL APPLICATION; AND

(4) A NOTICE THAT STATES:

(I) THE DATE ON WHICH THE CURRENT LICENSE EXPIRES;

(II) THE DATE BY WHICH THE SECRETARY MUST RECEIVE THE RENEWAL APPLICATION FOR THE RENEWAL TO BE ISSUED AND MAILED BEFORE THE LICENSE EXPIRES; AND

(III) THE AMOUNT OF THE RENEWAL FEE.

(E) THE SECRETARY MAY REQUIRE A LICENSEE TO SUBMIT A NATIONAL AND STATE CRIMINAL HISTORY RECORDS CHECK WITH THE RENEWAL APPLICATION.

(F) THE SECRETARY SHALL RENEW THE LICENSE OF EACH LICENSEE WHO MEETS THE REQUIREMENTS OF THIS SECTION.

(G) (1) A LICENSEE MAY CHANGE THE FIXED BUSINESS ADDRESS FOR WHICH A LICENSE IS ISSUED ONLY IF THE LICENSEE:

(I) SUBMITS TO THE SECRETARY AN APPLICATION TO TRANSFER THE LICENSE TO A NEW BUSINESS LOCATION ON A FORM THAT THE SECRETARY PROVIDES; AND

(II) RECEIVES THE WRITTEN APPROVAL OF THE SECRETARY.

(2) WITHIN 45 DAYS AFTER THE APPLICATION IS FILED WITH THE SECRETARY, THE SECRETARY SHALL APPROVE OR DISAPPROVE THE APPLICATION AND NOTIFY THE LICENSEE OF THE APPROVAL OR DISAPPROVAL, IN WRITING.

(3) IF THE SECRETARY APPROVES A PROPOSED CHANGE OF FIXED BUSINESS ADDRESS, THE LICENSEE SHALL:

(I) SUBMIT TO THE SECRETARY A CURRENT LIST OF NAMES OF EACH EMPLOYEE TO BE EMPLOYED AT THE NEW LOCATION; AND

(II) ATTACH THE WRITTEN APPROVAL OF THE SECRETARY TO THE LICENSE UNTIL AN AMENDED LICENSE IS RECEIVED BY THE LICENSEE.

(H) THE SECRETARY MAY DETERMINE THAT LICENSES ISSUED UNDER THIS SUBTITLE SHALL EXPIRE ON A STAGGERED BASIS.

~~12.5–209.~~ 12.5–210.

(A) EACH LICENSEE SHALL DISPLAY THE LICENSE CONSPICUOUSLY IN THE PLACE OF BUSINESS OF THE LICENSEE.

(B) A LICENSEE AND AN EMPLOYEE OF A LICENSEE SHALL:

(1) CARRY A VALID PHOTO IDENTIFICATION CARD ISSUED BY A LICENSED LOCKSMITH UNDER § ~~12.5–206~~ 12.5–207 OF THIS SUBTITLE AT ALL TIMES THE LICENSEE OR EMPLOYEE OF A LICENSEE IS ENGAGED IN PROVIDING LOCKSMITH SERVICES; AND

(2) DISPLAY THE VALID PHOTO IDENTIFICATION CARD AS REQUIRED BY REGULATION.

(C) IF A PHOTO IDENTIFICATION CARD IS LOST OR DESTROYED, THE LICENSEE IMMEDIATELY SHALL NOTIFY THE LICENSED LOCKSMITH THAT ISSUED THE PHOTO IDENTIFICATION CARD.

(D) (1) TO CHANGE THE NAME OF A LICENSEE ON A LICENSE, A LICENSEE SHALL SUBMIT TO THE SECRETARY:

(I) AN APPLICATION ON THE FORM PROVIDED BY THE SECRETARY;

(II) THE LICENSE OF THE LICENSEE;

(III) ANY DOCUMENTATION ABOUT THE NAME CHANGE THAT THE SECRETARY REQUIRES; AND

(IV) THE FEE SET BY THE SECRETARY.

(2) ON RECEIPT OF THE APPLICATION, FEE, AND ANY REQUIRED DOCUMENTATION, THE SECRETARY SHALL ISSUE A NEW LICENSE BEARING THE NEW NAME OF THE LICENSEE.

~~12.5–210.~~ 12.5–211.

(A) (1) SUBJECT TO THE HEARING PROVISIONS OF § ~~12.5–211~~ 12.5–212 OF THIS SUBTITLE, THE SECRETARY MAY DENY A LICENSE TO AN APPLICANT, REPRIMAND A LICENSEE, OR SUSPEND OR REVOKE A LICENSE IF THE APPLICANT OR LICENSEE OR AN AGENT, EMPLOYEE, MANAGER, OR PARTNER OF THE APPLICANT OR LICENSEE:

(I) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO OBTAIN A LICENSE OR PHOTO IDENTIFICATION CARD FOR THE APPLICANT OR LICENSEE OR FOR ANOTHER PERSON;

(II) FRAUDULENTLY OR DECEPTIVELY USES A LICENSE OR PHOTO IDENTIFICATION CARD;

(III) PRESENTS OR ATTEMPTS TO PRESENT THE LICENSE OR PHOTO IDENTIFICATION CARD OF ANOTHER LICENSEE OR EMPLOYEE OF A LICENSEE AS THE APPLICANT'S OR LICENSEE'S LICENSE OR PHOTO IDENTIFICATION CARD;

(IV) ~~USE~~ USES OR ATTEMPTS TO USE AN EXPIRED, SUSPENDED, OR REVOKED LICENSE OR FALSE PHOTO IDENTIFICATION CARD;

(V) HAS A SIMILAR LICENSE OR CERTIFICATE DENIED, SUSPENDED, OR REVOKED IN ANOTHER JURISDICTION;

(VI) UNDER THE LAWS OF THE UNITED STATES OR OF ANY STATE, IS CONVICTED OF A:

1. FELONY; OR

2. MISDEMEANOR THAT IS DIRECTLY RELATED TO THE FITNESS AND QUALIFICATION OF THE APPLICANT OR LICENSEE TO BE INVOLVED IN PROVIDING LOCKSMITH SERVICES;

(VII) KNOWINGLY EMPLOYS OR KNOWINGLY CONTINUES TO EMPLOY AN INDIVIDUAL WHO, UNDER THE LAWS OF THE UNITED STATES OR OF ANY STATE, IS CONVICTED OF:

1. A FELONY THAT IS DIRECTLY RELATED TO THE FITNESS AND QUALIFICATION OF THE EMPLOYEE TO BE INVOLVED IN PROVIDING LOCKSMITH SERVICES; OR

2. A MISDEMEANOR THAT IS DIRECTLY RELATED TO THE FITNESS AND QUALIFICATION OF THE EMPLOYEE TO BE INVOLVED IN PROVIDING LOCKSMITH SERVICES;

(VIII) FAILS TO MAINTAIN THE LIABILITY INSURANCE REQUIRED UNDER § ~~12.5–204~~ 12.5–205 OF THIS SUBTITLE;

(IX) ENGAGES IN A PATTERN OF UNFAIR OR DECEPTIVE TRADE PRACTICES UNDER THE CONSUMER PROTECTION ACT, AS DETERMINED BY A FINAL ADMINISTRATIVE ORDER OR JUDICIAL DECISION;

(X) KNOWINGLY USES OR PERMITS THE USE OF ANY OF THE LICENSEE'S OR AN EMPLOYEE OF A LICENSEE'S SKILLS, TOOLS, OR FACILITIES FOR THE COMMISSION OF ANY CRIME;

(XI) WILLFULLY FAILS TO PROVIDE OR WILLFULLY MISREPRESENTS ANY INFORMATION REQUIRED TO BE PROVIDED UNDER THIS TITLE;

(XII) VIOLATES THIS TITLE; OR

(XIII) VIOLATES A REGULATION ADOPTED UNDER THIS TITLE.

(2) (I) INSTEAD OF OR IN ADDITION TO REPRIMANDING A LICENSEE OR SUSPENDING OR REVOKING A LICENSE UNDER THIS SUBSECTION, THE SECRETARY MAY IMPOSE A PENALTY NOT EXCEEDING $5,000 FOR EACH VIOLATION.

(II) TO DETERMINE THE AMOUNT OF THE PENALTY IMPOSED UNDER THIS SUBSECTION, THE SECRETARY SHALL CONSIDER:

1. THE SERIOUSNESS OF THE VIOLATION;

2. THE HARM CAUSED BY THE VIOLATION;

3. THE GOOD FAITH OF THE LICENSEE; AND

4. ANY HISTORY OF PREVIOUS VIOLATIONS BY THE LICENSEE.

(3) THE SECRETARY SHALL PAY ANY PENALTY COLLECTED UNDER THIS SUBSECTION INTO THE GENERAL FUND OF THE STATE.

(B) THE SECRETARY SHALL CONSIDER THE FOLLOWING FACTS IN THE GRANTING, DENIAL, RENEWAL, SUSPENSION, OR REVOCATION OF A LICENSE OR THE REPRIMAND OF AN APPLICANT OR LICENSEE WHEN AN APPLICANT OR LICENSEE IS CONVICTED OF A FELONY OR MISDEMEANOR DESCRIBED IN SUBSECTION (A)(1)(VI) OF THIS SECTION:

(1) THE NATURE OF THE CRIME;

(2) THE RELATIONSHIP OF THE CRIME TO THE ACTIVITIES AUTHORIZED BY THE LICENSE;

(3) WITH RESPECT TO A FELONY, THE RELEVANCE OF THE CONVICTION TO THE FITNESS AND QUALIFICATION OF THE APPLICANT OR LICENSEE TO ACT AS A LOCKSMITH;

(4) THE LENGTH OF TIME SINCE THE CONVICTION; AND

(5) THE BEHAVIOR AND ACTIVITIES OF THE APPLICANT OR LICENSEE BEFORE AND AFTER THE CONVICTION.

~~12.5–211.~~ 12.5–212.

(A) EXCEPT AS OTHERWISE PROVIDED IN § 10–226 OF THE STATE GOVERNMENT ARTICLE, BEFORE THE SECRETARY TAKES ANY FINAL ACTION UNDER § ~~12.5–210~~ 12.5–211 OF THIS SUBTITLE, THE SECRETARY SHALL GIVE THE PERSON AGAINST WHOM THE ACTION IS CONTEMPLATED AN OPPORTUNITY FOR A HEARING BEFORE THE SECRETARY.

(B) THE SECRETARY SHALL GIVE NOTICE AND HOLD THE HEARING IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

(C) THE SECRETARY MAY ADMINISTER OATHS IN A PROCEEDING UNDER THIS SECTION.

(D) IF, AFTER DUE NOTICE, THE PERSON AGAINST WHOM THE ACTION IS CONTEMPLATED DOES NOT APPEAR, NEVERTHELESS THE SECRETARY MAY HEAR AND DETERMINE THE MATTER.

~~12.5–212.~~ 12.5–213.

ANY PERSON AGGRIEVED BY A FINAL DECISION OF THE SECRETARY IN A CONTESTED CASE, AS DEFINED IN § 10–202 OF THE STATE GOVERNMENT ARTICLE, MAY TAKE AN APPEAL AS ALLOWED IN TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

~~12.5–213.~~ 12.5–214.

THE SECRETARY SHALL INFORM EACH LOCAL LAW ENFORCEMENT UNIT OF EACH LICENSE THAT IS ISSUED, RENEWED, CHANGED TO A NEW BUSINESS LOCATION, DENIED, SUSPENDED, OR REVOKED.

SUBTITLE 3. RECORDS.

12.5–301.

EACH LICENSED LOCKSMITH SHALL INCLUDE ON EACH INVOICE OR RECEIPT FOR SERVICES THE FOLLOWING INFORMATION REGARDING EACH SERVICE CALL:

(1) THE ADDRESS WHERE THE SERVICES WERE PROVIDED BY THE LOCKSMITH;

(2) THE TYPE OF LOCK BEING SERVICED;

(3) THE VEHICLE IDENTIFICATION NUMBER, IF APPLICABLE;

(4) THE QUOTED COST OF THE SERVICE PROVIDED TO THE CUSTOMER PRIOR TO AGREEING TO PROVIDE THE SERVICE; AND

(5) THE ACTUAL COST OF THE SERVICE PAID BY THE CUSTOMER.

12.5–302.

UNLESS OTHERWISE AUTHORIZED BY THE SECRETARY, A LICENSED LOCKSMITH SHALL KEEP A COPY OF EACH INVOICE OR RECEIPT FOR SERVICES REQUIRED BY THIS SUBTITLE, AT THE FIXED BUSINESS ADDRESS PROVIDED BY THE LICENSEE TO THE SECRETARY, FOR 3 YEARS AFTER THE DATE OF THE SERVICE CALL.

12.5–303.

(A) (1) A LICENSED LOCKSMITH SHALL PROVIDE TO A LOCAL LAW ENFORCEMENT UNIT OR THE DEPARTMENT A COPY OF EACH INVOICE OR RECEIPT FOR SERVICES REQUESTED BY EITHER A LOCAL LAW ENFORCEMENT UNIT OR THE DEPARTMENT.

(2) THE SECRETARY SHALL ENCOURAGE LICENSED LOCKSMITHS TO DEVELOP A SYSTEM FOR MAINTAINING THE RECORDS REQUIRED BY THIS SUBTITLE ELECTRONICALLY.

(B) ON A REQUEST FOR AN INVOICE OR A RECEIPT FOR SERVICES UNDER SUBSECTION (A) OF THIS SECTION, THE LICENSED LOCKSMITH SHALL SUBMIT THE ITEM BY ONE OF THE FOLLOWING METHODS:

(1) BY DELIVERING OR MAILING A COPY OF THE INVOICE OR RECEIPT FOR SERVICES WITHIN 5 BUSINESS DAYS AFTER RECEIVING THE REQUEST; OR

(2) BY TRANSMITTING A COPY OF THE INVOICE OR RECEIPT FOR SERVICES ELECTRONICALLY, IN A FORMAT ACCEPTABLE TO THE RECEIVING LOCAL LAW ENFORCEMENT UNIT OR THE DEPARTMENT, WITHIN 2 BUSINESS DAYS AFTER RECEIVING THE REQUEST.

(C) EACH COPY OF AN INVOICE OR A RECEIPT FOR SERVICES, SUBMITTED TO THE LOCAL LAW ENFORCEMENT UNIT OR THE DEPARTMENT, SHALL INCLUDE:

(1) THE LICENSE NUMBER OF THE LICENSED LOCKSMITH; AND

(2) THE INFORMATION REQUIRED UNDER § 12.5–301 OF THIS SUBTITLE.

(D) A COPY OF AN INVOICE OR A RECEIPT FOR SERVICES SUBMITTED UNDER THIS SECTION:

(1) SHALL BE KEPT CONFIDENTIAL;

(2) IS NOT A PUBLIC RECORD; AND

(3) IS NOT SUBJECT TO TITLE 10, SUBTITLE 6 OF THE STATE GOVERNMENT ARTICLE.

(E) A LOCAL LAW ENFORCEMENT UNIT OR THE DEPARTMENT MAY DESTROY THE COPY OF AN INVOICE OR A RECEIPT FOR SERVICES SUBMITTED UNDER THIS SECTION AFTER 1 YEAR FROM THE DATE THE LOCAL LAW ENFORCEMENT UNIT OR THE DEPARTMENT RECEIVES THE COPY.

SUBTITLE 4. MISCELLANEOUS PROVISIONS.

12.5–401.

EACH LOCKSMITH ADVERTISEMENT, BUSINESS CARD, OR ANY OTHER MEANS OF PROVIDING NOTICE TO THE PUBLIC OF THE BUSINESS PROVIDING LOCKSMITH SERVICES SHALL INCLUDE THE NAME OF THE LICENSED LOCKSMITH AND THE LICENSE NUMBER OF THE LICENSED LOCKSMITH.

SUBTITLE 5. PROHIBITED ACTS; PENALTIES.

12.5–501.

A PERSON MAY NOT KNOWINGLY USE OR PERMIT THE USE OF THE LICENSEE'S OR AN EMPLOYEE OF THE LICENSEE'S SKILLS, TOOLS, OR FACILITIES TO AID OR ABET AN UNLICENSED LOCKSMITH IN ANY ACTIVITY FOR WHICH A LOCKSMITH LICENSE IS REQUIRED FOR THE COMMISSION OF A CRIME.

12.5–502.

A LICENSED LOCKSMITH OR EMPLOYEE OF A LICENSED LOCKSMITH MAY NOT WILLFULLY OR DELIBERATELY DISREGARD ANY BUILDING OR SAFETY LAWS OF THE STATE OR LOCAL GOVERNMENT UNIT.

12.5–503.

A LICENSED LOCKSMITH OR EMPLOYEE OF A LICENSED LOCKSMITH MAY NOT FAIL IN ANY MATERIAL RESPECT TO COMPLETE THE INSTALLATION, REPAIR, OPENING, OR MODIFICATION OF A LOCK FOR THE PRICE STATED IN THE CONTRACT FOR SERVICES.

12.5–504.

EXCEPT FOR A VIOLATION OF § 12.5–505(A) OF THIS SUBTITLE, A PERSON THAT VIOLATES ANY PROVISION OF THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING $10,000 OR IMPRISONMENT NOT EXCEEDING 2 YEARS OR BOTH.

12.5–505.

(A) EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, A PERSON MAY NOT ACT AS, OFFER TO ACT AS, HOLD ONESELF OUT AS, OR IMPERSONATE A LOCKSMITH IN THE STATE UNLESS THE PERSON IS A LICENSEE OR EMPLOYEE OF A LICENSEE.

(B) A PERSON THAT VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND, ON FIRST CONVICTION, IS SUBJECT TO A FINE NOT EXCEEDING $1,000 AND, ON SECOND OR SUBSEQUENT CONVICTION, IS SUBJECT TO A FINE NOT EXCEEDING $5,000.

12.5–506.

(A) SUBJECT TO THE NOTICE AND HEARING PROVISIONS OF TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE, THE SECRETARY MAY

BRING A CIVIL ADMINISTRATIVE ACTION AGAINST A PERSON THAT VIOLATES § 12.5–505(A) OF THIS SUBTITLE.

(B) AFTER A HEARING, IF THE SECRETARY FINDS THAT A PERSON HAS VIOLATED § 12.5–505(A) OF THIS SUBTITLE, THE SECRETARY MAY:

(1) ORDER THE PERSON TO CEASE AND DESIST FROM UNLAWFUL PRACTICE; AND

(2) IMPOSE A CIVIL PENALTY NOT EXCEEDING $100 FOR EACH DAY OF UNLAWFUL PRACTICE.

(C) ANY PERSON AGGRIEVED BY A DECISION AND ORDER OF THE SECRETARY UNDER THIS SECTION MAY TAKE AN APPEAL AS ALLOWED IN TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

12.5–507.

(A) THIS SECTION APPLIES ONLY IF THERE IS NO GREATER CRIMINAL PENALTY PROVIDED UNDER THIS TITLE OR OTHER APPLICABLE LAW.

(B) A PERSON THAT ENGAGES IN REPEATED VIOLATIONS OF THE PROVISIONS OF THIS TITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING $5,000.

SUBTITLE 6. SHORT TITLE.

12.5–601.

THIS TITLE MAY BE CITED AS THE "MARYLAND LOCKSMITHS ACT".

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before July 1, 2010, a person providing locksmith services shall be licensed by the Secretary of Labor, Licensing, and Regulation subject to the qualification and application requirements of Title 12.5, Subtitle 2 of the Business Regulation Article.

SECTION 3. AND BE IT FURTHER ENACTED, That, on or before October 1, 2012, the Secretary of Labor, Licensing, and Regulation shall report to the Senate ~~Finance~~ Education, Health, and Environmental Affairs Committee and the House Economic Matters Committee, in accordance with § 2–1246 of the State Government Article, on:

(a) the number and nature of complaints submitted to the Department of Labor, Licensing, and Regulation regarding locksmiths and locksmith services; and

(b) whether additional competency–based credentials for locksmiths are necessary for the protection and safety of the public.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 552

(House Bill 370)

AN ACT concerning

Maryland Locksmiths Act

FOR the purpose of requiring a certain business to be licensed by the Secretary of Labor, Licensing, and Regulation before the business may provide locksmith services; providing for the purpose of this Act; providing that this Act does not limit the rights of certain individuals to engage in locksmith services; authorizing the Secretary to adopt certain regulations for the licensure and regulation of locksmiths; requiring all money collected by the Secretary to be paid into the General Fund of the State; establishing certain application procedures for obtaining a locksmith license; providing that before an individual may begin work for a licensed locksmith the licensee shall submit the individual's name to the Secretary and the individual shall apply for a national and State criminal history records check; requiring certain owners of businesses that are applicants and licensees to apply to the Central Repository for a certain criminal history records check; requiring certain applicants to submit fingerprints and a certain fee to the Central Repository; requiring the Central Repository to provide the Secretary with certain information; requiring certain information to be confidential and used for certain purposes; requiring licensees to maintain certain general liability insurance that meets certain requirements; requiring a licensee to provide a certain notice of cancellation of a certain general liability insurance policy within a certain time period; authorizing the issuance and renewal of certain licenses by the Secretary; authorizing the issuance of certain photo identification cards by certain licensed locksmiths; providing for the expiration and renewal of certain licenses; establishing requirements for the display, carrying, replacement, and change of name for certain licenses; authorizing the Secretary to deny a license to an applicant, refuse to renew a license, reprimand a licensee, suspend or revoke a license, or impose certain penalties under certain circumstances; establishing certain hearing and appeal procedures for locksmiths; establishing certain content, keeping, reporting, and transmittal requirements for certain invoices or receipts for service; requiring certain advertisements to include the name and license

number of a licensed locksmith; prohibiting certain acts; providing for certain civil and criminal penalties; requiring certain persons performing locksmith services to be licensed on or before a certain date; requiring the Secretary to submit a certain report including certain information to certain committees of the General Assembly on or before a certain date; defining certain terms; and generally relating to the licensure and regulation of locksmiths.

BY adding to
Article – Business Regulation
Section 12.5–101 through 12.5–601 to be under the new title "Title 12.5. Locksmiths"
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

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

Article – Business Regulation

TITLE 12.5. LOCKSMITHS.

SUBTITLE 1. DEFINITIONS; GENERAL PROVISIONS.

12.5–101.

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

(B) "BUSINESS" MEANS A COMMERCIAL ENTITY THAT PROVIDES LOCKSMITH SERVICES.

(C) "EMPLOYEE" MEANS AN INDIVIDUAL EMPLOYED BY A LICENSED LOCKSMITH TO PROVIDE LOCKSMITH SERVICES ON BEHALF OF THE LICENSED LOCKSMITH.

~~(C)~~ (D) "FIXED BUSINESS ADDRESS" MEANS A SINGLE PHYSICAL LOCATION IN THE STATE WHERE A LICENSEE REGULARLY CONDUCTS BUSINESS AND AT WHICH THE LICENSEE OR AN EMPLOYEE OF THE LICENSEE IS PHYSICALLY PRESENT:

(1) DURING NORMAL BUSINESS HOURS; OR

(2) OTHER HOURS AS PROVIDED IN THE APPLICATION FOR THE LICENSE.

~~(D)~~ (E) "LICENSE" MEANS A LICENSE ISSUED BY THE SECRETARY TO PROVIDE LOCKSMITH SERVICES.

~~(E)~~ (F) "LICENSED LOCKSMITH" MEANS, UNLESS THE CONTEXT REQUIRES OTHERWISE, A BUSINESS THAT IS LICENSED BY THE SECRETARY TO PROVIDE LOCKSMITH SERVICES.

~~(F)~~ (G) "LOCAL LAW ENFORCEMENT UNIT" MEANS THE DEPARTMENT OF STATE POLICE, A POLICE DEPARTMENT, OR SHERIFF, AS DESIGNATED BY THE COUNTY OR MUNICIPAL GOVERNING BODY.

~~(G)~~ (H) "PROVIDE LOCKSMITH SERVICES" MEANS TO ENGAGE PROFESSIONALLY AND FOR COMPENSATION IN:

(1) REPAIRING, REBUILDING, REKEYING, REPINNING, RECOMBINATING, ADJUSTING, OR INSTALLING MECHANICAL, ELECTRICAL, OR ELECTROMECHANICAL LOCKING DEVICES, SAFES, VAULTS, OR SAFE DEPOSIT BOXES; OR

(2) OPERATING A MECHANICAL, ELECTRICAL, OR ELECTROMECHANICAL LOCKING DEVICE OR OPENING SAFES, VAULTS, OR SAFE DEPOSIT BOXES BY A MEANS OTHER THAN THAT INTENDED BY THE MANUFACTURER OF SUCH LOCKING DEVICES.

12.5–102.

THE PURPOSE OF THIS TITLE IS TO SAFEGUARD THE LIFE, HEALTH, AND PROPERTY OF THE RESIDENTS OF MARYLAND TO PROMOTE THEIR WELFARE BY REGULATING PERSONS THAT PROVIDE LOCKSMITH SERVICES.

12.5–103.

THE PROVISIONS OF THIS TITLE MAY NOT BE CONSTRUED TO PROHIBIT THE FOLLOWING:

(1) BONA FIDE SALES DEMONSTRATIONS TO LOCKSMITHS OR LOCKSMITH SUPPLIERS BY SALES REPRESENTATIVES WHO ARE NOT LICENSED;

(2) EMERGENCY OPENING SERVICES BY MEMBERS OF POLICE DEPARTMENTS, FIRE DEPARTMENTS, OR OTHER GOVERNMENT AGENCIES IN THEIR OFFICIAL LINE OF DUTY IN ORDER TO PROTECT AGAINST LOSS OF LIFE OR PROPERTY;

(3) THE ACQUISITION, MAKING, OR USE OF ANY KEY DUPLICATION OR KEY BLANKS;

(4) THE REPLACING OF A REMOVABLE OR INTERCHANGEABLE CORE OR RECOMBINATING A CYLINDER IN A LOCK THAT WAS SPECIFICALLY DESIGNED BY THE MANUFACTURER TO BE CHANGED BY THE END USER BY USE OF A KEY;

(5) THE INSTALLATION, REPAIR, REPLACEMENT, OR REBUILDING OF A LOCK BY THE MANUFACTURER OF THE LOCK;

(6) THE INSTALLATION, REPAIR, REPLACEMENT, OR REBUILDING OF AN AUTOMOTIVE LOCK BY AN AUTOMOTIVE REPAIR AND SERVICE FACILITY, THE LOCK MANUFACTURER, OR THE MANUFACTURER'S AGENT;

(7) THE INSTALLATION OF LOCKS BY BUILDING TRADES PERSONNEL ON PROJECTS THAT REQUIRE A BUILDING PERMIT; ~~AND~~

(8) THE INSTALLATION OR REPLACEMENT OF LOCKS BY A RETAILER OR THE RETAILER'S AGENT ~~ON THE PREMISES OF THE RETAILER~~:

(I) ON THE PREMISES OF THE RETAILER; OR

(II) OFF THE PREMISES OF THE RETAILER IF THE INSTALLATION OR REPLACEMENT OF LOCKS IS INCIDENTAL TO THE RETAILER'S NORMAL COURSE OF BUSINESS;

(9) THE INSTALLATION OR REPLACEMENT OF LOCKS BY A SECURITY SYSTEMS TECHNICIAN WHO IS LICENSED UNDER TITLE 18 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE; AND

(10) THE INSTALLATION, REPAIR, REPLACEMENT, REKEYING, OR ADJUSTING OF LOCKS OR LOCK COMPONENTS FOR PROPERTY BY AN EMPLOYEE OR AGENT OF THE PROPERTY OWNER OR A MANAGEMENT COMPANY.

12.5–104.

THE SECRETARY MAY ADOPT AND ENFORCE REGULATIONS TO CARRY OUT THIS TITLE.

12.5–105.

THE SECRETARY SHALL PAY ALL MONEY COLLECTED UNDER THIS TITLE INTO THE GENERAL FUND OF THE STATE.

SUBTITLE 2. LICENSING.

12.5–201.

EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, A BUSINESS SHALL BE LICENSED BY THE SECRETARY BEFORE THE BUSINESS AND EMPLOYEES OF THE BUSINESS PROVIDE LOCKSMITH SERVICES IN THE STATE.

12.5–202.

(A) THE OWNER OF A BUSINESS OR THE OWNER'S DESIGNEE SHALL APPLY ON BEHALF OF THE BUSINESS FOR A LICENSE UNDER THIS SUBTITLE.

(B) (1) AN APPLICANT FOR A LICENSE SHALL:

(I) SUBMIT TO THE SECRETARY AN APPLICATION ON THE FORM THAT THE SECRETARY PROVIDES;

(II) SUBMIT A PASSPORT–SIZE PHOTOGRAPH, TAKEN WITHIN 6 MONTHS IMMEDIATELY PRECEDING THE DATE OF THE FILING OF THE APPLICATION, OF EACH OF THE FOLLOWING INDIVIDUALS:

1. THE OWNER OF THE BUSINESS; AND

2. EACH EMPLOYEE OF THE APPLICANT;

(III) PROVIDE ANY OTHER DOCUMENTS OR INFORMATION REQUIRED BY THIS SECTION OR REQUIRED BY THE SECRETARY; AND

(IV) PAY TO THE SECRETARY AN APPLICATION FEE SET BY THE SECRETARY.

(2) THE APPLICATION FEE IS NONREFUNDABLE.

(C) THE APPLICANT OWNER OR DESIGNEE SHALL SIGN THE APPLICATION UNDER OATH.

(D) IN ADDITION TO ANY OTHER INFORMATION THAT THE SECRETARY REQUIRES, THE APPLICATION SHALL STATE:

(1) THE NAME, BIRTH DATE, AND RESIDENCE ADDRESS OF THE FOLLOWING INDIVIDUALS:

(I) THE APPLICANT OWNER OR DESIGNEE; AND

(II) EACH EMPLOYEE OF THE APPLICANT;

(2) THE FIXED BUSINESS ADDRESS OF THE APPLICANT;

(3) A TELEPHONE NUMBER AT WHICH THE APPLICANT CAN BE REACHED DURING NORMAL BUSINESS HOURS, AND, IF APPLICABLE, AN ELECTRONIC MAIL ADDRESS;

(4) EACH ADDRESS WHERE THE APPLICANT HAS CONDUCTED ANY BUSINESS DURING THE 36 MONTHS BEFORE APPLICATION;

(5) THE DRIVER'S LICENSE NUMBER OF THE APPLICANT OWNER OR DESIGNEE AND EACH EMPLOYEE OF THE APPLICANT; AND

(6) THE NAME OF THE INSURER AND POLICY NUMBER OF THE GENERAL LIABILITY INSURANCE COVERAGE REQUIRED UNDER § ~~12.5–204~~ 12.5–205 OF THIS SUBTITLE.

(E) THE APPLICATION FORM PROVIDED BY THE SECRETARY SHALL CONTAIN A STATEMENT ADVISING THE APPLICANT THAT WILLFULLY MAKING A FALSE STATEMENT ON AN APPLICATION IS A MISDEMEANOR, SUBJECT TO A FINE OR IMPRISONMENT OR BOTH, AS PROVIDED UNDER § 12.5–504 OF THIS TITLE.

12.5–203.

BEFORE AN INDIVIDUAL MAY BEGIN WORK FOR A LICENSEE AS AN EMPLOYEE:

(1) THE LICENSEE SHALL SUBMIT TO THE SECRETARY, ON THE FORM THAT THE SECRETARY PROVIDES, THE NAME OF THE INDIVIDUAL; AND

(2) THE INDIVIDUAL SHALL APPLY FOR A NATIONAL AND STATE CRIMINAL HISTORY RECORDS CHECK REQUIRED UNDER § 12.5–204(B) OF THIS SUBTITLE.

~~12.5–203.~~ 12.5–204.

(A) IN THIS SECTION, "CENTRAL REPOSITORY" MEANS THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.

(B) (1) THE OWNER OF A BUSINESS THAT IS AN APPLICANT FOR A LICENSE UNDER § 12.5–202 OF THIS SUBTITLE AND AN INDIVIDUAL WHOSE

NAME IS REQUIRED TO BE SUBMITTED TO THE SECRETARY UNDER § 12.5–203 OF THIS SUBTITLE SHALL APPLY TO THE CENTRAL REPOSITORY FOR A NATIONAL AND STATE CRIMINAL HISTORY RECORDS CHECK ON A FORM APPROVED BY THE DIRECTOR OF THE CENTRAL REPOSITORY.

(2) AS A PART OF AN APPLICATION TO THE CENTRAL REPOSITORY FOR A NATIONAL AND STATE CRIMINAL HISTORY RECORDS CHECK, THE OWNER OF A BUSINESS THAT IS AN APPLICANT AND AN INDIVIDUAL WHOSE NAME IS REQUIRED TO BE SUBMITTED TO THE SECRETARY UNDER § 12.5–203 OF THIS SUBTITLE SHALL SUBMIT TO THE CENTRAL REPOSITORY:

(I) TWO COMPLETE SETS OF 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 THE CRIMINAL PROCEDURE ARTICLE FOR ACCESS TO THE STATE CRIMINAL HISTORY RECORDS; AND

(III) THE MANDATORY PROCESSING FEE REQUIRED BY THE FEDERAL BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORDS CHECK.

(C) A LICENSEE OR APPLICANT MAY PAY FOR THE COSTS BORNE BY THE EMPLOYEE OR OTHER INDIVIDUAL REQUIRING A CRIMINAL HISTORY RECORDS CHECK UNDER SUBSECTION (B) OF THIS SECTION.

~~(C)~~ (D) THE CENTRAL REPOSITORY SHALL PROVIDE TO THE SECRETARY:

(1) THE NATIONAL AND STATE CRIMINAL HISTORY RECORDS OF EACH INDIVIDUAL REQUIRING A CRIMINAL HISTORY RECORDS CHECK UNDER SUBSECTION (B) OF THIS SECTION AND ISSUE A PRINTED STATEMENT LISTING ANY CONVICTIONS AND PLEAS OF GUILTY OR NOLO CONTENDERE TO ANY CRIMINAL CHARGE;

(2) AN UPDATE OF THE INITIAL CRIMINAL HISTORY RECORDS CHECK FOR AN INDIVIDUAL REQUIRING A CRIMINAL HISTORY RECORDS CHECK AND ISSUE A REVISED PRINTED STATEMENT LISTING ANY CONVICTIONS AND PLEAS OF GUILTY OR NOLO CONTENDERE TO ANY CRIMINAL CHARGE OCCURRING IN THE STATE AFTER THE DATE OF THE INITIAL CRIMINAL HISTORY RECORDS CHECK; AND

(3) AN ACKNOWLEDGED RECEIPT OF THE APPLICATION FOR A CRIMINAL HISTORY RECORDS CHECK BY AN INDIVIDUAL REQUIRING A CRIMINAL HISTORY RECORDS CHECK.

~~(D)~~ (E) (1) INFORMATION OBTAINED BY THE SECRETARY FROM THE CENTRAL REPOSITORY UNDER THIS SECTION:

~~(1)~~ (I) IS CONFIDENTIAL;

~~(2)~~ (II) MAY NOT BE REDISSEMINATED; AND

~~(3)~~ (III) MAY BE USED ONLY FOR THE LICENSE PURPOSE AUTHORIZED BY THIS TITLE.

(2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT PRECLUDE THE SECRETARY FROM NOTIFYING A LICENSEE OR AN APPLICANT OF THE APPROVAL OR DISQUALIFICATION OF THE EMPLOYEE FOR EMPLOYMENT BASED ON INFORMATION OBTAINED BY THE SECRETARY UNDER THIS SECTION.

~~(E)~~ (F) 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 THE CRIMINAL PROCEDURE ARTICLE.

(G) THE SECRETARY SHALL VERIFY PERIODICALLY THE CONTINUED EMPLOYMENT OR LICENSURE OF INDIVIDUALS REQUIRING CRIMINAL HISTORY RECORDS CHECKS IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.

~~12.5–204.~~ 12.5–205.

(A) EACH LICENSED LOCKSMITH SHALL MAINTAIN GENERAL LIABILITY INSURANCE:

(1) IN THE AMOUNT OF AT LEAST $300,000;

(2) WITH COVERAGE APPROPRIATE FOR THE INDIVIDUAL'S CIRCUMSTANCES; AND

(3) IN ACCORDANCE WITH THE REGULATIONS ADOPTED BY THE SECRETARY UNDER THIS SECTION.

(B) A LICENSEE SHALL GIVE THE SECRETARY NOTICE OF THE CANCELLATION OF INSURANCE AT LEAST 10 DAYS BEFORE THE EFFECTIVE DATE OF THE CANCELLATION.

~~12.5–205.~~ 12.5–206.

(A) THE SECRETARY SHALL ISSUE A LICENSE TO EACH APPLICANT THAT MEETS THE REQUIREMENTS OF THIS SUBTITLE AND ON RECEIPT OF:

(1) A COMPLETE NATIONAL AND STATE CRIMINAL HISTORY RECORD REPORT FROM THE CENTRAL REPOSITORY IN ACCORDANCE WITH § ~~12.5–203~~ 12.5–204 OF THIS SUBTITLE; AND

(2) DOCUMENTATION OF CURRENT GENERAL LIABILITY INSURANCE IN THE AMOUNT REQUIRED UNDER § ~~12.5–204~~ 12.5–205 OF THIS SUBTITLE.

(B) THE SECRETARY SHALL DETERMINE THE SIZE, FORM, AND CONTENT OF ANY LICENSE CERTIFICATE THAT THE SECRETARY ISSUES.

(C) THE SECRETARY:

(1) MAY ISSUE A LICENSE ONLY FOR A FIXED BUSINESS ADDRESS; BUT

(2) MAY NOT ISSUE A LICENSE FOR AN ADDRESS THAT IS:

(I) A HOTEL OR MOTEL ROOM;

(II) A MOTOR VEHICLE;

(III) A POST OFFICE BOX; OR

(IV) A LOCATION THAT DOES NOT MEET THE QUALIFICATIONS OF A FIXED BUSINESS ADDRESS AS DEFINED IN § 12.5–101(D) OF THIS TITLE.

(D) THE SECRETARY MAY NOT ISSUE A LICENSE TO AN INDIVIDUAL WHO IS 18 YEARS OLD OR YOUNGER.

(E) A LICENSE ISSUED UNDER THIS TITLE IS NOT TRANSFERABLE.

~~12.5–206.~~ 12.5–207.

(A) EACH LICENSED LOCKSMITH SHALL ISSUE A PHOTO IDENTIFICATION CARD TO EACH INDIVIDUAL PROVIDING LOCKSMITH SERVICES ON BEHALF OF THE LICENSED LOCKSMITH, INCLUDING EACH INDIVIDUAL IDENTIFIED AS AN EMPLOYEE OF THE LICENSED LOCKSMITH UNDER § 12.5–202 OF THIS SUBTITLE.

(B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE LICENSED LOCKSMITH SHALL DETERMINE THE SIZE, FORM, AND CONTENT OF A PHOTO IDENTIFICATION CARD THAT THE LICENSED LOCKSMITH ISSUES.

(2) THE PHOTO IDENTIFICATION CARD ISSUED BY A LICENSED LOCKSMITH UNDER THIS SECTION SHALL:

(I) BE COMPOSED OF DURABLE MATERIAL;

(II) INCLUDE A CURRENT PASSPORT–SIZE PHOTOGRAPH OF THE INDIVIDUAL TO WHOM THE PHOTO IDENTIFICATION CARD IS ISSUED; AND

(III) INCLUDE THE LICENSE NUMBER AND LICENSE EXPIRATION DATE OF THE LICENSED LOCKSMITH'S LICENSE.

~~12.5–207.~~ 12.5–208.

WHILE A LICENSE IS IN EFFECT, THE LICENSE AUTHORIZES THE LICENSEE AND THE EMPLOYEES OF THE LICENSEE TO PROVIDE LOCKSMITH SERVICES IN THE STATE.

~~12.5–208.~~ 12.5–209.

(A) A LICENSE IS ISSUED FOR A TERM OF 2 YEARS.

(B) UNLESS A LICENSEE MEETS THE INSURANCE REQUIREMENTS OF § ~~12.5–204~~ 12.5–205 OF THIS SUBTITLE, THE SECRETARY MAY NOT RENEW THE LICENSE OF THE LICENSEE.

(C) (1) UNLESS A LICENSE IS RENEWED FOR A 2–YEAR TERM AS PROVIDED IN THIS SECTION, THE LICENSE EXPIRES ON THE SECOND ANNIVERSARY OF THE EFFECTIVE DATE OF THE LICENSE.

(2) A LICENSEE THAT MEETS THE REQUIREMENTS OF THIS SECTION MAY OBTAIN A RENEWAL OF A LICENSE BEFORE THE LICENSE EXPIRES FOR AN ADDITIONAL 2–YEAR TERM.

(3) ONCE EXPIRED, A LICENSE MAY NOT BE RENEWED.

(D) AT LEAST 60 DAYS BEFORE A LICENSE EXPIRES, THE SECRETARY SHALL MAIL TO THE LICENSEE, AT THE LAST KNOWN ADDRESS OF THE LICENSEE:

(1) A RENEWAL APPLICATION FORM;

(2) A FORM THAT ALLOWS A LICENSEE TO UPDATE THE INFORMATION SUBMITTED IN THE ORIGINAL APPLICATION OR STATE THAT THE INFORMATION IS CURRENT AND ACCURATE;

(3) EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, A FORM THAT REQUIRES THE LICENSEE TO AGREE TO CONTINUE TO COMPLY WITH EACH REQUIREMENT APPLICABLE TO THE ORIGINAL APPLICATION; AND

(4) A NOTICE THAT STATES:

(I) THE DATE ON WHICH THE CURRENT LICENSE EXPIRES;

(II) THE DATE BY WHICH THE SECRETARY MUST RECEIVE THE RENEWAL APPLICATION FOR THE RENEWAL TO BE ISSUED AND MAILED BEFORE THE LICENSE EXPIRES; AND

(III) THE AMOUNT OF THE RENEWAL FEE.

(E) THE SECRETARY MAY REQUIRE A LICENSEE TO SUBMIT A NATIONAL AND STATE CRIMINAL HISTORY RECORDS CHECK WITH THE RENEWAL APPLICATION.

(F) THE SECRETARY SHALL RENEW THE LICENSE OF EACH LICENSEE WHO MEETS THE REQUIREMENTS OF THIS SECTION.

(G) (1) A LICENSEE MAY CHANGE THE FIXED BUSINESS ADDRESS FOR WHICH A LICENSE IS ISSUED ONLY IF THE LICENSEE:

(I) SUBMITS TO THE SECRETARY AN APPLICATION TO TRANSFER THE LICENSE TO A NEW BUSINESS LOCATION ON A FORM THAT THE SECRETARY PROVIDES; AND

(II) RECEIVES THE WRITTEN APPROVAL OF THE SECRETARY.

(2) WITHIN 45 DAYS AFTER THE APPLICATION IS FILED WITH THE SECRETARY, THE SECRETARY SHALL APPROVE OR DISAPPROVE THE

APPLICATION AND NOTIFY THE LICENSEE OF THE APPROVAL OR DISAPPROVAL, IN WRITING.

(3) IF THE SECRETARY APPROVES A PROPOSED CHANGE OF FIXED BUSINESS ADDRESS, THE LICENSEE SHALL:

(I) SUBMIT TO THE SECRETARY A CURRENT LIST OF NAMES OF EACH EMPLOYEE TO BE EMPLOYED AT THE NEW LOCATION; AND

(II) ATTACH THE WRITTEN APPROVAL OF THE SECRETARY TO THE LICENSE UNTIL AN AMENDED LICENSE IS RECEIVED BY THE LICENSEE.

(H) THE SECRETARY MAY DETERMINE THAT LICENSES ISSUED UNDER THIS SUBTITLE SHALL EXPIRE ON A STAGGERED BASIS.

~~12.5–209.~~ 12.5–210.

(A) EACH LICENSEE SHALL DISPLAY THE LICENSE CONSPICUOUSLY IN THE PLACE OF BUSINESS OF THE LICENSEE.

(B) A LICENSEE AND AN EMPLOYEE OF A LICENSEE SHALL:

(1) CARRY A VALID PHOTO IDENTIFICATION CARD ISSUED BY A LICENSED LOCKSMITH UNDER § ~~12.5–206~~ 12.5–207 OF THIS SUBTITLE AT ALL TIMES THE LICENSEE OR EMPLOYEE OF A LICENSEE IS ENGAGED IN PROVIDING LOCKSMITH SERVICES; AND

(2) DISPLAY THE VALID PHOTO IDENTIFICATION CARD AS REQUIRED BY REGULATION.

(C) IF A PHOTO IDENTIFICATION CARD IS LOST OR DESTROYED, THE LICENSEE IMMEDIATELY SHALL NOTIFY THE LICENSED LOCKSMITH THAT ISSUED THE PHOTO IDENTIFICATION CARD.

(D) (1) TO CHANGE THE NAME OF A LICENSEE ON A LICENSE, A LICENSEE SHALL SUBMIT TO THE SECRETARY:

(I) AN APPLICATION ON THE FORM PROVIDED BY THE SECRETARY;

(II) THE LICENSE OF THE LICENSEE;

(III) ANY DOCUMENTATION ABOUT THE NAME CHANGE THAT THE SECRETARY REQUIRES; AND

(IV) THE FEE SET BY THE SECRETARY.

(2) ON RECEIPT OF THE APPLICATION, FEE, AND ANY REQUIRED DOCUMENTATION, THE SECRETARY SHALL ISSUE A NEW LICENSE BEARING THE NEW NAME OF THE LICENSEE.

~~12.5–210.~~ 12.5–211.

(A) (1) SUBJECT TO THE HEARING PROVISIONS OF § ~~12.5–211~~ 12.5–212 OF THIS SUBTITLE, THE SECRETARY MAY DENY A LICENSE TO AN APPLICANT, REPRIMAND A LICENSEE, OR SUSPEND OR REVOKE A LICENSE IF THE APPLICANT OR LICENSEE OR AN AGENT, EMPLOYEE, MANAGER, OR PARTNER OF THE APPLICANT OR LICENSEE:

(I) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO OBTAIN A LICENSE OR PHOTO IDENTIFICATION CARD FOR THE APPLICANT OR LICENSEE OR FOR ANOTHER PERSON;

(II) FRAUDULENTLY OR DECEPTIVELY USES A LICENSE OR PHOTO IDENTIFICATION CARD;

(III) PRESENTS OR ATTEMPTS TO PRESENT THE LICENSE OR PHOTO IDENTIFICATION CARD OF ANOTHER LICENSEE OR EMPLOYEE OF A LICENSEE AS THE APPLICANT'S OR LICENSEE'S LICENSE OR PHOTO IDENTIFICATION CARD;

(IV) ~~USE~~ USES OR ATTEMPTS TO USE AN EXPIRED, SUSPENDED, OR REVOKED LICENSE OR FALSE PHOTO IDENTIFICATION CARD;

(V) HAS A SIMILAR LICENSE OR CERTIFICATE DENIED, SUSPENDED, OR REVOKED IN ANOTHER JURISDICTION;

(VI) UNDER THE LAWS OF THE UNITED STATES OR OF ANY STATE, IS CONVICTED OF A:

1. FELONY; OR

2. MISDEMEANOR THAT IS DIRECTLY RELATED TO THE FITNESS AND QUALIFICATION OF THE APPLICANT OR LICENSEE TO BE INVOLVED IN PROVIDING LOCKSMITH SERVICES;

(VII) KNOWINGLY EMPLOYS OR KNOWINGLY CONTINUES TO EMPLOY AN INDIVIDUAL WHO, UNDER THE LAWS OF THE UNITED STATES OR OF ANY STATE, IS CONVICTED OF:

1. A FELONY THAT IS DIRECTLY RELATED TO THE FITNESS AND QUALIFICATION OF THE EMPLOYEE TO BE INVOLVED IN PROVIDING LOCKSMITH SERVICES; OR

2. A MISDEMEANOR THAT IS DIRECTLY RELATED TO THE FITNESS AND QUALIFICATION OF THE EMPLOYEE TO BE INVOLVED IN PROVIDING LOCKSMITH SERVICES;

(VIII) FAILS TO MAINTAIN THE LIABILITY INSURANCE REQUIRED UNDER § ~~12.5–204~~ 12.5–205 OF THIS SUBTITLE;

(IX) ENGAGES IN A PATTERN OF UNFAIR OR DECEPTIVE TRADE PRACTICES UNDER THE CONSUMER PROTECTION ACT, AS DETERMINED BY A FINAL ADMINISTRATIVE ORDER OR JUDICIAL DECISION;

(X) KNOWINGLY USES OR PERMITS THE USE OF ANY OF THE LICENSEE'S OR AN EMPLOYEE OF A LICENSEE'S SKILLS, TOOLS, OR FACILITIES FOR THE COMMISSION OF ANY CRIME;

(XI) WILLFULLY FAILS TO PROVIDE OR WILLFULLY MISREPRESENTS ANY INFORMATION REQUIRED TO BE PROVIDED UNDER THIS TITLE;

(XII) VIOLATES THIS TITLE; OR

(XIII) VIOLATES A REGULATION ADOPTED UNDER THIS TITLE.

(2) (I) INSTEAD OF OR IN ADDITION TO REPRIMANDING A LICENSEE OR SUSPENDING OR REVOKING A LICENSE UNDER THIS SUBSECTION, THE SECRETARY MAY IMPOSE A PENALTY NOT EXCEEDING $5,000 FOR EACH VIOLATION.

(II) TO DETERMINE THE AMOUNT OF THE PENALTY IMPOSED UNDER THIS SUBSECTION, THE SECRETARY SHALL CONSIDER:

1. THE SERIOUSNESS OF THE VIOLATION;

2. THE HARM CAUSED BY THE VIOLATION;

3. THE GOOD FAITH OF THE LICENSEE; AND

4. ANY HISTORY OF PREVIOUS VIOLATIONS BY THE LICENSEE.

(3) THE SECRETARY SHALL PAY ANY PENALTY COLLECTED UNDER THIS SUBSECTION INTO THE GENERAL FUND OF THE STATE.

(B) THE SECRETARY SHALL CONSIDER THE FOLLOWING FACTS IN THE GRANTING, DENIAL, RENEWAL, SUSPENSION, OR REVOCATION OF A LICENSE OR THE REPRIMAND OF AN APPLICANT OR LICENSEE WHEN AN APPLICANT OR LICENSEE IS CONVICTED OF A FELONY OR MISDEMEANOR DESCRIBED IN SUBSECTION (A)(1)(VI) OF THIS SECTION:

(1) THE NATURE OF THE CRIME;

(2) THE RELATIONSHIP OF THE CRIME TO THE ACTIVITIES AUTHORIZED BY THE LICENSE;

(3) WITH RESPECT TO A FELONY, THE RELEVANCE OF THE CONVICTION TO THE FITNESS AND QUALIFICATION OF THE APPLICANT OR LICENSEE TO ACT AS A LOCKSMITH;

(4) THE LENGTH OF TIME SINCE THE CONVICTION; AND

(5) THE BEHAVIOR AND ACTIVITIES OF THE APPLICANT OR LICENSEE BEFORE AND AFTER THE CONVICTION.

~~12.5–211.~~ 12.5–212.

(A) EXCEPT AS OTHERWISE PROVIDED IN § 10–226 OF THE STATE GOVERNMENT ARTICLE, BEFORE THE SECRETARY TAKES ANY FINAL ACTION UNDER § ~~12.5–210~~ 12.5–211 OF THIS SUBTITLE, THE SECRETARY SHALL GIVE THE PERSON AGAINST WHOM THE ACTION IS CONTEMPLATED AN OPPORTUNITY FOR A HEARING BEFORE THE SECRETARY.

(B) THE SECRETARY SHALL GIVE NOTICE AND HOLD THE HEARING IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

(C) THE SECRETARY MAY ADMINISTER OATHS IN A PROCEEDING UNDER THIS SECTION.

(D) IF, AFTER DUE NOTICE, THE PERSON AGAINST WHOM THE ACTION IS CONTEMPLATED DOES NOT APPEAR, NEVERTHELESS THE SECRETARY MAY HEAR AND DETERMINE THE MATTER.

~~12.5–212.~~ 12.5–213.

ANY PERSON AGGRIEVED BY A FINAL DECISION OF THE SECRETARY IN A CONTESTED CASE, AS DEFINED IN § 10–202 OF THE STATE GOVERNMENT ARTICLE, MAY TAKE AN APPEAL AS ALLOWED IN TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

~~12.5–213.~~ 12.5–214.

THE SECRETARY SHALL INFORM EACH LOCAL LAW ENFORCEMENT UNIT OF EACH LICENSE THAT IS ISSUED, RENEWED, CHANGED TO A NEW BUSINESS LOCATION, DENIED, SUSPENDED, OR REVOKED.

SUBTITLE 3. RECORDS.

12.5–301.

EACH LICENSED LOCKSMITH SHALL INCLUDE ON EACH INVOICE OR RECEIPT FOR SERVICES THE FOLLOWING INFORMATION REGARDING EACH SERVICE CALL:

(1) THE ADDRESS WHERE THE SERVICES WERE PROVIDED BY THE LOCKSMITH;

(2) THE TYPE OF LOCK BEING SERVICED;

(3) THE VEHICLE IDENTIFICATION NUMBER, IF APPLICABLE;

(4) THE QUOTED COST OF THE SERVICE PROVIDED TO THE CUSTOMER PRIOR TO AGREEING TO PROVIDE THE SERVICE; AND

(5) THE ACTUAL COST OF THE SERVICE PAID BY THE CUSTOMER.

12.5–302.

UNLESS OTHERWISE AUTHORIZED BY THE SECRETARY, A LICENSED LOCKSMITH SHALL KEEP A COPY OF EACH INVOICE OR RECEIPT FOR SERVICES REQUIRED BY THIS SUBTITLE, AT THE FIXED BUSINESS ADDRESS PROVIDED BY THE LICENSEE TO THE SECRETARY, FOR 3 YEARS AFTER THE DATE OF THE SERVICE CALL.

12.5–303.

(A) (1) A LICENSED LOCKSMITH SHALL PROVIDE TO A LOCAL LAW ENFORCEMENT UNIT OR THE DEPARTMENT A COPY OF EACH INVOICE OR RECEIPT FOR SERVICES REQUESTED BY EITHER A LOCAL LAW ENFORCEMENT UNIT OR THE DEPARTMENT.

(2) THE SECRETARY SHALL ENCOURAGE LICENSED LOCKSMITHS TO DEVELOP A SYSTEM FOR MAINTAINING THE RECORDS REQUIRED BY THIS SUBTITLE ELECTRONICALLY.

(B) ON A REQUEST FOR AN INVOICE OR A RECEIPT FOR SERVICES UNDER SUBSECTION (A) OF THIS SECTION, THE LICENSED LOCKSMITH SHALL SUBMIT THE ITEM BY ONE OF THE FOLLOWING METHODS:

(1) BY DELIVERING OR MAILING A COPY OF THE INVOICE OR RECEIPT FOR SERVICES WITHIN 5 BUSINESS DAYS AFTER RECEIVING THE REQUEST; OR

(2) BY TRANSMITTING A COPY OF THE INVOICE OR RECEIPT FOR SERVICES ELECTRONICALLY, IN A FORMAT ACCEPTABLE TO THE RECEIVING LOCAL LAW ENFORCEMENT UNIT OR THE DEPARTMENT, WITHIN 2 BUSINESS DAYS AFTER RECEIVING THE REQUEST.

(C) EACH COPY OF AN INVOICE OR A RECEIPT FOR SERVICES, SUBMITTED TO THE LOCAL LAW ENFORCEMENT UNIT OR THE DEPARTMENT, SHALL INCLUDE:

(1) THE LICENSE NUMBER OF THE LICENSED LOCKSMITH; AND

(2) THE INFORMATION REQUIRED UNDER § 12.5–301 OF THIS SUBTITLE.

(D) A COPY OF AN INVOICE OR RECEIPT FOR SERVICES SUBMITTED UNDER THIS SECTION:

(1) SHALL BE KEPT CONFIDENTIAL;

(2) IS NOT A PUBLIC RECORD; AND

(3) IS NOT SUBJECT TO TITLE 10, SUBTITLE 6 OF THE STATE GOVERNMENT ARTICLE.

(E) A LOCAL LAW ENFORCEMENT UNIT OR THE DEPARTMENT MAY DESTROY THE COPY OF AN INVOICE OR RECEIPT FOR SERVICES SUBMITTED UNDER THIS SECTION AFTER 1 YEAR FROM THE DATE THE LOCAL LAW ENFORCEMENT UNIT OR THE DEPARTMENT RECEIVES THE COPY.

SUBTITLE 4. MISCELLANEOUS PROVISIONS.

12.5–401.

EACH LOCKSMITH ADVERTISEMENT, BUSINESS CARD, OR ANY OTHER MEANS OF PROVIDING NOTICE TO THE PUBLIC OF THE BUSINESS PROVIDING LOCKSMITH SERVICES SHALL INCLUDE THE NAME OF THE LICENSED LOCKSMITH AND THE LICENSE NUMBER OF THE LICENSED LOCKSMITH.

SUBTITLE 5. PROHIBITED ACTS; PENALTIES.

12.5–501.

A PERSON MAY NOT KNOWINGLY USE OR PERMIT THE USE OF THE LICENSEE'S OR AN EMPLOYEE OF THE LICENSEE'S SKILLS, TOOLS, OR FACILITIES TO AID OR ABET AN UNLICENSED LOCKSMITH IN ANY ACTIVITY FOR WHICH A LOCKSMITH LICENSE IS REQUIRED FOR THE COMMISSION OF A CRIME.

12.5–502.

A LICENSED LOCKSMITH OR EMPLOYEE OF A LICENSED LOCKSMITH MAY NOT WILLFULLY OR DELIBERATELY DISREGARD ANY BUILDING OR SAFETY LAWS OF THE STATE OR LOCAL GOVERNMENT UNIT.

12.5–503.

A LICENSED LOCKSMITH OR EMPLOYEE OF A LICENSED LOCKSMITH MAY NOT FAIL IN ANY MATERIAL RESPECT TO COMPLETE THE INSTALLATION, REPAIR, OPENING, OR MODIFICATION OF A LOCK FOR THE PRICE STATED IN THE CONTRACT FOR SERVICES.

12.5–504.

EXCEPT FOR A VIOLATION OF § 12.5–505(A) OF THIS SUBTITLE, A PERSON THAT VIOLATES ANY PROVISION OF THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING $10,000 OR IMPRISONMENT NOT EXCEEDING 2 YEARS OR BOTH.

12.5–505.

(A) EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, A PERSON MAY NOT ACT AS, OFFER TO ACT AS, HOLD ONESELF OUT AS, OR IMPERSONATE A LOCKSMITH IN THE STATE UNLESS THE PERSON IS A LICENSEE OR EMPLOYEE OF A LICENSEE.

(B) A PERSON THAT VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND, ON FIRST CONVICTION, IS SUBJECT TO A FINE NOT EXCEEDING $1,000 AND, ON SECOND OR SUBSEQUENT CONVICTION, IS SUBJECT TO A FINE NOT EXCEEDING $5,000.

12.5–506.

(A) SUBJECT TO THE NOTICE AND HEARING PROVISIONS OF TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE, THE SECRETARY MAY BRING A CIVIL ADMINISTRATIVE ACTION AGAINST A PERSON THAT VIOLATES § 12.5–505(A) OF THIS SUBTITLE.

(B) AFTER A HEARING, IF THE SECRETARY FINDS THAT A PERSON HAS VIOLATED § 12.5–505(A) OF THIS SUBTITLE, THE SECRETARY MAY:

(1) ORDER THE PERSON TO CEASE AND DESIST FROM UNLAWFUL PRACTICE; AND

(2) IMPOSE A CIVIL PENALTY NOT EXCEEDING $100 FOR EACH DAY OF UNLAWFUL PRACTICE.

(C) ANY PERSON AGGRIEVED BY A DECISION AND ORDER OF THE SECRETARY UNDER THIS SECTION MAY TAKE AN APPEAL AS ALLOWED IN TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

12.5–507.

(A) THIS SECTION APPLIES ONLY IF THERE IS NO GREATER CRIMINAL PENALTY PROVIDED UNDER THIS TITLE OR OTHER APPLICABLE LAW.

(B) A PERSON THAT ENGAGES IN REPEATED VIOLATIONS OF THE PROVISIONS OF THIS TITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING $5,000.

SUBTITLE 6. SHORT TITLE.

12.5–601.

THIS TITLE MAY BE CITED AS THE "MARYLAND LOCKSMITHS ACT".

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before July 1, 2010, a person providing locksmith services shall be licensed by the Secretary of Labor, Licensing, and Regulation subject to the qualification and application requirements of Title 12.5, Subtitle 2 of the Business Regulation Article.

SECTION 3. AND BE IT FURTHER ENACTED, That, on or before October 1, 2012, the Secretary of Labor, Licensing, and Regulation shall report to the Senate ~~Finance~~ Education, Health, and Environmental Affairs Committee and the House Economic Matters Committee, in accordance with § 2–1246 of the State Government Article, on:

(a) the number and nature of complaints submitted to the Department of Labor, Licensing, and Regulation regarding locksmiths and locksmith services; and

(b) whether additional competency–based credentials for locksmiths are necessary for the protection and safety of the public.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 553

(Senate Bill 516)

AN ACT concerning

Maryland Organic Transition Investment Pilot Program (MO–TIPP)

FOR the purpose of establishing the Maryland Organic Transition Investment Pilot Program in the Department of Agriculture; requiring the Secretary of Agriculture to develop and implement the Pilot Program under certain circumstances; requiring the Department to submit a certain report on or before a certain date; establishing the Organic Agriculture Development Fund; establishing the purpose and uses of the Fund; requiring the Secretary to administer the Fund; establishing that the Fund is a special, nonlapsing fund; establishing eligibility requirements for the Fund; requiring certain producers that receive certain funding to report to the Department on or before a certain date; requiring the Department to adopt certain regulations; defining certain terms; providing for the interpretation of this Act; providing for the termination of this Act; and generally relating to organic agricultural production.

BY adding to
Article – Agriculture
Section 10–14A–01 through 10–14A–05 to be under the new subtitle "Subtitle 14A. Maryland Organic Transition Investment Pilot Program"
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

Preamble

WHEREAS, There is an intent and interest to provide assistance in promoting organic agricultural production in the State; and

WHEREAS, The demand for organic products, both domestic and imported, has increased markedly in recent years; and

WHEREAS, The Pilot Program created by this Act will be designed to increase agricultural revenue in the State by expanding the State's current crop yield to maximize the production of high–demand organic products; and

WHEREAS, There are funds available from a federal agricultural appropriation that could be earmarked to the State to assist family farms in growing organic crops; and

WHEREAS, It is the intent of the General Assembly to establish a 3–year pilot program to access federal funding for the expansion of organic production among the State's family farms; now, therefore,

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

Article – Agriculture

SUBTITLE 14A. MARYLAND ORGANIC TRANSITION INVESTMENT PILOT PROGRAM.

10–14A–01.

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

(B) "ELIGIBLE COSTS" MEANS:

(1) THE COST OF IMPLEMENTING ORGANIC AGRICULTURAL PRODUCTION PRACTICES CONSISTENT WITH AN ORGANIC FARM PLAN, INCLUDING:

(I) FARM INFRASTRUCTURE, AS DEFINED BY REGULATIONS ADOPTED BY THE DEPARTMENT IN ACCORDANCE WITH § 10–14A–05 OF THIS SUBTITLE; AND

(II) LIVESTOCK WELFARE MEASURES;

(2) TECHNICAL AND EDUCATIONAL ASSISTANCE;

(3) REVENUE LOSS; AND

(4) OTHER COSTS THE DEPARTMENT DETERMINES ARE APPROPRIATE.

(C) "FUND" MEANS THE ORGANIC AGRICULTURE DEVELOPMENT FUND.

(D) "ORGANIC FARM PLAN" MEANS A PLAN ESTABLISHED BY A PRODUCER THAT MEETS THE REQUIREMENTS ESTABLISHED BY THE DEPARTMENT FOR THE MANAGEMENT OF TRANSITIONAL ORGANIC AGRICULTURAL PRODUCTION.

(E) "PILOT PROGRAM" MEANS THE MARYLAND ORGANIC TRANSITION INVESTMENT PILOT PROGRAM.

(F) "PRODUCER" MEANS A PERSON ENGAGED IN THE BUSINESS OF PRODUCING AGRICULTURAL COMMODITIES OR CAUSING AGRICULTURAL COMMODITIES TO BE PRODUCED IN THE STATE.

(G) "REVENUE" MEANS THE AMOUNT DETERMINED BY MULTIPLYING THE MARKET PRICE PAID TO A PRODUCER FOR AN AGRICULTURAL PRODUCT BY THE PRODUCER'S ACTUAL YIELD FOR THAT AGRICULTURAL PRODUCT.

(H) "REVENUE LOSS" MEANS THE AMOUNT EQUAL TO THE DIFFERENCE BETWEEN THE AVERAGE OF THE PRODUCER'S REVENUES FOR THE 3 YEARS PRIOR TO THE FIRST YEAR OF TRANSITIONING TO ORGANIC AGRICULTURAL PRODUCTION AND THE REVENUE FOR THE CURRENT YEAR OF ORGANIC AGRICULTURAL PRODUCTION.

(I) "TECHNICAL AND EDUCATIONAL ASSISTANCE" MEANS THE CONVEYANCE OF INFORMATION AND COUNSEL REGARDING ECONOMIC AND BUSINESS PLANNING, MARKETING, AND ORGANIC PRACTICES, SUCH AS ENTOMOLOGICAL PRACTICES AND PEST AND WEED CONTROL AND PREVENTION, THAT SATISFY ORGANIC PRACTICES.

10–14A–02.

(A) THERE IS A MARYLAND ORGANIC TRANSITION INVESTMENT PILOT PROGRAM IN THE DEPARTMENT.

(B) SUBJECT TO THE AVAILABILITY AND APPROPRIATION OF FUNDING, THE SECRETARY SHALL DEVELOP AND IMPLEMENT THE PILOT PROGRAM IN ACCORDANCE WITH THIS SUBTITLE.

(C) THE PURPOSE OF THE PILOT PROGRAM IS TO PROVIDE FINANCIAL ASSISTANCE TO PRODUCERS FOR ELIGIBLE COSTS ASSOCIATED WITH TRANSITIONING TO ORGANIC AGRICULTURAL PRODUCTION.

10–14A–03.

ON OR BEFORE NOVEMBER 15 OF EACH YEAR, THE DEPARTMENT SHALL REPORT ON THE STATUS OF ORGANIC AGRICULTURE IN THE STATE TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

10–14A–04.

(A) THERE IS AN ORGANIC AGRICULTURE DEVELOPMENT FUND.

(B) THE PURPOSE OF THE FUND IS TO PROVIDE FINANCIAL ASSISTANCE TO PRODUCERS FOR THE ELIGIBLE COSTS ASSOCIATED WITH TRANSITIONING TO ORGANIC AGRICULTURAL PRODUCTION IN ACCORDANCE WITH THIS SECTION.

(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 STATE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

(E) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

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

(F) THE FUND CONSISTS OF:

(1) MONEY RECEIVED BY THE STATE FROM ANY ENTITY RECEIVING FEDERAL FUNDING FOR THE PURPOSES CONSISTENT WITH THIS SUBTITLE;

(2) MONEY RECEIVED BY THE STATE FROM THE FEDERAL GOVERNMENT FOR PURPOSES CONSISTENT WITH THIS SUBTITLE;

(3) MONEY ALLOCATED OR GRANTED TO THE FUND BY THE FEDERAL GOVERNMENT; AND

(4) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.

(G) A PRODUCER IS ELIGIBLE FOR FUNDING UNDER THIS SECTION FOR A PERIOD OF 3 CONSECUTIVE YEARS IF THE PRODUCER:

(1) SUBMITS TO THE DEPARTMENT AN ORGANIC TRANSITION PLAN THAT CONTAINS:

(I) AN ORGANIC FARM PLAN;

(II) THE ANTICIPATED ELIGIBLE COSTS ASSOCIATED WITH IMPLEMENTING ORGANIC AGRICULTURAL PRODUCTION PRACTICES CONSISTENT WITH AN ORGANIC FARM PLAN; AND

(III) A SCHEDULE DETAILING THE ANTICIPATED REVENUE LOSS FOR THE PART OF THE PRODUCER'S AGRICULTURAL OPERATION THAT THE PRODUCER INTENDS TO CONVERT TO ORGANIC AGRICULTURAL PRODUCTION FOR 3 YEARS PRECEDING THE DATE OF THE ORGANIC TRANSITION PLAN;

(2) SUBMITS AN APPLICATION TO THE DEPARTMENT FOR A MARYLAND ORGANIC TRANSITIONAL CERTIFICATE;

(3) ENTERS INTO AN AGREEMENT WITH THE DEPARTMENT THAT OBLIGATES THE PRODUCER TO MAINTAIN ORGANIC CERTIFICATION FOR A PERIOD OF 5 CONSECUTIVE YEARS; AND

(4) AGREES TO RECEIVE TECHNICAL AND EDUCATIONAL ASSISTANCE WITH REGARD TO THE DEVELOPMENT AND IMPLEMENTATION OF

ORGANIC PRACTICE STANDARDS, INCLUDING MARKETING, BUSINESS, AND RISK MANAGEMENT PLANS.

(H) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, ELIGIBLE COSTS PAYABLE TO A PRODUCER UNDER THIS SUBTITLE SHALL BE LIMITED TO $100 PER ACRE, NOT TO EXCEED 20 ACRES OF FARMLAND MANAGED UNDER AN ORGANIC FARM PLAN.

(2) THE SECRETARY MAY ESTABLISH BY REGULATION CONDITIONS UNDER WHICH ASSISTANCE MAY BE PROVIDED FOR ACREAGE THAT EXCEEDS 20 ACRES.

(I) BY DECEMBER 31 OF EACH YEAR, A PRODUCER THAT APPLIES FOR A PAYMENT UNDER THIS SECTION SHALL SUBMIT TO THE DEPARTMENT A REPORT OF ACTUAL REVENUE LOSS RESULTING FROM TRANSITIONING TO ORGANIC AGRICULTURAL PRODUCTION.

(J) A PRODUCER IS RELEASED FROM ANY OBLIGATION THAT ARISES UNDER SUBSECTION (G) OF THIS SECTION IF THE PILOT PROGRAM DOES NOT RECEIVE SUFFICIENT FUNDS IN FISCAL YEAR 2011 OR 2012.

10–14A–05.

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

SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not be interpreted as requiring the use of State funding for establishing and implementing the Maryland Organic Transition Investment Pilot Program.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009. It shall remain effective for a period of 3 years and, at the end of June 30, 2012, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 19, 2009.

Chapter 554

(House Bill 449)

AN ACT concerning

Maryland Organic Transition Investment Pilot Program (MO–TIPP)

FOR the purpose of establishing the Maryland Organic Transition Investment Pilot Program in the Department of Agriculture; requiring the Secretary of Agriculture to develop and implement the Pilot Program under certain circumstances; requiring the Department to submit a certain report on or before a certain date; establishing the Organic Agriculture Development Fund; establishing the purpose and uses of the Fund; requiring the Secretary to administer the Fund; establishing that the Fund is a special, nonlapsing fund; establishing eligibility requirements for the Fund; requiring certain producers that receive certain funding to report to the Department on or before a certain date; requiring the Department to adopt certain regulations; defining certain terms; providing for the interpretation of this Act; providing for the termination of this Act; and generally relating to organic agricultural production.

BY adding to
Article – Agriculture
Section 10–14A–01 through 10–14A–05 to be under the new subtitle "Subtitle 14A. Maryland Organic Transition Investment Pilot Program"
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

Preamble

WHEREAS, There is an intent and interest to provide assistance in promoting organic agricultural production in the State; and

WHEREAS, The demand for organic products, both domestic and imported, has increased markedly in recent years; and

WHEREAS, The Pilot Program created by this Act will be designed to increase agricultural revenue in the State by expanding the State's current crop yield to maximize the production of high–demand organic products; and

WHEREAS, There are funds available from a federal agricultural appropriation that could be earmarked to the State to assist family farms in growing organic crops; and

WHEREAS, It is the intent of the General Assembly to establish a 3–year pilot program to access federal funding for the expansion of organic production among the State's family farms; now, therefore,

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

Article – Agriculture

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10–14A–01.

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

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(I) FARM INFRASTRUCTURE, AS DEFINED BY REGULATIONS ADOPTED BY THE DEPARTMENT IN ACCORDANCE WITH § 10–14A–05 OF THIS SUBTITLE; AND

(II) LIVESTOCK WELFARE MEASURES;

(2) TECHNICAL AND EDUCATIONAL ASSISTANCE;

(3) REVENUE LOSS; AND

(4) OTHER COSTS THE DEPARTMENT DETERMINES ARE APPROPRIATE.

(C) "FUND" MEANS THE ORGANIC AGRICULTURE DEVELOPMENT FUND.

(D) "ORGANIC FARM PLAN" MEANS A PLAN ESTABLISHED BY A PRODUCER THAT MEETS THE REQUIREMENTS ESTABLISHED BY THE DEPARTMENT FOR THE MANAGEMENT OF TRANSITIONAL ORGANIC AGRICULTURAL PRODUCTION.

(E) "PILOT PROGRAM" MEANS THE MARYLAND ORGANIC TRANSITION INVESTMENT PILOT PROGRAM.

(F) "PRODUCER" MEANS A PERSON ENGAGED IN THE BUSINESS OF PRODUCING AGRICULTURAL COMMODITIES OR CAUSING AGRICULTURAL COMMODITIES TO BE PRODUCED IN THE STATE.

(G) "REVENUE" MEANS THE AMOUNT DETERMINED BY MULTIPLYING THE MARKET PRICE PAID TO A PRODUCER FOR AN AGRICULTURAL PRODUCT BY THE PRODUCER'S ACTUAL YIELD FOR THAT AGRICULTURAL PRODUCT.

(H) "REVENUE LOSS" MEANS THE AMOUNT EQUAL TO THE DIFFERENCE BETWEEN THE AVERAGE OF THE PRODUCER'S REVENUES FOR THE 3 YEARS PRIOR TO THE FIRST YEAR OF TRANSITIONING TO ORGANIC AGRICULTURAL PRODUCTION AND THE REVENUE FOR THE CURRENT YEAR OF ORGANIC AGRICULTURAL PRODUCTION.

(I) "TECHNICAL AND EDUCATIONAL ASSISTANCE" MEANS THE CONVEYANCE OF INFORMATION AND COUNSEL REGARDING ECONOMIC AND BUSINESS PLANNING, MARKETING, AND ORGANIC PRACTICES, SUCH AS ENTOMOLOGICAL PRACTICES AND PEST AND WEED CONTROL AND PREVENTION, THAT SATISFY ORGANIC PRACTICES.

10–14A–02.

(A) THERE IS A MARYLAND ORGANIC TRANSITION INVESTMENT PILOT PROGRAM IN THE DEPARTMENT.

(B) SUBJECT TO THE AVAILABILITY AND APPROPRIATION OF FUNDING, THE SECRETARY SHALL DEVELOP AND IMPLEMENT THE PILOT PROGRAM IN ACCORDANCE WITH THIS SUBTITLE.

(C) THE PURPOSE OF THE PILOT PROGRAM IS TO PROVIDE FINANCIAL ASSISTANCE TO PRODUCERS FOR ELIGIBLE COSTS ASSOCIATED WITH TRANSITIONING TO ORGANIC AGRICULTURAL PRODUCTION.

10–14A–03.

ON OR BEFORE NOVEMBER 15 OF EACH YEAR, THE DEPARTMENT SHALL REPORT ON THE STATUS OF ORGANIC AGRICULTURE IN THE STATE TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

10–14A–04.

(A) THERE IS AN ORGANIC AGRICULTURE DEVELOPMENT FUND.

(B) THE PURPOSE OF THE FUND IS TO PROVIDE FINANCIAL ASSISTANCE TO PRODUCERS FOR THE ELIGIBLE COSTS ASSOCIATED WITH TRANSITIONING

TO ORGANIC AGRICULTURAL PRODUCTION IN ACCORDANCE WITH THIS SECTION.

(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 STATE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

(E) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

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

(F) THE FUND CONSISTS OF:

(1) MONEY RECEIVED BY THE STATE FROM ANY ENTITY RECEIVING FEDERAL FUNDING FOR THE PURPOSES CONSISTENT WITH THIS SUBTITLE;

(2) MONEY RECEIVED BY THE STATE FROM THE FEDERAL GOVERNMENT FOR PURPOSES CONSISTENT WITH THIS SUBTITLE;

(3) MONEY ALLOCATED OR GRANTED TO THE FUND BY THE FEDERAL GOVERNMENT; AND

(4) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.

(G) A PRODUCER IS ELIGIBLE FOR FUNDING UNDER THIS SECTION FOR A PERIOD OF 3 CONSECUTIVE YEARS IF THE PRODUCER:

(1) SUBMITS TO THE DEPARTMENT AN ORGANIC TRANSITION PLAN THAT CONTAINS:

(I) AN ORGANIC FARM PLAN;

(II) THE ANTICIPATED ELIGIBLE COSTS ASSOCIATED WITH IMPLEMENTING ORGANIC AGRICULTURAL PRODUCTION PRACTICES CONSISTENT WITH AN ORGANIC FARM PLAN; AND

(III) A SCHEDULE DETAILING THE ANTICIPATED REVENUE LOSS FOR THE PART OF THE PRODUCER'S AGRICULTURAL OPERATION THAT THE PRODUCER INTENDS TO CONVERT TO ORGANIC AGRICULTURAL PRODUCTION FOR 3 YEARS PRECEDING THE DATE OF THE ORGANIC TRANSITION PLAN;

(2) SUBMITS AN APPLICATION TO THE DEPARTMENT FOR A MARYLAND ORGANIC TRANSITIONAL CERTIFICATE;

(3) ENTERS INTO AN AGREEMENT WITH THE DEPARTMENT THAT OBLIGATES THE PRODUCER TO MAINTAIN ORGANIC CERTIFICATION FOR A PERIOD OF 5 CONSECUTIVE YEARS; AND

(4) AGREES TO RECEIVE TECHNICAL AND EDUCATIONAL ASSISTANCE WITH REGARD TO THE DEVELOPMENT AND IMPLEMENTATION OF ORGANIC PRACTICE STANDARDS, INCLUDING MARKETING, BUSINESS, AND RISK MANAGEMENT PLANS.

(H) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, ELIGIBLE COSTS PAYABLE TO A PRODUCER UNDER THIS SUBTITLE SHALL BE LIMITED TO $100 PER ACRE, NOT TO EXCEED 20 ACRES OF FARMLAND MANAGED UNDER AN ORGANIC FARM PLAN.

(2) THE SECRETARY MAY ESTABLISH BY REGULATION CONDITIONS UNDER WHICH ASSISTANCE MAY BE PROVIDED FOR ACREAGE THAT EXCEEDS 20 ACRES.

(I) BY DECEMBER 31 OF EACH YEAR, A PRODUCER THAT APPLIES FOR A PAYMENT UNDER THIS SECTION SHALL SUBMIT TO THE DEPARTMENT A REPORT OF ACTUAL REVENUE LOSS RESULTING FROM TRANSITIONING TO ORGANIC AGRICULTURAL PRODUCTION.

(J) A PRODUCER IS RELEASED FROM ANY OBLIGATION THAT ARISES UNDER SUBSECTION (G) OF THIS SECTION IF THE PILOT PROGRAM DOES NOT RECEIVE SUFFICIENT FUNDS IN FISCAL YEAR 2011 OR 2012.

10–14A–05.

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

SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not be interpreted as requiring the use of State funding for establishing and implementing the Maryland Organic Transition Investment Pilot Program.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009. It shall remain effective for a period of 3 years and, at the end of June 30, 2012, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 19, 2009.

Chapter 555

(Senate Bill 518)

AN ACT concerning

Calvert County – Alcoholic Beverages

FOR the purpose of authorizing a limited winery in Calvert County to be issued a winery special event permit for unlimited use for certain times during certain months at a certain farmers' market in Calvert County; altering certain alcoholic beverages license fees in ~~Calvert County~~ the county; creating a special beer, wine, and spirits tasting (BWST) license in the county; providing for annual fees, application procedures, and certain requirements for the license; specifying certain conditions under which a protest to a renewal of an alcoholic beverages license in the county may occur; altering the time during which a penalty may be imposed for late renewal of an alcoholic beverages license in the county; imposing certain fines for the sale of alcoholic beverages to an underage individual in the county; altering the salaries for the chairman, members, and alternate member of the Calvert County Board of License Commissioners; providing that this Act does not apply to the salary or compensation of the incumbent chairman, members, and alternate member of the Calvert County Board of License Commissioners; making certain stylistic changes; and generally relating to alcoholic beverages in Calvert County.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 3–401(a), 5–101(a), 5–201(a)(1) and (f), 6–101(a)(1), 6–201(a)(1), 6–401(a)(1), 10–301(n)(1), and 12–108(a)(1)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages

Section 2–101(u), 3–401(f), 5–101(f), 6–101(f), 6–201(f), 6–401(f), 10–301(a)(1)(iii) and (n)(2), 12–108(a)(3)(i), and 15–109(f)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY adding to
Article 2B – Alcoholic Beverages
Section 8–404.1A
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

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

Article 2B – Alcoholic Beverages

2–101.

(u) (1) The Office of the Comptroller may issue a winery special event permit to a licensed Class 4 Maryland limited winery, provided that:

(i) [No] **EXCEPT AS PROVIDED IN PARAGRAPH (5) OF THIS SUBSECTION, NO** more than 12 winery special event permits are issued to the Class 4 Maryland limited winery in any given calendar year;

(ii) The permit does not exceed 3 consecutive days; and

(iii) [No] **EXCEPT AS PROVIDED IN PARAGRAPH (5) OF THIS SUBSECTION, NO** more than three winery special event permits are issued in any calendar year to any given limited winery for use in the same political subdivision.

(2) The winery special event permit may only be issued for an event which:

(i) Has as its major purpose an activity other than the sale and promotion of alcoholic beverages and for which the participation of the winery is a subordinate activity;

(ii) Is approved by the Department of Agriculture and the Office of the Comptroller; and

(iii) Is held on a nonlicensed premises or a premises on which a person may obtain a temporary alcoholic beverages license.

(3) A winery special event permit shall authorize the holder to:

(i) Provide samples not to exceed 1 fluid ounce per brand to consumers;

(ii) Sell not more than four 750 ml bottles of wine to a consumer at any given event or festival for off–premises consumption; and

(iii) Sell by the glass wine produced by the licensee to persons participating in any event or festival and for on–premises consumption.

(4) The winery special event permit application shall be filed with the Office of the Comptroller not less than 15 days prior to any event.

(5) A CLASS 4 MARYLAND LIMITED WINERY IN CALVERT COUNTY MAY BE ISSUED A WINERY SPECIAL EVENT PERMIT FOR UNLIMITED USE FOR ONE NIGHT EACH WEEK FROM JUNE THROUGH NOVEMBER AT THE NORTH BEACH FRIDAY NIGHT FARMERS' MARKET.

3–401.

(a) (1) A Class D beer license shall be issued by the license issuing authority of the county in which the place of business is located. The holder of the license may keep for sale and sell beer at retail at the place described in the license. The beer may be consumed on the premises or elsewhere, but a license may not be issued for any drugstore.

(2) The annual fee for the license shall be paid to the local collecting agent before any license is issued, for distribution as provided.

(f) In Calvert County the annual license fee is **[**$100**] $1,000**.

5–101.

(a) (1) A Class A beer and light wine license shall be issued by the license issuing authority of the county in which the place of business is located. The holder of the license may keep for sale and sell beer and light wines at retail, in any quantity to any consumers, at the place described in the license. The holder shall deliver the beer and light wines in a sealed package or container, which package or container may not be opened nor its contents consumed on the premises where sold.

(2) The annual fee for the license shall be paid to the local collecting agent before any license is issued, for distribution as provided.

(f) In Calvert County the annual license fee is **[**$150**] $300**.

5–201.

(a) (1) A Class B beer and light wine license shall be issued by the license issuing authority of the county in which the place of business is located. The holder may keep for sale and sell beer and light wines at retail at any hotel or restaurant, at the place described in the license, for consumption on the premises or elsewhere.

(f) In Calvert County the annual license fee is $250.

6–101.

(a) (1) A Class A beer, wine and liquor license shall be issued by the license issuing authority of the county in which the place of business is located. The license authorizes the holder to keep for sale and to sell all alcoholic beverages at retail, in any quantity, at the place described in the license. The licensee shall deliver the alcoholic beverages in a sealed package or container and the package or container may not be opened nor its contents consumed on the premises where sold.

(f) In Calvert County the annual license fee is **[**$500**] $1,000**.

6–201.

(a) (1) A Class B beer, wine and liquor license shall be issued by the license issuing authority of the county in which the place of business is located, and the license authorizes its holder to keep for sale and sell all alcoholic beverages at retail at any hotel or restaurant at the place described, for consumption on the premises or elsewhere, or as provided in this section.

(f) (1) This subsection applies only in Calvert County.

(2) The annual fee for a Class B license is **[**$1,000**]:**

(I) $1,250, IF THE PLACE OF BUSINESS REMAINS OPEN UNTIL MIDNIGHT; OR

(II) $2,250, IF THE PLACE OF BUSINESS REMAINS OPEN UNTIL 2 A.M.

(3) (i) There is a Class BR beer, wine and liquor license which authorizes licensees to sell beer, wine, and liquor in restaurants for on–sale consumption with meals only.

(ii) The annual license fee for each license is $500.

(iii) Hours and days for sale are those for other Calvert County Class B licensees.

(4) (i) In the 27th Legislative District of Calvert County, there is a Class BLX license for luxury–type restaurants.

(ii) The Class BLX license shall be applied for in the same manner as are other classes of licenses.

(iii) The license fee is $2,400.

(iv) A luxury–type restaurant shall be defined by the County Liquor Board.

(v) To qualify for a Class BLX license, a restaurant shall have:

1. A minimum capital investment of $500,000 for the dining room facilities and kitchen equipment, not including the cost of land, buildings, or leases; and

2. A seating capacity of at least 150 persons.

(vi) Notwithstanding any other provision of this article, an individual, corporation, limited liability company, partnership, limited partnership, joint venture, association, or other person or combination of persons may not have a direct or indirect interest in any combination in more than 3 Class B and Class BLX licenses.

(vii) An indirect interest is presumed to exist between any combination of individuals, corporations, limited liability companies, partnerships, limited partnerships, joint ventures, associations, or other persons if any of the following conditions exist between them:

1. A common parent company;

2. A franchise agreement;

3. A licensing agreement;

4. A concession agreement;

5. Dual membership in a chain of businesses commonly owned and operated;

6. A sharing of directors, stockholders, partners, or members, or a sharing of directors, stockholders, partners, or members of parents or subsidiaries;

7. Common direct or indirect sharing of profit from the sale of alcoholic beverages; or

8. A sharing of a common trade name, trademark, logo or theme, or mode of operation identifiable by the public.

6–401.

(a) (1) A Class D beer, wine and liquor license shall be issued by the license issuing authority of the county in which the place of business is located. It authorizes the holder to keep for sale and sell all alcoholic beverages at retail at the place described in it, for consumption on the premises or elsewhere. A license may not be issued for any drugstore.

(f) (1) This subsection applies only in Calvert County.

(2) This license may be issued in the entire county.

(3) The annual license fee is **[**$1,000**]:**

(I) $1,250, IF THE PLACE OF BUSINESS REMAINS OPEN UNTIL MIDNIGHT; OR

(II) $2,250, IF THE PLACE OF BUSINESS REMAINS OPEN UNTIL 2 A.M.

8–404.1A.

(A) THIS SECTION APPLIES ONLY IN CALVERT COUNTY.

(B) THE BOARD OF LICENSE COMMISSIONERS MAY ISSUE A SPECIAL BEER, WINE AND SPIRITS TASTING (BWST) LICENSE TO A HOLDER OF A CLASS A BEER AND WINE LICENSE OR A CLASS A BEER, WINE AND LIQUOR LICENSE.

(C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A BWST LICENSE ENTITLES A HOLDER OF:

(I) A CLASS A BEER AND WINE LICENSE TO ALLOW TASTINGS OF WINE OR BEER AND WINE; AND

(II) A CLASS A BEER, WINE AND LIQUOR LICENSE TO HOLD TASTINGS OF WINE, BEER AND WINE, OR BEER, WINE AND LIQUOR.

(2) TO HOLD A TASTING, A HOLDER OF A BWST LICENSE SHALL PROVIDE ALCOHOLIC BEVERAGES TO CONSUMERS AT NO CHARGE.

(D) A PERSON MAY CONSUME ALCOHOLIC BEVERAGES COVERED BY A BWST LICENSE IN A QUANTITY NOT EXCEEDING:

(1) 1 OUNCE FROM A SINGLE BRAND OF BEER OR WINE; AND

(2) ONE–HALF OUNCE FROM A SINGLE BRAND OF ANY OTHER ALCOHOLIC BEVERAGE.

(E) A BWST LICENSE ENTITLES THE HOLDER TO HOLD TASTINGS 365 DAYS PER YEAR.

(F) A SINGLE TASTING HELD UNDER A BWST LICENSE MAY NOT EXCEED 3 HOURS.

(G) (1) AN APPLICANT FOR A BWST LICENSE SHALL SUBMIT TO THE BOARD OF LICENSE COMMISSIONERS AN APPLICATION ON THE FORM THAT THE BOARD OF LICENSE COMMISSIONERS PROVIDES.

(2) THE BOARD OF LICENSE COMMISSIONERS MAY ISSUE A BWST LICENSE WITHOUT A HEARING.

(3) A RENEWAL OF A BWST LICENSE SHALL BE MADE AT THE TIME THAT THE CLASS A BEER AND WINE OR CLASS A BEER, WINE AND LIQUOR LICENSE IS RENEWED.

(H) THE ANNUAL FEE FOR A BWST LICENSE IS:

(1) $200, IF THE LICENSE IS USED FOR WINE;

(2) $250, IF THE LICENSE IS USED FOR BEER OR WINE; AND

(3) $300, IF THE LICENSE IS USED FOR BEER, WINE AND LIQUOR.

10–301.

(a) (1) (iii) 1. Subject to subsubparagraph **[**2**]** **3** of this subparagraph, a license by way of renewal may not be approved without a hearing before such official if a protest has been filed against the granting of the new license at least 30 days before the expiration of the license for which renewal is sought.

2. In **CALVERT COUNTY AND** Charles County:

A. A protest shall specify the basis on which the protest is made; **AND**

B. The protest shall be filed under oath**[**; and**]**.

[C.**] 3.** **[**The**] IN CHARLES COUNTY, THE** Board of License Commissioners may approve the renewal of the license without a hearing if the Board makes a finding that the basis of the protest lacks substance.

(n) (1) This subsection applies only in Calvert County.

(2) (i) The term of a license is 1 year.

(ii) To renew a license, a licensee shall file an application for license renewal with the Board of License Commissioners at any time beginning on April 1 and ending on May 1.

(iii) A license renewal application received by the Board **ON OR** after **[**May 1**] JULY 1** is subject to a late fine of $50 for each day the application is late.

(iv) A late fine may not exceed $500.

12–108.

(a) (1) A licensee licensed under this article, or any employee of the licensee, may not sell or furnish any alcoholic beverages at any time:

(i) To a person under 21 years of age for the underage person's own use or for the use of any other person; or

(ii) To any person who, at the time of the sale, or delivery, is visibly under the influence of any alcoholic beverage.

(3) (i) A licensee or employee of the licensee violating any of the provisions of this subsection is guilty of a misdemeanor and, upon conviction, **[**suffers the**] IS SUBJECT TO:**

1. THE penalties provided by § 16–503 of this article**; AND**

2. IN CALVERT COUNTY, IF THE VIOLATOR IS:

A. A LICENSEE, A FINE NOT EXCEEDING $200; OR

B. AN EMPLOYEE OF A LICENSEE, A FINE NOT EXCEEDING $250.

15–109.

(f) In Calvert County:

(1) The chairman of the Board shall receive **[**$2,100**]** **$4,200** annually for expenses incurred while carrying on the duties of the office;

(2) The regular members of the Board shall receive **[**$1,800**]** **$3,600** annually for expenses incurred while carrying on the duties of the office; and

(3) The alternate Board member shall receive **[**$75**]** **$200** compensation for each meeting of the Board attended as an acting regular member to compensate for expenses incurred while carrying on the duties of the office.

SECTION 2. AND BE IT FURTHER ENACTED, That, pursuant to Article III, § 35 of the Maryland Constitution, this Act may not be construed to extend or apply to the salary or compensation of the chairman, members, and alternate member of the Calvert County Board of License Commissioners in office on the effective date of this Act, but the provisions of this Act concerning the salary or compensation of the chairman, members, and alternate member of the Calvert County Board of License Commissioners 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, 2009.

Approved by the Governor, May 19, 2009.

Chapter 556

(House Bill 217)

AN ACT concerning

Calvert County – Alcoholic Beverages

FOR the purpose of *authorizing a limited winery in Calvert County to be issued a winery special event permit for unlimited use for certain times during certain months at a certain farmers' market in Calvert County; altering certain alcoholic beverage license fees in the county;* ~~altering certain alcoholic beverages license fees in Calvert County;~~ creating a special beer, wine, and spirits tasting (BWST) license in ~~the county~~ ~~Calvert County~~ *the county*; providing for annual fees, application procedures, and certain requirements for the license; specifying certain conditions under which a protest to a renewal of an alcoholic beverages license in the county may occur; altering the time during which a penalty may be imposed for late renewal of an alcoholic beverages license in the county; imposing certain fines for the sale of alcoholic beverages to an underage

individual in the county; altering the salaries for the chairman, members, and alternate member of the Calvert County Board of License Commissioners; providing that this Act does not apply to the salary or compensation of the incumbent chairman, members, and alternate member of the Calvert County Board of License Commissioners; making certain stylistic changes; and generally relating to alcoholic beverages in Calvert County.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section *3–401(a), 5–101(a), 5–201(a)(1) and (f), 6–101(a)(1), 6–201(a)(1), 6–401(a)(1),* ~~3–401(a), 5–101(a), 5–201(a)(1) and (f), 6–101(a)(1), 6–201(a)(1), 6–401(a)(1), 10–301(n)(1),~~ 10–301(n)(1), and 12–108(a)(1)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section *2–101(u), 3–401(f), 5–101(f), 6–101(f), 6–201(f), 6–401(f),* ~~3–401(f), 5–101(f), 6–101(f), 6–201(f), 6–401(f),~~ 10–301(a)(1)(iii) and (n)(2), 12–108(a)(3)(i), and 15–109(f)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY adding to
Article 2B – Alcoholic Beverages
Section 8–404.1A
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

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

Article 2B – Alcoholic Beverages

2–101.

(u) (1) The Office of the Comptroller may issue a winery special event permit to a licensed Class 4 Maryland limited winery, provided that:

(i) ***[****No****] EXCEPT AS PROVIDED IN PARAGRAPH (5) OF THIS SUBSECTION, NO*** *more than 12 winery special event permits are issued to the Class 4 Maryland limited winery in any given calendar year;*

(ii) The permit does not exceed 3 consecutive days; and

(iii) ***[No] EXCEPT AS PROVIDED IN PARAGRAPH (5) OF THIS SUBSECTION, NO*** *more than three winery special event permits are issued in any calendar year to any given limited winery for use in the same political subdivision.*

(2) The winery special event permit may only be issued for an event which:

(i) Has as its major purpose an activity other than the sale and promotion of alcoholic beverages and for which the participation of the winery is a subordinate activity;

(ii) Is approved by the Department of Agriculture and the Office of the Comptroller; and

(iii) Is held on a nonlicensed premises or a premises on which a person may obtain a temporary alcoholic beverages license.

(3) A winery special event permit shall authorize the holder to:

(i) Provide samples not to exceed 1 fluid ounce per brand to consumers;

(ii) Sell not more than four 750 ml bottles of wine to a consumer at any given event or festival for off–premises consumption; and

(iii) Sell by the glass wine produced by the licensee to persons participating in any event or festival and for on–premises consumption.

(4) The winery special event permit application shall be filed with the Office of the Comptroller not less than 15 days prior to any event.

(5) A CLASS 4 MARYLAND LIMITED WINERY IN CALVERT COUNTY MAY BE ISSUED A WINERY SPECIAL EVENT PERMIT FOR UNLIMITED USE FOR ONE NIGHT EACH WEEK FROM JUNE THROUGH NOVEMBER AT THE NORTH BEACH FRIDAY NIGHT FARMERS' MARKET.

3–401.

(a) (1) A Class D beer license shall be issued by the license issuing authority of the county in which the place of business is located. The holder of the license may keep for sale and sell beer at retail at the place described in the license. The beer may be consumed on the premises or elsewhere, but a license may not be issued for any drugstore.

(2) The annual fee for the license shall be paid to the local collecting agent before any license is issued, for distribution as provided.

(f) *In Calvert County the annual license fee is* ***[****$100****] $1,000****.*

5–101.

(a) *(1)* *A Class A beer and light wine license shall be issued by the license issuing authority of the county in which the place of business is located. The holder of the license may keep for sale and sell beer and light wines at retail, in any quantity to any consumers, at the place described in the license. The holder shall deliver the beer and light wines in a sealed package or container, which package or container may not be opened nor its contents consumed on the premises where sold.*

(2) *The annual fee for the license shall be paid to the local collecting agent before any license is issued, for distribution as provided.*

(f) *In Calvert County the annual license fee is* ***[****$150****] $300****.*

5–201.

(a) *(1)* *A Class B beer and light wine license shall be issued by the license issuing authority of the county in which the place of business is located. The holder may keep for sale and sell beer and light wines at retail at any hotel or restaurant, at the place described in the license, for consumption on the premises or elsewhere.*

(f) *In Calvert County the annual license fee is $250.*

6–101.

(a) *(1)* *A Class A beer, wine and liquor license shall be issued by the license issuing authority of the county in which the place of business is located. The license authorizes the holder to keep for sale and to sell all alcoholic beverages at retail, in any quantity, at the place described in the license. The licensee shall deliver the alcoholic beverages in a sealed package or container and the package or container may not be opened nor its contents consumed on the premises where sold.*

(f) *In Calvert County the annual license fee is* ***[****$500****] $1,000****.*

6–201.

(a) *(1)* *A Class B beer, wine and liquor license shall be issued by the license issuing authority of the county in which the place of business is located, and the license authorizes its holder to keep for sale and sell all alcoholic beverages at retail at any hotel or restaurant at the place described, for consumption on the premises or elsewhere, or as provided in this section.*

(f) *(1)* *This subsection applies only in Calvert County.*

(2) The annual fee for a Class B license is ***[****$1,000****]:***

(I) $1,250, IF THE PLACE OF BUSINESS REMAINS OPEN UNTIL MIDNIGHT; OR

(II) $2,250, IF THE PLACE OF BUSINESS REMAINS OPEN UNTIL 2 A.M.

(3) (i) There is a Class BR beer, wine and liquor license which authorizes licensees to sell beer, wine, and liquor in restaurants for on–sale consumption with meals only.

(ii) The annual license fee for each license is $500.

(iii) Hours and days for sale are those for other Calvert County Class B licensees.

(4) (i) In the 27th Legislative District of Calvert County, there is a Class BLX license for luxury–type restaurants.

(ii) The Class BLX license shall be applied for in the same manner as are other classes of licenses.

(iii) The license fee is $2,400.

(iv) A luxury–type restaurant shall be defined by the County Liquor Board.

(v) To qualify for a Class BLX license, a restaurant shall have:

1. A minimum capital investment of $500,000 for the dining room facilities and kitchen equipment, not including the cost of land, buildings, or leases; and

2. A seating capacity of at least 150 persons.

(vi) Notwithstanding any other provision of this article, an individual, corporation, limited liability company, partnership, limited partnership, joint venture, association, or other person or combination of persons may not have a direct or indirect interest in any combination in more than 3 Class B and Class BLX licenses.

(vii) An indirect interest is presumed to exist between any combination of individuals, corporations, limited liability companies, partnerships, limited partnerships, joint ventures, associations, or other persons if any of the following conditions exist between them:

1. A common parent company;

2. A franchise agreement;

3. A licensing agreement;

4. A concession agreement;

5. Dual membership in a chain of businesses commonly owned and operated;

6. A sharing of directors, stockholders, partners, or members, or a sharing of directors, stockholders, partners, or members of parents or subsidiaries;

7. Common direct or indirect sharing of profit from the sale of alcoholic beverages; or

8. A sharing of a common trade name, trademark, logo or theme, or mode of operation identifiable by the public.

6–401.

(a) (1) A Class D beer, wine and liquor license shall be issued by the license issuing authority of the county in which the place of business is located. It authorizes the holder to keep for sale and sell all alcoholic beverages at retail at the place described in it, for consumption on the premises or elsewhere. A license may not be issued for any drugstore.

(f) (1) This subsection applies only in Calvert County.

(2) This license may be issued in the entire county.

(3) The annual license fee is [$1,000]:

(I) $1,250, IF THE PLACE OF BUSINESS REMAINS OPEN UNTIL MIDNIGHT; OR

(II) $2,250, IF THE PLACE OF BUSINESS REMAINS OPEN UNTIL 2 A.M.

~~3–401.~~

~~(a) (1) A Class D beer license shall be issued by the license issuing authority of the county in which the place of business is located. The holder of the license may keep for sale and sell beer at retail at the place described in the license. The beer may be consumed on the premises or elsewhere, but a license may not be issued for any drugstore.~~

~~(2) The annual fee for the license shall be paid to the local collecting agent before any license is issued, for distribution as provided.~~

~~(f) In Calvert County the annual license fee is [$100] **$1,000**.~~

~~5–101.~~

~~(a) (1) A Class A beer and light wine license shall be issued by the license issuing authority of the county in which the place of business is located. The holder of the license may keep for sale and sell beer and light wines at retail, in any quantity to any consumers, at the place described in the license. The holder shall deliver the beer and light wines in a sealed package or container, which package or container may not be opened nor its contents consumed on the premises where sold.~~

~~(2) The annual fee for the license shall be paid to the local collecting agent before any license is issued, for distribution as provided.~~

~~(f) In Calvert County the annual license fee is [$150] **$300**.~~

~~5–201.~~

~~(a) (1) A Class B beer and light wine license shall be issued by the license issuing authority of the county in which the place of business is located. The holder may keep for sale and sell beer and light wines at retail at any hotel or restaurant, at the place described in the license, for consumption on the premises or elsewhere.~~

~~(f) In Calvert County the annual license fee is $250.~~

~~6–101.~~

~~(a) (1) A Class A beer, wine and liquor license shall be issued by the license issuing authority of the county in which the place of business is located. The license authorizes the holder to keep for sale and to sell all alcoholic beverages at retail, in any quantity, at the place described in the license. The licensee shall deliver the alcoholic beverages in a sealed package or container and the package or container may not be opened nor its contents consumed on the premises where sold.~~

~~(f) In Calvert County the annual license fee is [$500] **$1,000**.~~

~~6–201.~~

~~(a) (1) A Class B beer, wine and liquor license shall be issued by the license issuing authority of the county in which the place of business is located, and the license authorizes its holder to keep for sale and sell all alcoholic beverages at retail at any hotel or restaurant at the place described, for consumption on the premises or elsewhere, or as provided in this section.~~

~~(f) (1) This subsection applies only in Calvert County.~~

~~(2) The annual fee for a Class B license is [$1,000]:~~

~~(I) **$1,250, IF THE PLACE OF BUSINESS REMAINS OPEN UNTIL MIDNIGHT; OR**~~

~~(II) **$2,250, IF THE PLACE OF BUSINESS REMAINS OPEN UNTIL 2 A.M.**~~

~~(3) (i) There is a Class BR beer, wine and liquor license which authorizes licensees to sell beer, wine, and liquor in restaurants for on-sale consumption with meals only.~~

~~(ii) The annual license fee for each license is $500.~~

~~(iii) Hours and days for sale are those for other Calvert County Class B licensees.~~

~~(4) (i) In the 27th Legislative District of Calvert County, there is a Class BLX license for luxury-type restaurants.~~

~~(ii) The Class BLX license shall be applied for in the same manner as are other classes of licenses.~~

~~(iii) The license fee is $2,400.~~

~~(iv) A luxury-type restaurant shall be defined by the County Liquor Board.~~

~~(v) To qualify for a Class BLX license, a restaurant shall have:~~

~~1. A minimum capital investment of $500,000 for the dining room facilities and kitchen equipment, not including the cost of land, buildings, or leases; and~~

~~2. A seating capacity of at least 150 persons.~~

~~(vi) Notwithstanding any other provision of this article, an individual, corporation, limited liability company, partnership, limited partnership,~~

~~joint venture, association, or other person or combination of persons may not have a direct or indirect interest in any combination in more than 3 Class B and Class BLX licenses.~~

~~(vii) An indirect interest is presumed to exist between any combination of individuals, corporations, limited liability companies, partnerships, limited partnerships, joint ventures, associations, or other persons if any of the following conditions exist between them:~~

~~1. A common parent company;~~

~~2. A franchise agreement;~~

~~3. A licensing agreement;~~

~~4. A concession agreement;~~

~~5. Dual membership in a chain of businesses commonly owned and operated;~~

~~6. A sharing of directors, stockholders, partners, or members, or a sharing of directors, stockholders, partners, or members of parents or subsidiaries;~~

~~7. Common direct or indirect sharing of profit from the sale of alcoholic beverages; or~~

~~8. A sharing of a common trade name, trademark, logo or theme, or mode of operation identifiable by the public.~~

~~6–401.~~

~~(a) (1) A Class D beer, wine and liquor license shall be issued by the license issuing authority of the county in which the place of business is located. It authorizes the holder to keep for sale and sell all alcoholic beverages at retail at the place described in it, for consumption on the premises or elsewhere. A license may not be issued for any drugstore.~~

~~(f) (1) This subsection applies only in Calvert County.~~

~~(2) This license may be issued in the entire county.~~

~~(3) The annual license fee is [$1,000]:~~

~~(I) **$1,250, IF THE PLACE OF BUSINESS REMAINS OPEN UNTIL MIDNIGHT; OR**~~

~~(II) $2,250, IF THE PLACE OF BUSINESS REMAINS OPEN UNTIL 2 A.M.~~

8–404.1A.

(A) THIS SECTION APPLIES ONLY IN CALVERT COUNTY.

(B) THE BOARD OF LICENSE COMMISSIONERS MAY ISSUE A SPECIAL BEER, WINE AND SPIRITS TASTING (BWST) LICENSE TO A HOLDER OF A CLASS A BEER AND WINE LICENSE OR A CLASS A BEER, WINE AND LIQUOR LICENSE.

(C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A BWST LICENSE ENTITLES A HOLDER OF:

(I) A CLASS A BEER AND WINE LICENSE TO ALLOW TASTINGS OF WINE OR BEER AND WINE; AND

(II) A CLASS A BEER, WINE AND LIQUOR LICENSE TO HOLD TASTINGS OF WINE, BEER AND WINE, OR BEER, WINE AND LIQUOR.

(2) TO HOLD A TASTING, A HOLDER OF A BWST LICENSE SHALL PROVIDE ALCOHOLIC BEVERAGES TO CONSUMERS AT NO CHARGE.

(D) A PERSON MAY CONSUME ALCOHOLIC BEVERAGES COVERED BY A BWST LICENSE IN A QUANTITY NOT EXCEEDING:

(1) 1 OUNCE FROM A SINGLE BRAND OF BEER OR WINE; AND

(2) ONE–HALF OUNCE FROM A SINGLE BRAND OF ANY OTHER ALCOHOLIC BEVERAGE.

(E) A BWST LICENSE ENTITLES THE HOLDER TO HOLD TASTINGS 365 DAYS PER YEAR.

(F) A SINGLE TASTING HELD UNDER A BWST LICENSE MAY NOT EXCEED 3 HOURS.

(G) (1) AN APPLICANT FOR A BWST LICENSE SHALL SUBMIT TO THE BOARD OF LICENSE COMMISSIONERS AN APPLICATION ON THE FORM THAT THE BOARD OF LICENSE COMMISSIONERS PROVIDES.

(2) THE BOARD OF LICENSE COMMISSIONERS MAY ISSUE A BWST LICENSE WITHOUT A HEARING.

(3) A RENEWAL OF A BWST LICENSE SHALL BE MADE AT THE TIME THAT THE CLASS A BEER AND WINE OR CLASS A BEER, WINE AND LIQUOR LICENSE IS RENEWED.

(H) THE ANNUAL FEE FOR A BWST LICENSE IS:

(1) $200, IF THE LICENSE IS USED FOR WINE;

(2) $250, IF THE LICENSE IS USED FOR BEER OR WINE; AND

(3) $300, IF THE LICENSE IS USED FOR BEER, WINE AND LIQUOR.

10–301.

(a) (1) (iii) 1. Subject to subsubparagraph **[**2**]** **3** of this subparagraph, a license by way of renewal may not be approved without a hearing before such official if a protest has been filed against the granting of the new license at least 30 days before the expiration of the license for which renewal is sought.

2. In **CALVERT COUNTY AND** Charles County:

A. A protest shall specify the basis on which the protest is made; **AND**

B. The protest shall be filed under oath**[**; and**]**.

[C.**] 3.** **[**The**]** **IN CHARLES COUNTY, THE** Board of License Commissioners may approve the renewal of the license without a hearing if the Board makes a finding that the basis of the protest lacks substance.

(n) (1) This subsection applies only in Calvert County.

(2) (i) The term of a license is 1 year.

(ii) To renew a license, a licensee shall file an application for license renewal with the Board of License Commissioners at any time beginning on April 1 and ending on May 1.

(iii) A license renewal application received by the Board **ON OR** after **[**May 1**]** **JULY 1** is subject to a late fine of $50 for each day the application is late.

(iv) A late fine may not exceed $500.

12–108.

(a) (1) A licensee licensed under this article, or any employee of the licensee, may not sell or furnish any alcoholic beverages at any time:

(i) To a person under 21 years of age for the underage person's own use or for the use of any other person; or

(ii) To any person who, at the time of the sale, or delivery, is visibly under the influence of any alcoholic beverage.

(3) (i) A licensee or employee of the licensee violating any of the provisions of this subsection is guilty of a misdemeanor and, upon conviction, **[**suffers the**]** **IS SUBJECT TO:**

1. THE penalties provided by § 16–503 of this article**; AND**

2. IN CALVERT COUNTY, IF THE VIOLATOR IS:

A. A LICENSEE, A FINE NOT EXCEEDING $200; OR

B. AN EMPLOYEE OF A LICENSEE, A FINE NOT EXCEEDING $250.

15–109.

(f) In Calvert County:

(1) The chairman of the Board shall receive **[**$2,100**]** **$4,200** annually for expenses incurred while carrying on the duties of the office;

(2) The regular members of the Board shall receive **[**$1,800**]** **$3,600** annually for expenses incurred while carrying on the duties of the office; and

(3) The alternate Board member shall receive **[**$75**]** **$200** compensation for each meeting of the Board attended as an acting regular member to compensate for expenses incurred while carrying on the duties of the office.

SECTION 2. AND BE IT FURTHER ENACTED, That, pursuant to Article III, § 35 of the Maryland Constitution, this Act may not be construed to extend or apply to the salary or compensation of the chairman, members, and alternate member of the Calvert County Board of License Commissioners in office on the effective date of this Act, but the provisions of this Act concerning the salary or compensation of the chairman, members, and alternate member of the Calvert County Board of License Commissioners 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, 2009.

Approved by the Governor, May 19, 2009.

Chapter 557

(Senate Bill 550)

AN ACT concerning

Online Child Safety Act of 2009

FOR the purpose of promoting online child safety through the dissemination of certain parental controls; requiring certain Internet access providers to make certain parental controls available to certain subscribers at certain times and under certain circumstances; providing for the qualifications of certain parental controls; providing for the application of certain requirements; authorizing an Internet access provider to make certain parental controls available in certain manners; providing that a violation of this Act is an unfair or deceptive trade practice subject to certain enforcement; ~~requiring the State Department of Education to develop certain guidelines for online child safety, including certain information;~~ stating the intent of the General Assembly; defining certain terms; and generally relating to online child safety.

BY repealing and reenacting, with amendments,
Article – Commercial Law
Section 13–301(14)(xxii) though (xxvi)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY adding to
Article – Commercial Law
Section 13–301(14)(xxii); and 14–3701 through 14–3706 to be under the new subtitle "Subtitle 37. Online Child Safety Act"
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

~~BY adding to~~
~~Article – Education~~
~~Section 7–430~~
~~Annotated Code of Maryland~~
~~(2008 Replacement Volume)~~

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) TITLE 14, SUBTITLE 37 OF THIS ARTICLE, THE ONLINE CHILD SAFETY ACT;

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

[(xxiii)**] (XXIV)** Section 7–304 of the Criminal Law Article;

[(xxiv)**] (XXV)** Title 7, Subtitle 3 of the Real Property Article, the Protection of Homeowners in Foreclosure Act;

[(xxv)**] (XXVI)** Title 6, Subtitle 13 of the Environment Article; or

[(xxvi)**] (XXVII)** Section 7–405(e)(2)(ii) of the Health Occupations Article; or

SUBTITLE 37. ONLINE CHILD SAFETY ACT.

14–3701.

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

(B) "CHILD" MEANS AN INDIVIDUAL UNDER THE AGE OF 18 YEARS.

(C) "COMPUTER NETWORK" MEANS THE COMPUTER NETWORK COMMONLY KNOWN AS THE INTERNET AND ANY OTHER LOCAL, REGIONAL, OR GLOBAL COMPUTER NETWORK THAT IS SIMILAR TO OR IS A PREDECESSOR OF OR SUCCESSOR TO THE INTERNET.

(D) "INTERNET" MEANS THE INTERNATIONAL COMPUTER NETWORK OF BOTH FEDERAL AND NONFEDERAL INTEROPERABLE PACKET–SWITCHED DATA NETWORKS.

(E) (1) "INTERNET ACCESS PROVIDER" MEANS A PROVIDER THAT OFFERS DIRECTLY TO RESIDENTIAL CUSTOMERS AN INTERACTIVE COMPUTER SERVICE TO OBTAIN ACCESS TO THE INTERNET IN EXCHANGE FOR CONSIDERATION, SUCH AS THROUGH A PAID SUBSCRIPTION OR THROUGH AN AGREEMENT TO VIEW SPECIFIC ADVERTISING OR OTHER CONTENT.

(2) "INTERNET ACCESS PROVIDER" DOES NOT INCLUDE A LIBRARY OR EDUCATIONAL INSTITUTION THAT OPERATES OR OFFERS AN INTERACTIVE COMPUTER SERVICE TO OBTAIN ACCESS TO THE INTERNET.

(F) (1) "INTERACTIVE COMPUTER SERVICE" MEANS AN INFORMATION SERVICE, SYSTEM, OR ACCESS SOFTWARE PROVIDER THAT PROVIDES OR ENABLES COMPUTER ACCESS BY MULTIPLE USERS TO A COMPUTER SERVICE.

(2) "INTERACTIVE COMPUTER SERVICE" INCLUDES A SERVICE OR SYSTEM THAT PROVIDES ACCESS TO THE INTERNET AND SYSTEMS OPERATED OR SERVICES OFFERED BY A LIBRARY OR EDUCATIONAL INSTITUTION.

(G) "PARENTAL CONTROL" MEANS A PRODUCT OR SERVICE TO CONTROL THE ACCESS OF A CHILD TO THE INTERNET.

14–3702.

IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THIS SUBTITLE:

~~(1) PROMOTE~~ PROMOTE THE DISSEMINATION OF QUALIFYING PARENTAL CONTROLS FOR THE PROTECTION OF CHILDREN IN THE STATE SUBJECT TO APPROPRIATE AND BENEFICIAL OVERSIGHT BY THEIR PARENTS AND FAMILIES~~; AND~~

~~(2) BE CONSTRUED LIBERALLY FOR THE PROTECTION OF FAMILIES AND CHILDREN IN THE STATE~~.

14–3703.

THIS SUBTITLE APPLIES TO AN INTERNET ACCESS PROVIDER THAT KNOWS OR HAS REASON TO KNOW THAT A SUBSCRIBER CURRENTLY RESIDES IN THE STATE.

14–3704.

(A) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AN INTERNET ACCESS PROVIDER SHALL MAKE A PARENTAL CONTROL THAT

SATISFIES THE REQUIREMENTS OF THIS SECTION AVAILABLE TO EACH SUBSCRIBER IN THE STATE.

(2) THE INTERNET ACCESS PROVIDER MAY NOT BE REQUIRED TO PROVIDE A PARENTAL CONTROL THAT IS NOT REASONABLY AND COMMERCIALLY AVAILABLE FOR THE TECHNOLOGY THAT THE SUBSCRIBER USES TO OBTAIN ACCESS TO THE INTERNET.

(B) A PARENTAL CONTROL SHALL ALLOW THE SUBSCRIBER, IN A COMMERCIALLY REASONABLE MANNER, TO:

(1) BLOCK ALL ACCESS TO THE INTERNET; AND

(2) (I) BLOCK A CHILD'S ACCESS TO WEBSITES BY SPECIFYING PROHIBITED WEBSITES OR BY SELECTING A CATEGORY OF SITES TO BLOCK;

~~(3)~~ (II) RESTRICT A CHILD'S ACCESS EXCLUSIVELY TO WEBSITES THAT THE SUBSCRIBER APPROVES OR A CATEGORY OF WEBSITES THAT THE SUBSCRIBER APPROVES;

~~(4)~~ (III) RESTRICT A CHILD'S ACCESS TO WEBSITES THAT THE ~~INTERNET ACCESS~~ PARENTAL CONTROL PROVIDER DESIGNATES; OR

~~(5)~~ (IV) MONITOR A CHILD'S USE OF THE INTERNET BY PROVIDING A REPORT TO THE SUBSCRIBER INDICATING:

~~(I)~~ 1. EACH SPECIFIC WEBSITE THAT THE CHILD HAS ATTEMPTED TO VISIT BUT WAS UNABLE TO VIEW BECAUSE THE SUBSCRIBER BLOCKED OR RESTRICTED ACCESS TO THE WEBSITE; OR

~~(II)~~ 2. EACH SPECIFIC WEBSITE THAT THE CHILD HAS VISITED.

14–3705.

(A) THE INTERNET ACCESS PROVIDER SHALL MAKE AVAILABLE TO THE SUBSCRIBER, AT OR NEAR THE TIME OF SUBSCRIPTION, A PARENTAL CONTROL THAT SATISFIES THE REQUIREMENTS OF § 14–3704 OF THIS SUBTITLE.

(B) THE INTERNET ACCESS PROVIDER MAY MAKE THE PARENTAL CONTROL AVAILABLE TO THE SUBSCRIBER EITHER DIRECTLY OR THROUGH A LINK TO A THIRD PARTY.

(C) THE INTERNET ACCESS PROVIDER OR THIRD PARTY MAY CHARGE FOR THE PARENTAL CONTROL.

14–3706.

THIS SUBTITLE MAY BE CITED AS THE ONLINE CHILD SAFETY ACT.

~~**Article – Education**~~

~~**7–430.**~~

~~**(A) THE DEPARTMENT SHALL DEVELOP GUIDELINES FOR INSTRUCTION ON INTERNET SAFETY.**~~

~~**(B) THE GUIDELINES SHALL INCLUDE THE PRODUCTION OF MATERIALS FOR DISTRIBUTION TO PARENTS AND STUDENTS TO ASSIST IN THE EFFECTIVE USE OF PARENTAL CONTROLS THAT INTERNET ACCESS PROVIDERS ARE REQUIRED TO MAKE AVAILABLE UNDER TITLE 14, SUBTITLE 37 OF THE COMMERCIAL LAW ARTICLE, THE ONLINE CHILD SAFETY ACT.**~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 558

(Senate Bill 556)

AN ACT concerning

State Funding Accountability Act

FOR the purpose of requiring certain ~~grantees that receive~~ *grantors that provide* certain State aid to submit ~~a report~~ certain reports to the Department of ~~Budget and Management~~ ~~Information Technology~~ *Budget and Management* by a certain date; ~~requiring certain nonpublic institutions of higher education to submit certain reports to a certain association; requiring a certain association to submit a certain report by a certain date;~~ requiring ~~the report~~ certain reports to contain certain information and be provided in a certain form; requiring the Department *of Information Technology*, in consultation with the Department of Budget and Management, to develop and operate a certain searchable website providing certain information; authorizing the Office of Legislative Audits to conduct certain audits of certain grantees ~~that receive at least a certain appropriation or grant in the operating or capital budget or from the action of a unit of State government; requiring the Office of Legislative Audits to identify~~

~~for a certain audit a certain percentage of grantees each year~~; defining certain terms; and generally providing for the reporting *of certain grantors* and auditing of certain grantees receiving certain State aid.

BY adding to
Article – State Finance and Procurement
Section 7–406
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

~~BY repealing and reenacting, with amendments,~~
~~Article – State Government~~
~~Section 2–1220(b)~~
~~Annotated Code of Maryland~~
~~(2004 Replacement Volume and 2008 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

7–406.

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

(2) "DEPARTMENT" MEANS THE DEPARTMENT OF ~~BUDGET AND MANAGEMENT~~ ~~INFORMATION TECHNOLOGY~~ *BUDGET AND MANAGEMENT*.

(3) (I) "GRANTEE" MEANS A FOR PROFIT OR NONPROFIT ENTITY OR ASSOCIATION THAT RECEIVES STATE AID DURING A FISCAL YEAR.

(II) "GRANTEE" DOES NOT INCLUDE A UNIT OF STATE OR LOCAL GOVERNMENT.

(4) *"GRANTOR" MEANS A UNIT OF STATE GOVERNMENT OR OTHER STATE ENTITY THAT PROVIDES STATE AID TO A GRANTEE.*

***(5)* (I) "STATE AID" MEANS A CONTRIBUTION, GRANT, OR SUBSIDY OF ~~MONEY~~ $50,000 OR MORE PROVIDED THROUGH THE STATE OPERATING OR CAPITAL BUDGET OR BY THE ACTION OF A UNIT OF STATE GOVERNMENT FROM STATE FUNDS APPROPRIATED TO THAT UNIT.**

(II) "STATE AID" DOES NOT INCLUDE REIMBURSEMENTS TO PROVIDERS PARTICIPATING IN A STATE PROGRAM.

(B) (1) (I) A ~~GRANTEE~~ *GRANTOR* SHALL SUBMIT A REPORT AS PROVIDED IN THIS SUBSECTION TO THE DEPARTMENT ON OR BEFORE SEPTEMBER 1 AFTER THE CLOSE OF EACH FISCAL YEAR IN WHICH THE ~~GRANTEE RECEIVES~~ *GRANTOR PROVIDED* STATE AID *TO A GRANTEE*.

~~(2)~~ (II) THE REPORT SHALL CONTAIN:

~~(I)~~ ~~1.~~ ~~A SUMMARY OF THE PURPOSE FOR WHICH THE STATE AID WAS PROVIDED;~~

~~(II)~~ ~~2.~~ ~~THE NUMBER OF JOBS CREATED OR RETAINED AS A RESULT OF THE STATE AID;~~

~~(III)~~ ~~3.~~ ~~THE AMOUNT AND SOURCE OF ANY FUNDS OTHER THAN STATE AID THE GRANTEE WAS ABLE TO SECURE FOR THE PURPOSE FOR WHICH THE STATE AID WAS PROVIDED OR AS A RESULT OF THE STATE AID;~~

~~(IV)~~ ~~4.~~ ~~A DESCRIPTION OF HOW THE STATE AID SERVED THE CITIZENS OF THE STATE; AND~~

~~(V)~~ ~~5.~~ ~~THE NUMBER OF CITIZENS SERVED AS A RESULT OF THE STATE AID.~~

~~(2)~~ ~~(I)~~ ~~A NONPUBLIC INSTITUTION OF HIGHER EDUCATION THAT RECEIVES STATE AID AS PROVIDED IN § 17–101 OF THE EDUCATION ARTICLE, OR A GRANT THROUGH THE STATE CAPITAL BUDGET, SHALL SUBMIT A REPORT TO THE MARYLAND INDEPENDENT COLLEGE AND UNIVERSITY ASSOCIATION ON OR BEFORE SEPTEMBER 1 AFTER THE CLOSE OF EACH FISCAL YEAR IN WHICH THE GRANTEE RECEIVES STATE AID.~~

~~(II)~~ ~~THE REPORT REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL CONTAIN:~~

~~1.~~ ~~A SUMMARY OF THE PURPOSE FOR WHICH THE STATE AID WAS EXPENDED;~~

~~2.~~ ~~A DESCRIPTION OF HOW THE STATE AID SERVED THE CITIZENS OF THE STATE; AND~~

~~3.~~ ~~THE ALIGNMENT OF THE USES OF THE STATE AID WITH THE GOALS DEFINED IN THE MARYLAND STATE PLAN FOR POSTSECONDARY EDUCATION.~~

~~(III) THE MARYLAND INDEPENDENT COLLEGE AND UNIVERSITY ASSOCIATION SHALL SUBMIT A REPORT TO THE DEPARTMENT ON OR BEFORE OCTOBER 1 AFTER THE CLOSE OF EACH FISCAL YEAR, WHICH SHALL SUMMARIZE THE INFORMATION REPORTED UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH.~~

1. THE NAME, ADDRESS, AND ZIP CODE OF EACH GRANTEE THAT RECEIVED STATE AID FROM THE GRANTOR DURING THE PREVIOUS FISCAL YEAR;

2. THE AMOUNT OF ANY STATE AID PROVIDED TO THE GRANTEE; AND

3. A DESCRIPTION OF THE STATE AID PROVIDED TO THE GRANTEE.

~~(3)~~ *(2)* THE ~~REPORT~~ REPORTS REQUIRED UNDER THIS SUBSECTION SHALL BE IN THE FORM AND FORMAT, INCLUDING ELECTRONIC FORMAT, THAT THE DEPARTMENT, AFTER CONSULTATION WITH THE DEPARTMENT OF ~~BUDGET AND MANAGEMENT~~ *INFORMATION TECHNOLOGY*, REQUIRES.

(C) (1) THE DEPARTMENT *OF INFORMATION TECHNOLOGY*, IN CONSULTATION WITH THE DEPARTMENT OF BUDGET AND MANAGEMENT, SHALL DEVELOP AND OPERATE A SEARCHABLE WEBSITE, ACCESSIBLE TO THE PUBLIC AT NO COST THROUGH THE INTERNET.

(2) THE SEARCHABLE WEBSITE SHALL ~~CONTAIN THE INFORMATION REQUIRED UNDER SUBSECTION (B) OF THIS SECTION AND BE SEARCHABLE BY THE NAME OF THE GRANTEE OR BY THE GENERAL SUBJECT MATTER OF THE STATE AID~~ *CONTAIN:*

(I) THE NAME OF THE GRANTOR THAT PROVIDED THE STATE AID;

(II) THE NAME OF THE GRANTEE THAT RECEIVED THE STATE AID;

(III) THE AMOUNT OF THE STATE AID THAT WAS PROVIDED TO THE GRANTEE;

(IV) THE ZIP CODE OF THE GRANTEE THAT RECEIVED THE STATE AID; AND

(V) A DESCRIPTION OF THE STATE AID THAT WAS PROVIDED TO THE GRANTEE.

(3) THE SEARCHABLE WEBSITE SHALL ALLOW A USER TO SEARCH BY THE FOLLOWING DATA FIELDS:

(I) THE GRANTEE THAT RECEIVED THE STATE AID;

(II) THE GRANTOR THAT PROVIDED THE STATE AID; AND

***(III) THE ZIP CODE OF ANY GRANTEE THAT RECEIVED STATE AID*.**

~~(D) A GRANTEE IS SUBJECT TO AUDIT BY THE STATE LEGISLATIVE AUDITOR AS PROVIDED UNDER § 2–1220(B) OF THE STATE GOVERNMENT ARTICLE.~~

~~Article – State Government~~

~~2–1220.~~

~~(b) (1) If the General Assembly, by resolution, or the Joint Audit Committee so directs, the Office of Legislative Audits shall conduct an audit or review of a corporation or association to which the General Assembly has appropriated money or that has received funds from an appropriation from the State Treasury.~~

~~(2) THE OFFICE OF LEGISLATIVE AUDITS MAY CONDUCT AN AUDIT OR REVIEW OF THE USE OF STATE AID BY A GRANTEE AS DEFINED IN § 7–406 OF THE STATE FINANCE AND PROCUREMENT ARTICLE AND THE ACCURACY OF THE REPORT FILED UNDER § 7–406 OF THE STATE FINANCE AND PROCUREMENT ARTICLE IF THE GRANTEE IS APPROPRIATED OR GRANTED MORE THAN $100,000 IN THE STATE OPERATING OR CAPITAL BUDGET OR BY THE ACTION OF A UNIT OF STATE GOVERNMENT FROM STATE FUNDS APPROPRIATED TO THAT UNIT.~~

~~(3) (I) ON OR BEFORE THE BEGINNING OF EACH FISCAL YEAR, THE OFFICE OF LEGISLATIVE AUDITS SHALL:~~

~~1. SPECIFY A PERCENTAGE OF GRANTEES REQUIRED TO FILE A REPORT UNDER § 7–406 OF THE STATE FINANCE AND PROCUREMENT ARTICLE THAT WILL BE SUBJECT TO AUDIT AND REVIEW; AND~~

~~2. REPORT THE SPECIFIED PERCENTAGE TO THE LEGISLATIVE POLICY COMMITTEE.~~

~~(II) EACH FISCAL YEAR, THE OFFICE OF LEGISLATIVE AUDITS SHALL AUDIT OR REVIEW THE SPECIFIED PERCENTAGE OF GRANTEES REQUIRED TO FILE A REPORT UNDER § 7–406 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.~~

(D) THE OFFICE OF LEGISLATIVE AUDITS MAY CONDUCT AN AUDIT OR REVIEW OF A GRANTEE IN ACCORDANCE WITH §§ 2–1221 THROUGH 2–1227 OF THE STATE GOVERNMENT ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 559

(House Bill 1192)

AN ACT concerning

State Funding Accountability Act

FOR the purpose of requiring certain ~~grantees that receive~~ *grantors that provide* certain State aid to submit ~~a report~~ certain reports to the Department of ~~Budget and Management~~ ~~Information Technology~~ *Budget and Management* by a certain date; ~~requiring certain nonpublic institutions of higher education to submit certain reports to a certain association; requiring a certain association to submit a certain report by a certain date;~~ requiring ~~the report~~ certain reports to contain certain information and be provided in a certain form; requiring the Department *of Information Technology*, in consultation with the Department of Budget and Management, to develop and operate a certain searchable website providing certain information; authorizing the Office of Legislative Audits to conduct certain audits of certain grantees ~~that receive at least a certain appropriation or grant in the operating or capital budget or from the action of a unit of State government; requiring the Office of Legislative Audits to identify for a certain audit a certain percentage of grantees each year~~; defining certain terms; and generally providing for the reporting *of certain grantors* and auditing of certain grantees receiving certain State aid.

BY adding to
Article – State Finance and Procurement
Section 7–406
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

~~BY repealing and reenacting, with amendments,~~
~~Article – State Government~~
~~Section 2–1220(b)~~
~~Annotated Code of Maryland~~
~~(2004 Replacement Volume and 2008 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

7–406.

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

(2) "DEPARTMENT" MEANS THE DEPARTMENT OF ~~BUDGET AND MANAGEMENT~~ ~~INFORMATION TECHNOLOGY~~ *BUDGET AND MANAGEMENT*.

(3) (I) "GRANTEE" MEANS A FOR PROFIT OR NONPROFIT ENTITY OR ASSOCIATION THAT RECEIVES STATE AID DURING A FISCAL YEAR.

(II) "GRANTEE" DOES NOT INCLUDE A UNIT OF STATE OR LOCAL GOVERNMENT.

(4) *"GRANTOR" MEANS A UNIT OF STATE GOVERNMENT OR OTHER STATE ENTITY THAT PROVIDES STATE AID TO A GRANTEE.*

***(5)* (I) "STATE AID" MEANS A CONTRIBUTION, GRANT, OR SUBSIDY OF ~~MONEY~~ $50,000 OR MORE PROVIDED THROUGH THE STATE OPERATING OR CAPITAL BUDGET OR BY THE ACTION OF A UNIT OF STATE GOVERNMENT FROM STATE FUNDS APPROPRIATED TO THAT UNIT.**

(II) "STATE AID" DOES NOT INCLUDE REIMBURSEMENTS TO PROVIDERS PARTICIPATING IN A STATE PROGRAM.

(B) (1) (I) A ~~GRANTEE~~ *GRANTOR* SHALL SUBMIT A REPORT AS PROVIDED IN THIS SUBSECTION TO THE DEPARTMENT ON OR BEFORE SEPTEMBER 1 AFTER THE CLOSE OF EACH FISCAL YEAR IN WHICH THE ~~GRANTEE RECEIVES~~ *GRANTOR PROVIDED* STATE AID *TO A GRANTEE*.

~~(2)~~ (II) THE REPORT SHALL CONTAIN:

~~(I)~~ ~~1.~~ ~~A SUMMARY OF THE PURPOSE FOR WHICH THE STATE AID WAS PROVIDED;~~

~~(II)~~ ~~2.~~ ~~THE NUMBER OF JOBS CREATED OR RETAINED AS A RESULT OF THE STATE AID;~~

~~(III)~~ ~~3.~~ ~~THE AMOUNT AND SOURCE OF ANY FUNDS OTHER THAN STATE AID THE GRANTEE WAS ABLE TO SECURE FOR THE PURPOSE FOR WHICH THE STATE AID WAS PROVIDED OR AS A RESULT OF THE STATE AID;~~

~~(IV)~~ ~~4.~~ ~~A DESCRIPTION OF HOW THE STATE AID SERVED THE CITIZENS OF THE STATE; AND~~

~~(V)~~ ~~5.~~ ~~THE NUMBER OF CITIZENS SERVED AS A RESULT OF THE STATE AID.~~

~~(2)~~ ~~(I)~~ ~~A NONPUBLIC INSTITUTION OF HIGHER EDUCATION THAT RECEIVES STATE AID AS PROVIDED IN § 17–101 OF THE EDUCATION ARTICLE, OR A GRANT THROUGH THE STATE CAPITAL BUDGET, SHALL SUBMIT A REPORT TO THE MARYLAND INDEPENDENT COLLEGE AND UNIVERSITY ASSOCIATION ON OR BEFORE SEPTEMBER 1 AFTER THE CLOSE OF EACH FISCAL YEAR IN WHICH THE GRANTEE RECEIVES STATE AID.~~

~~(II)~~ ~~THE REPORT REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL CONTAIN:~~

~~1.~~ ~~A SUMMARY OF THE PURPOSE FOR WHICH THE STATE AID WAS EXPENDED;~~

~~2.~~ ~~A DESCRIPTION OF HOW THE STATE AID SERVED THE CITIZENS OF THE STATE; AND~~

~~3.~~ ~~THE ALIGNMENT OF THE USES OF THE STATE AID WITH THE GOALS DEFINED IN THE MARYLAND STATE PLAN FOR POSTSECONDARY EDUCATION.~~

~~(III)~~ ~~THE MARYLAND INDEPENDENT COLLEGE AND UNIVERSITY ASSOCIATION SHALL SUBMIT A REPORT TO THE DEPARTMENT ON OR BEFORE OCTOBER 1 AFTER THE CLOSE OF EACH FISCAL YEAR, WHICH SHALL SUMMARIZE THE INFORMATION REPORTED UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH.~~

1. THE NAME, ADDRESS, AND ZIP CODE OF EACH GRANTEE THAT RECEIVED STATE AID FROM THE GRANTOR DURING THE PREVIOUS FISCAL YEAR;

2. THE AMOUNT OF ANY STATE AID PROVIDED TO THE GRANTEE; AND

3. A DESCRIPTION OF THE STATE AID PROVIDED TO THE GRANTEE.

~~(3)~~ *(2)* THE ~~REPORT~~ REPORTS REQUIRED UNDER THIS SUBSECTION SHALL BE IN THE FORM AND FORMAT, INCLUDING ELECTRONIC FORMAT, THAT THE DEPARTMENT, AFTER CONSULTATION WITH THE DEPARTMENT OF ~~BUDGET AND MANAGEMENT~~ *INFORMATION TECHNOLOGY*, REQUIRES.

(C) (1) THE DEPARTMENT *OF INFORMATION TECHNOLOGY*, IN CONSULTATION WITH THE DEPARTMENT OF BUDGET AND MANAGEMENT, SHALL DEVELOP AND OPERATE A SEARCHABLE WEBSITE, ACCESSIBLE TO THE PUBLIC AT NO COST THROUGH THE INTERNET.

(2) THE SEARCHABLE WEBSITE SHALL ~~CONTAIN THE INFORMATION REQUIRED UNDER SUBSECTION (B) OF THIS SECTION AND BE SEARCHABLE BY THE NAME OF THE GRANTEE OR BY THE GENERAL SUBJECT MATTER OF THE STATE AID~~ *CONTAIN:*

(I) THE NAME OF THE GRANTOR THAT PROVIDED THE STATE AID;

(II) THE NAME OF THE GRANTEE THAT RECEIVED THE STATE AID;

(III) THE AMOUNT OF THE STATE AID THAT WAS PROVIDED TO THE GRANTEE;

(IV) THE ZIP CODE OF THE GRANTEE THAT RECEIVED THE STATE AID; AND

(V) A DESCRIPTION OF THE STATE AID THAT WAS PROVIDED TO THE GRANTEE.

(3) THE SEARCHABLE WEBSITE SHALL ALLOW A USER TO SEARCH BY THE FOLLOWING DATA FIELDS:

(I) THE GRANTEE THAT RECEIVED THE STATE AID;

(II) THE GRANTOR THAT PROVIDED THE STATE AID; AND

***(III) THE ZIP CODE OF ANY GRANTEE THAT RECEIVED STATE AID*.**

~~(D) A GRANTEE IS SUBJECT TO AUDIT BY THE STATE LEGISLATIVE AUDITOR AS PROVIDED UNDER § 2–1220(B) OF THE STATE GOVERNMENT ARTICLE.~~

~~Article – State Government~~

~~2–1220.~~

~~(b) (1) If the General Assembly, by resolution, or the Joint Audit Committee so directs, the Office of Legislative Audits shall conduct an audit or review of a corporation or association to which the General Assembly has appropriated money or that has received funds from an appropriation from the State Treasury.~~

~~(2) THE OFFICE OF LEGISLATIVE AUDITS MAY CONDUCT AN AUDIT OR REVIEW OF THE USE OF STATE AID BY A GRANTEE AS DEFINED IN § 7–406 OF THE STATE FINANCE AND PROCUREMENT ARTICLE AND THE ACCURACY OF THE REPORT FILED UNDER § 7–406 OF THE STATE FINANCE AND PROCUREMENT ARTICLE IF THE GRANTEE IS APPROPRIATED OR GRANTED MORE THAN $100,000 IN THE STATE OPERATING OR CAPITAL BUDGET OR BY THE ACTION OF A UNIT OF STATE GOVERNMENT FROM STATE FUNDS APPROPRIATED TO THAT UNIT.~~

~~(3) (I) ON OR BEFORE THE BEGINNING OF EACH FISCAL YEAR, THE OFFICE OF LEGISLATIVE AUDITS SHALL:~~

~~1. SPECIFY A PERCENTAGE OF GRANTEES REQUIRED TO FILE A REPORT UNDER § 7–406 OF THE STATE FINANCE AND PROCUREMENT ARTICLE THAT WILL BE SUBJECT TO AUDIT AND REVIEW; AND~~

~~2. REPORT THE SPECIFIED PERCENTAGE TO THE LEGISLATIVE POLICY COMMITTEE.~~

~~(II) EACH FISCAL YEAR, THE OFFICE OF LEGISLATIVE AUDITS SHALL AUDIT OR REVIEW THE SPECIFIED PERCENTAGE OF GRANTEES REQUIRED TO FILE A REPORT UNDER § 7–406 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.~~

(D) THE OFFICE OF LEGISLATIVE AUDITS MAY CONDUCT AN AUDIT OR REVIEW OF A GRANTEE IN ACCORDANCE WITH §§ 2–1221 THROUGH 2–1227 OF THE STATE GOVERNMENT ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 560

(Senate Bill 562)

AN ACT concerning

Labor and Employment – Flexible Leave

FOR the purpose of altering a certain provision so as to prohibit an employer from discharging, demoting, suspending, disciplining, or otherwise discriminating or threatening to take any of those actions against an employee ~~solely~~ because an employee acts in a certain manner; establishing a certain purpose for certain provisions of the Flexible Leave Act; clarifying the applicability of certain provisions of the Flexible Leave Act to include certain employees and employers; defining, altering, and clarifying certain terms; making certain stylistic changes; making this Act an emergency measure; and generally relating to an employee's use of leave with pay to care for an immediate family member who is ill.

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 3–802
Annotated Code of Maryland
(2008 Replacement Volume)

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

Article – Labor and Employment

3–802.

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

(2) "CHILD" MEANS AN ADOPTED, BIOLOGICAL, OR FOSTER CHILD, A STEPCHILD, OR A LEGAL WARD WHO IS:

(I) UNDER THE AGE OF 18 YEARS; OR

(II) AT LEAST 18 YEARS OLD AND INCAPABLE OF SELF–CARE DUE TO A MENTAL OR PHYSICAL DISABILITY.

[(2)**] (3)** (i) "Employer" means a person that **[**employs 15 or more individuals and**]** is engaged in a business, industry, profession, trade, or other enterprise in the State.

(ii) "Employer" includes a person who acts directly or indirectly in the interest of another employer with an employee.

[(3)**] (4)** "Immediate family" **[**includes**]** **MEANS** a child, spouse, **[**and**]** **OR** parent.

[(4)**] (5)** (i) "Leave with pay" means **PAID** time away from work **[**for which an employee receives compensation**]** **THAT IS EARNED AND AVAILABLE TO AN EMPLOYEE:**

1. BASED ON HOURS WORKED; OR

2. AS AN ANNUAL GRANT OF A FIXED NUMBER OF HOURS OR DAYS OF LEAVE FOR PERFORMANCE OF SERVICE.

(ii) "Leave with pay" includes sick leave, vacation time, **PAID TIME OFF,** and compensatory time.

(III) "LEAVE WITH PAY" DOES NOT INCLUDE:

1. A BENEFIT PROVIDED UNDER AN EMPLOYEE WELFARE BENEFIT PLAN SUBJECT TO THE FEDERAL EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974;

2. AN INSURANCE BENEFIT, INCLUDING BENEFITS FROM AN EMPLOYER'S SELF–INSURED PLAN;

3. WORKERS' COMPENSATION;

4. UNEMPLOYMENT COMPENSATION;

5. A DISABILITY BENEFIT; OR

6. A SIMILAR BENEFIT.

(6) "PARENT" MEANS AN ADOPTIVE, BIOLOGICAL, OR FOSTER PARENT, A STEPPARENT, A LEGAL GUARDIAN, OR A PERSON STANDING IN LOCO PARENTIS.

(b) **(1) THIS SECTION APPLIES TO AN EMPLOYEE WHO IS PRIMARILY EMPLOYED IN THE STATE.**

(2) This section applies to an employer that**:**

(I) provides leave with pay under the terms of**[**:

(1)**]** a collective bargaining agreement**[**;**]** or

[(2)**]** an employment policy**; AND**

(II) EMPLOYS 15 OR MORE EMPLOYEES FOR EACH WORKING DAY IN EACH OF 20 OR MORE CALENDAR WEEKS IN THE CURRENT OR PRECEDING CALENDAR YEAR.

(C) THE PURPOSE OF THIS SECTION IS TO ALLOW AN EMPLOYEE OF AN EMPLOYER TO USE LEAVE WITH PAY TO CARE FOR AN IMMEDIATE FAMILY MEMBER WHO IS ILL UNDER THE SAME CONDITIONS AND POLICY RULES THAT WOULD APPLY IF THE EMPLOYEE TOOK LEAVE FOR THE EMPLOYEE'S OWN ILLNESS.

[(c)**] (D)** An employee of an employer may use leave with pay for the illness of the employee's immediate family.

[(d)**] (E)** (1) An employee of an employer:

(i) may only use leave with pay under this section that has been earned; and

(ii) who earns more than one type of leave with pay may elect the type and amount of leave with pay to be used under this section.

(2) Except as provided in paragraph (3) of this subsection, an employee of an employer who uses leave under this section shall comply with the terms of a collective bargaining agreement or employment policy.

(3) If the terms of a collective bargaining agreement with an employer or an employment policy of an employer provide a leave with pay benefit that is equal

to or greater than the benefit provided under this section, the collective bargaining agreement or employment policy prevails.

[(e)**] (F)** An employer may not discharge, demote, suspend, discipline, or otherwise discriminate against an employee or threaten to take any of these actions against an employee ~~**SOLELY**~~ **BECAUSE THE EMPLOYEE**:

(1) **[**who exercises rights granted under**] HAS TAKEN LEAVE AUTHORIZED UNDER** this section; **[**or**]**

(2) HAS OPPOSED A PRACTICE MADE UNLAWFUL BY THIS SECTION; OR

[(2)**] (3) [**who files a complaint, testifies against, or assists in an action brought against the employer for a violation of this section**] HAS MADE A CHARGE, TESTIFIED, ASSISTED, OR PARTICIPATED IN AN INVESTIGATION, PROCEEDING, OR HEARING UNDER THIS SECTION**.

[(f)**] (G)** This section does not **[**affect leave granted**]:**

(1) EXTEND THE MAXIMUM PERIOD OF LEAVE AN EMPLOYEE HAS under the federal Family and Medical Leave Act of 1993**; OR**

(2) LIMIT THE PERIOD OF LEAVE TO WHICH AN EMPLOYEE IS ENTITLED UNDER THE FEDERAL FAMILY AND MEDICAL LEAVE ACT OF 1993.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act ~~shall take effect October 1, 2009~~ is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three–fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, May 19, 2009.

Chapter 561

(Senate Bill 592)

AN ACT concerning

State Retirement and Pension System – Compliance with Federal Tax Provisions

FOR the purpose of prohibiting the Board of Trustees for the State Retirement and Pension System from using certain forfeitures of benefits for certain purposes; requiring that certain forfeitures of benefits be used for certain purposes; providing that the State Retirement Agency may make certain payments to certain eligible retirement plans specified by certain designated beneficiaries of a member of the State Retirement and Pension System; allowing certain members of the State Retirement and Pension System to make direct rollovers of certain distributions on or after a certain date; providing that an eligible rollover distribution includes certain distributions to certain spouses or former spouses of members of the State Retirement and Pension System; providing that distributions totaling less than a certain amount are not eligible rollover distributions; clarifying that certain portions of distributions remain eligible rollover distributions even if these portions consist of certain employee contributions; limiting the investment options that may be used for transfers of certain portions of eligible rollover distributions; providing that certain investment options be considered in a certain manner; altering certain definitions; altering the application of a certain Act to apply to certain members or retirees of the State Retirement and Pension System who request certain beneficiary changes on or after a certain date; and generally relating to conforming the State Retirement and Pension System to certain federal tax legislation.

BY adding to
Article – State Personnel and Pensions
Section 20–209
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 21–601 and 21–602
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Chapter 500 of the Acts of the General Assembly of 2005
Section 2

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

Article – State Personnel and Pensions

20–209.

(A) IN CONFORMITY WITH § 401(A)(8) OF THE INTERNAL REVENUE CODE, ANY FORFEITURE OF BENEFITS BY A MEMBER OR FORMER MEMBER OF

THE SEVERAL SYSTEMS MAY NOT BE USED BY THE BOARD OF TRUSTEES TO PAY BENEFIT INCREASES.

(B) ANY FORFEITURE OF BENEFITS BY A MEMBER SHALL BE USED TO REDUCE EMPLOYER CONTRIBUTIONS.

21–601.

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

(b) "Direct rollover" means a payment by the State Retirement Agency directly to the eligible retirement plan specified by the participant **[**or**]**, the surviving spouse of a participant**, OR THE DESIGNATED BENEFICIARY OF THE PARTICIPANT**.

(c) "Eligible retirement plan" means:

(1) an individual retirement account described in § 408(a) of the Internal Revenue Code;

(2) an individual retirement annuity, other than an endowment contract, described in § 408(b) of the Internal Revenue Code;

(3) a qualified trust described in § 401(a) of the Internal Revenue Code that is exempt from tax under § 501(a) of the Internal Revenue Code;

(4) an annuity plan described in § 403(a) of the Internal Revenue Code;

(5) an annuity plan described in § 403(b) of the Internal Revenue Code; **[**or**]**

(6) a deferred compensation plan that is maintained by an eligible employer described in § 457 of the Internal Revenue Code or any successor provisions**; OR**

(7) EFFECTIVE JANUARY 1, 2008, A ROTH INDIVIDUAL RETIREMENT ACCOUNT DESCRIBED IN § 408A OF THE INTERNAL REVENUE CODE.

(d) (1) "Eligible rollover distribution" means a distribution:

(i) on or after January 1, 1993, to a participant of all or any part of the balance to the credit of the participant in any State system;

(ii) on or after January 1, 2002, to the surviving spouse of a member, former member, or retiree**, OR TO A SPOUSE OR FORMER SPOUSE WHO IS**

AN ALTERNATE PAYEE UNDER AN ELIGIBLE DOMESTIC RELATIONS ORDER, AS DEFINED IN § 414(P) OF THE INTERNAL REVENUE CODE, of all or any part of the balance to the credit of the member, former member, retiree, or surviving spouse in any State system; or

(iii) on or after January 1, 2007, to the designated beneficiary of a member, former member, or retiree of all or any part of the balance to the credit of the member, former member, retiree, or designated beneficiary in any State system.

(2) "Eligible rollover distribution" does not include:

(i) any distribution that is one of a series of substantially equal periodic payments that are made at least annually for the life or life expectancy of the participant or the joint lives or joint life expectancies of the participant and the participant's beneficiary;

(ii) any distribution that is one of a series of substantially equal periodic payments made for a specified period of at least 10 years; **[**or**]**

(iii) any distribution that is required under § 401(a)(9) of the Internal Revenue Code**; OR**

(IV) ANY DISTRIBUTION THAT IS REASONABLY EXPECTED TO TOTAL LESS THAN $200 DURING THE CALENDAR YEAR.

(3) (I) EFFECTIVE JANUARY 1, 2002, A PORTION OF A DISTRIBUTION WILL NOT FAIL TO BE AN ELIGIBLE ROLLOVER DISTRIBUTION MERELY BECAUSE THAT PORTION CONSISTS OF AFTER–TAX EMPLOYEE CONTRIBUTIONS THAT ARE NOT INCLUDIBLE IN GROSS INCOME.

(II) A PORTION OF A DISTRIBUTION DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY BE TRANSFERRED ONLY TO:

1. AN INDIVIDUAL RETIREMENT ACCOUNT OR ANNUITY DESCRIBED IN § 408(A) OR (B) OF THE INTERNAL REVENUE CODE;

2. A QUALIFIED DEFINED CONTRIBUTION PLAN DESCRIBED IN § 401(A) OF THE INTERNAL REVENUE CODE; OR

3. ON OR AFTER JANUARY 1, 2007, TO A QUALIFIED DEFINED BENEFIT PLAN DESCRIBED IN § 401(A) OF THE INTERNAL REVENUE CODE OR TO AN ANNUITY CONTRACT DESCRIBED IN § 403(B) OF THE INTERNAL REVENUE CODE, THAT AGREES TO ACCOUNT SEPARATELY FOR AMOUNTS TRANSFERRED TO THE ACCOUNT AND EARNINGS RECEIVED AS A RESULT OF THE TRANSFERRED AMOUNTS.

(e) "Supplemental plan" means the Board of Trustees of the Maryland Teachers and State Employees Supplemental Retirement Plans.

21–602.

(a) Except as provided in subsections (b) and (c) of this section, a participant may elect on the form the Board of Trustees requires to have all or any part of an eligible rollover distribution paid to the eligible retirement plan in a direct rollover.

(b) **(1)** [If] **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, IF** an eligible rollover distribution is payable to the designated beneficiary of a member, former member, or retiree, the designated beneficiary may only elect to have all or any part of the eligible rollover distribution paid in a direct rollover to an individual retirement account or individual retirement annuity.

(2) (I) A NONSPOUSE DESIGNATED BENEFICIARY MAY ROLL OVER AN ELIGIBLE ROLLOVER DISTRIBUTION ONLY TO AN INDIVIDUAL RETIREMENT ACCOUNT OR INDIVIDUAL RETIREMENT ANNUITY ESTABLISHED FOR THE PURPOSE OF RECEIVING THE DISTRIBUTION.

(II) AN INDIVIDUAL RETIREMENT ACCOUNT OR INDIVIDUAL RETIREMENT ANNUITY ESTABLISHED UNDER THIS PARAGRAPH SHALL BE TREATED AS AN INHERITED INDIVIDUAL RETIREMENT ACCOUNT OR ANNUITY WITHIN THE MEANING OF § 408(D)(3)(C) OF THE INTERNAL REVENUE CODE.

(c) A member who is eligible to participate in the plan administered by the supplemental plan under Title 35, Subtitle 5 of this article may elect to have all or any part of the eligible rollover distribution paid in a direct rollover to the plan in accordance with the regulations adopted by the supplemental plan.

Chapter 500 of the Acts of 2005

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 member **OR RETIREE** of the State Retirement and Pension System who [retires on or before December 31, 2005] **REQUESTS TO CHANGE A BENEFICIARY ON OR AFTER JANUARY 1, 2006**.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 562

(Senate Bill 597)

AN ACT concerning

Secondhand Precious Metal Object Dealers and Pawnbrokers – Electronic Reporting

FOR the purpose of requiring certain secondhand precious metal object dealers and pawnbrokers to submit certain information and certain records to certain law enforcement units in a certain manner and at a certain time; ~~exempting certain antique dealers from the reporting requirement;~~ repealing a certain exemption to a requirement to submit certain records in a certain manner and at a certain time; authorizing the Governor's Office of Crime Control and Prevention to authorize certain law enforcement units to require or receive certain records in certain formats under certain circumstances; providing for the construction of this Act; providing for a certain report to certain committees of the General Assembly on or before a certain date; and generally relating to the records of secondhand precious metal object dealers and pawnbrokers.

BY repealing and reenacting, with amendments,
Article – Business Regulation
Section 12–304
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

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

Article – Business Regulation

12–304.

(a) (1) A dealer shall submit ~~a copy of~~ **THE REQUIRED INFORMATION FROM** each record to the primary law enforcement unit in accordance with subsection (b) of this section.

(2) If the dealer transacts business in accordance with § 12–206(b) of this title, the dealer also shall submit ~~a copy of~~ **THE REQUIRED INFORMATION FROM** the records to the local law enforcement unit in accordance with subsection (b) of this section.

(3) On the request of a dealer, the Secretary shall provide to the dealer a list of local law enforcement units.

[(4) The Secretary shall encourage dealers and local law enforcement units to develop a system for transmitting records electronically.**]**

(b) ~~(1)~~ **[**Except as provided in paragraph (2) of this subsection, the**]** **THE** dealer shall submit the records **[**by one of the following methods:

(i) by delivering or mailing a copy of the records by the end of the next business day after the day on which the item was acquired; or

(ii)**]** by transmitting ~~a copy of~~ **THE REQUIRED INFORMATION FROM** the records electronically, in a format acceptable to the receiving law enforcement unit, by ~~the end of each~~ **NOON OF THE NEXT** business day.

~~(2) [(i) A dealer who holds a license for a place of business in Howard County shall submit the records to the law enforcement unit by transmitting a copy of the records electronically in accordance with paragraph (1)(ii) of this subsection.~~

~~(ii) Subparagraph (i) of this paragraph~~**]** ~~**PARAGRAPH (1) OF THIS SUBSECTION** does not apply to an antique dealer that:~~

~~**[1.] (I)** does not engage in pawn transactions; and~~

~~**[2.] (II)** holds a valid trader's license or dealer's license under State law.~~

(c) Each ~~copy of a~~ record, submitted to the primary law enforcement unit and, if applicable, local law enforcement unit, shall include:

(1) the license number of the dealer;

(2) the location of each item listed in the record; and

(3) the information required under § 12–302 of this subtitle.

(d) ~~A copy of~~ **THE REQUIRED INFORMATION FROM** a record submitted under this section:

(1) shall be kept confidential;

(2) is not a public record; and

(3) is not subject to Title 10, Subtitle 6 of the State Government Article.

(e) A law enforcement unit may ~~destroy the copy of~~ **CEASE TO MAINTAIN** a record submitted under this section after 1 year from the date the law enforcement unit receives the copy.

SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding any provision of Section 1 of this Act, for a primary law enforcement unit that does not have an electronic reporting system in place on or before October 1, 2009, the Governor's Office of Crime Control and Prevention, during the 1–year period beginning October 1, 2009, through the end of September 30, 2010, may authorize:

(1) the primary law enforcement unit to require paper reporting from the entities covered under this Act; or

(2) a local law enforcement unit within a county to receive records electronically until the primary law enforcement unit has an electronic reporting system in place.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act may not be construed to require a pawnbroker or secondhand precious metal objects dealer to obtain additional computer software at the pawnbroker's or dealer's expense or to pay a transaction fee to submit an electronic report as required by this Act.

SECTION ~~3.~~ 4. AND BE IT FURTHER ENACTED, That:

(a) On or before December 1, 2009, the ~~Department of State Police and~~ Governor's Office of Crime Control and Prevention, in consultation with the Department of Labor, Licensing, and Regulation ~~jointly~~ and local law enforcement units, shall report to the House Economic Matters Committee and the Senate Education, Health, and Environmental Affairs Committee, in accordance with § 2–1246 of the State Government Article, regarding the licensing and reporting requirements for the sale of secondhand items in the State.

(b) To prepare the report, the departments shall:

(1) list by county the name, address, and category of each business that is engaged in the sale of secondhand items;

~~(1)~~ *(2)* evaluate any gaps in the current licensing and reporting requirements for the sale of secondhand items in the State;

~~(2)~~ *(3)* determine the estimated impact of any gaps in the current law on the ability of law enforcement to recover stolen items, as well as any other enforcement issues, including limitations on enforcement related to sales conducted over the Internet; and

~~(3)~~ *(4)* develop recommendations for legislation regarding the appropriate scope of licensing and reporting requirements for the sale of secondhand items by all participants in the secondhand industry, including electronic sales.

(c) In developing the report, the departments shall solicit public comments from the affected stakeholders, including antique dealers, pawnbrokers, secondhand precious metal objects dealers, secondhand retail shops, and businesses that arrange sales of secondhand items predominantly by electronic commerce.

SECTION ~~4.~~ 5. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 563

(Senate Bill 601)

AN ACT concerning

Domestic Violence – Temporary Protective Orders – Extension

FOR the purpose of altering the period of time for which a judge is authorized to extend a temporary protective order to effectuate service of the order where necessary to provide protection or for other good cause; and generally relating to temporary protective orders.

BY repealing and reenacting, with amendments,
Article – Family Law
Section 4–505
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – Family Law

4–505.

(a) (1) If, after a hearing on a petition, whether ex parte or otherwise, a judge finds that there are reasonable grounds to believe that a person eligible for relief

has been abused, the judge may enter a temporary protective order to protect any person eligible for relief from abuse.

(2) The temporary protective order may order any or all of the following relief:

(i) order the respondent to refrain from further abuse or threats of abuse of a person eligible for relief;

(ii) order the respondent to refrain from contacting, attempting to contact, or harassing any person eligible for relief;

(iii) order the respondent to refrain from entering the residence of a person eligible for relief;

(iv) where the person eligible for relief and the respondent are residing together at the time of the alleged abuse, order the respondent to vacate the home immediately and award temporary use and possession of the home to the person eligible for relief or in the case of alleged abuse of a child or alleged abuse of a vulnerable adult, award temporary use and possession of the home to an adult living in the home, provided that the court may not grant an order to vacate and award temporary use and possession of the home to a nonspouse person eligible for relief unless the name of the person eligible for relief appears on the lease or deed to the home or the person eligible for relief has resided in the home with the respondent for a period of at least 90 days within 1 year before the filing of the petition;

(v) order the respondent to remain away from the place of employment, school, or temporary residence of a person eligible for relief or home of other family members;

(vi) order the respondent to remain away from a child care provider of a person eligible for relief while a child of the person is in the care of the child care provider; and

(vii) award temporary custody of a minor child of the person eligible for relief and the respondent.

(b) (1) Except as provided in paragraph (2) of this subsection, a law enforcement officer immediately shall serve the temporary protective order on the alleged abuser under this section.

(2) A respondent who has been served with an interim protective order under § 4–504.1 of this subtitle shall be served with the temporary protective order in open court or, if the respondent is not present at the temporary protective order hearing, by first–class mail at the respondent's last known address.

(3) There shall be no cost to the petitioner for service of the temporary protective order.

(c) (1) The temporary protective order shall be effective for not more than 7 days after service of the order.

(2) The judge may extend the temporary protective order as needed, but not to exceed **[**30 days**]** **6 MONTHS**, to effectuate service of the order where necessary to provide protection or for other good cause.

(d) The judge may proceed with a final protective order hearing instead of a temporary protective order hearing, if:

(1) (i) the respondent appears at the hearing;

(ii) the respondent has been served with an interim protective order; or

(iii) the court otherwise has personal jurisdiction over the respondent; and

(2) the petitioner and the respondent expressly consent to waive the temporary protective order hearing.

(e) (1) Whenever a judge finds reasonable grounds to believe that abuse of a child, as defined in Title 5, Subtitle 7 of this article, or abuse of a vulnerable adult, as defined in Title 14, Subtitle 1 of this article, has occurred, the court shall forward to the local department a copy of the petition and temporary protective order.

(2) Whenever a local department receives a petition and temporary protective order from a court, the local department shall:

(i) investigate the alleged abuse as provided in:

1. Title 5, Subtitle 7 of this article; or

2. Title 14, Subtitle 3 of this article; and

(ii) by the date of the final protective order hearing, send to the court a copy of the report of the investigation.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 564

(House Bill 98)

AN ACT concerning

Domestic Violence – Temporary Protective Orders – Extension

FOR the purpose of altering the period of time for which a judge is authorized to extend a temporary protective order to effectuate service of the order where necessary to provide protection or for other good cause; and generally relating to temporary protective orders.

BY repealing and reenacting, with amendments,
Article – Family Law
Section 4–505
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – Family Law

4–505.

(a) (1) If, after a hearing on a petition, whether ex parte or otherwise, a judge finds that there are reasonable grounds to believe that a person eligible for relief has been abused, the judge may enter a temporary protective order to protect any person eligible for relief from abuse.

(2) The temporary protective order may order any or all of the following relief:

(i) order the respondent to refrain from further abuse or threats of abuse of a person eligible for relief;

(ii) order the respondent to refrain from contacting, attempting to contact, or harassing any person eligible for relief;

(iii) order the respondent to refrain from entering the residence of a person eligible for relief;

(iv) where the person eligible for relief and the respondent are residing together at the time of the alleged abuse, order the respondent to vacate the home immediately and award temporary use and possession of the home to the person

eligible for relief or in the case of alleged abuse of a child or alleged abuse of a vulnerable adult, award temporary use and possession of the home to an adult living in the home, provided that the court may not grant an order to vacate and award temporary use and possession of the home to a nonspouse person eligible for relief unless the name of the person eligible for relief appears on the lease or deed to the home or the person eligible for relief has resided in the home with the respondent for a period of at least 90 days within 1 year before the filing of the petition;

(v) order the respondent to remain away from the place of employment, school, or temporary residence of a person eligible for relief or home of other family members;

(vi) order the respondent to remain away from a child care provider of a person eligible for relief while a child of the person is in the care of the child care provider; and

(vii) award temporary custody of a minor child of the person eligible for relief and the respondent.

(b) (1) Except as provided in paragraph (2) of this subsection, a law enforcement officer immediately shall serve the temporary protective order on the alleged abuser under this section.

(2) A respondent who has been served with an interim protective order under § 4–504.1 of this subtitle shall be served with the temporary protective order in open court or, if the respondent is not present at the temporary protective order hearing, by first–class mail at the respondent's last known address.

(3) There shall be no cost to the petitioner for service of the temporary protective order.

(c) (1) The temporary protective order shall be effective for not more than 7 days after service of the order.

(2) The judge may extend the temporary protective order as needed, but not to exceed **[**30 days**]** **6 MONTHS**, to effectuate service of the order where necessary to provide protection or for other good cause.

(d) The judge may proceed with a final protective order hearing instead of a temporary protective order hearing, if:

(1) (i) the respondent appears at the hearing;

(ii) the respondent has been served with an interim protective order; or

(iii) the court otherwise has personal jurisdiction over the respondent; and

(2) the petitioner and the respondent expressly consent to waive the temporary protective order hearing.

(e) (1) Whenever a judge finds reasonable grounds to believe that abuse of a child, as defined in Title 5, Subtitle 7 of this article, or abuse of a vulnerable adult, as defined in Title 14, Subtitle 1 of this article, has occurred, the court shall forward to the local department a copy of the petition and temporary protective order.

(2) Whenever a local department receives a petition and temporary protective order from a court, the local department shall:

(i) investigate the alleged abuse as provided in:

1. Title 5, Subtitle 7 of this article; or

2. Title 14, Subtitle 3 of this article; and

(ii) by the date of the final protective order hearing, send to the court a copy of the report of the investigation.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 565

(Senate Bill 602)

AN ACT concerning

Dental Hygienists – Expanded Functions

FOR the purpose of altering the definition of "practice dental hygiene"; authorizing the State Board of Dental Examiners to adopt certain regulations; altering the authority of the Board to adopt certain rules and regulations concerning the administration of certain anesthesia by certain dental hygienists; authorizing certain dental hygienists to administer certain anesthesia under certain circumstances; requiring certain dental hygienists to meet certain educational and examination requirements before performing certain functions; altering a certain calculation of the number of unsupervised clinical hours worked by

supervised dental hygienists under certain circumstances; and generally relating to the practice of dental hygiene.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 4–101(k), 4–205(a)(1), 4–206, and 4–308(i)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY adding to
Article – Health Occupations
Section 4–206.1
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

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

Article – Health Occupations

4–101.

(k) "Practice dental hygiene" means to:

(1) Perform a preliminary dental examination;

(2) Perform a complete prophylaxis, including the removal of any deposit, accretion, or stain from the surface of a tooth or a restoration;

(3) Polish a tooth or a restoration;

(4) Chart cavities, restorations, missing teeth, periodontal conditions, and other features observed during preliminary examination, prophylaxis, or polishing;

(5) Apply a medicinal agent to a tooth for a prophylactic purpose;

(6) Take a dental X ray; **[**or**]**

(7) PERFORM A MANUAL CURETTAGE IN CONJUNCTION WITH SCALING AND ROOT PLANING;

~~**(8) MONITOR A PATIENT TO WHOM UP TO 50% NITROUS OXIDE IS ADMINISTERED;**~~

~~(9)~~ *(8)* **ADMINISTER LOCAL ANESTHESIA IN ACCORDANCE WITH § 4–206.1 OF THIS TITLE; OR**

[(7)**]** ~~(10)~~ *(9)* Perform any other intraoral function that the Board authorizes by a rule or regulation adopted under § 4–206 of this title.

4–205.

(a) In addition to the powers set forth elsewhere in this title, the Board may:

(1) Adopt regulations governing:

(i) The administration of general anesthesia by a licensed dentist;

(ii) The administration of sedation by a licensed dentist;

(iii) The use of a dental assistant by a licensed dentist in performing intraoral procedures;

(iv) Subject to subsection (b) of this section, the issuance of a permit to a facility not otherwise regulated where a dentist administers or has general anesthesia or sedation administered;

(v) Subject to subsection (b) of this section, the issuance of a permit to a dentist who administers or has general anesthesia or sedation administered;

(vi) Reasonable requirements for the training and evaluation of a dentist before the dentist may administer general anesthesia or sedation other than nitrous oxide administered alone and not in conjunction with:

1. Another method of diminishing or eliminating pain; or

2. Medication used for diminishing or eliminating anxiety;

(VII) REASONABLE REQUIREMENTS FOR:

1. THE EDUCATION, TRAINING, EVALUATION, AND EXAMINATION OF A DENTAL HYGIENIST BEFORE THE DENTAL HYGIENIST MAY PERFORM MANUAL CURETTAGE IN CONJUNCTION WITH SCALING AND ROOT PLANING; AND

2. PERFORMANCE BY A DENTAL HYGIENIST OF MANUAL CURETTAGE IN CONJUNCTION WITH SCALING AND ROOT PLANING;

~~(VIII) REASONABLE REQUIREMENTS FOR:~~

~~1. THE EDUCATION, TRAINING, EVALUATION, AND EXAMINATION OF A DENTAL HYGIENIST BEFORE A DENTAL HYGIENIST MAY MONITOR A PATIENT BEING ADMINISTERED NITROUS OXIDE; AND~~

~~2. MONITORING BY A DENTAL HYGIENIST OF A PATIENT BEING ADMINISTERED NITROUS OXIDE;~~

~~(IX)~~ *(VIII)* **REASONABLE REQUIREMENTS FOR:**

1. THE EDUCATION, TRAINING, EVALUATION, AND EXAMINATION OF A DENTAL HYGIENIST BEFORE THE DENTAL HYGIENIST MAY ADMINISTER LOCAL ANESTHESIA UNDER § 4–206.1 OF THIS SUBTITLE; AND

2. ADMINISTERING BY A DENTAL HYGIENIST OF LOCAL ANESTHESIA UNDER § 4–206.1 OF THIS SUBTITLE;

[(vii)**]** ~~(X)~~ *(IX)* The discipline of a holder of any facility or administration permit for the administration of general anesthesia or sedation; and

[(viii)**]** ~~(XI)~~ *(X)* The release of patient dental records;

4–206.

(a) Except as otherwise provided in this section, the Board may adopt rules and regulations that authorize a licensed dental hygienist to perform additional intraoral functions.

(b) The Board may not authorize a licensed dental hygienist to:

(1) Perform a diagnosis;

(2) Perform an extraction;

(3) Repair a cavity;

(4) Correct tooth placement;

(5) Perform a surgical procedure; or

(6) Administer anesthesia other than **THE FOLLOWING:**

(I) **[**topical**]** **TOPICAL** anesthesia**; OR**

(II) LOCAL ANESTHESIA IN ACCORDANCE WITH § 4–206.1 OF THIS SUBTITLE.

4–206.1.

(A) SUBJECT TO THE REQUIREMENTS OF SUBSECTIONS (B) AND (C) OF THIS SECTION, A DENTAL HYGIENIST MAY ADMINISTER LOCAL ANESTHESIA BY INFILTRATION FOR THE PURPOSE OF ANESTHETIZING SOFT TISSUE TO FACILITATE THE PERFORMANCE OF DENTAL HYGIENE PROCEDURES, BUT NOT AS A MEDICAL SPECIALTY, PROVIDED THE ADMINISTRATION OF LOCAL ANESTHESIA IS UNDER THE SUPERVISION OF A DENTIST WHO:

(1) IS PHYSICALLY PRESENT ON THE PREMISES; AND

(2) PRESCRIBES THE ADMINISTRATION OF LOCAL ANESTHESIA BY THE DENTAL HYGIENIST.

(B) BEFORE A DENTAL HYGIENIST MAY ADMINISTER LOCAL ANESTHESIA UNDER SUBSECTION (A) OF THIS SECTION, THE DENTAL HYGIENIST SHALL SUCCESSFULLY COMPLETE THE FOLLOWING:

(1) ANY EDUCATIONAL REQUIREMENTS ESTABLISHED BY THE BOARD; AND

(2) A WRITTEN AND CLINICAL EXAMINATION AS REQUIRED BY THE BOARD.

(C) A DENTAL HYGIENIST SHALL OBTAIN THE EDUCATIONAL REQUIREMENTS ESTABLISHED BY THE BOARD UNDER SUBSECTION (B)(1) OF THIS SECTION FROM AN ACCREDITED DENTAL HYGIENE PROGRAM.

4–308.

(i) (1) In this subsection, "private dental office" means a dental office owned and operated by:

(i) A licensed dentist; or

(ii) A professional corporation, partnership, limited liability company, or limited liability partnership owned and controlled by a licensed dentist.

(2) While it is effective, a general license to practice dental hygiene issued under this title authorizes the licensee to practice dental hygiene under the general supervision of a licensed dentist in a private dental office.

(3) A private dental office in which a dental hygienist is authorized to practice under the general supervision of a licensed dentist shall ensure that:

(i) The supervising dentist holds an active license to practice dentistry in this State;

(ii) The dental hygienist holds an active license to practice dental hygiene in this State;

(iii) The dental hygienist has at least 1,500 hours of dental hygiene clinical practice in direct patient care; and

(iv) There is a written agreement between the supervising dentist and the dental hygienist practicing under general supervision that clearly sets forth the terms and conditions under which the dental hygienist may practice, including a statement that the dental hygienist may provide dental hygiene services without the supervising dentist on the premises.

(4) A dental hygienist may perform authorized dental hygiene services without the supervising dentist on the premises only if:

(i) After the supervising dentist examines and evaluates a patient, the prescribed and authorized treatment to be provided by the dental hygienist is written in the patient's records;

(ii) 1. Treatments authorized by a supervising dentist to be provided by the dental hygienist are rendered no later than 7 months from the date the patient was examined and evaluated by the supervising dentist; and

2. Upon expiration of a prescription or prescribed treatment, the supervising dentist examines and reevaluates the patient before writing a new prescription and authorization for treatment;

(iii) Prior to an appointment, the patient or the custodial parent or legal guardian of a minor or incompetent adult shall:

1. Be informed that a dental hygienist will be providing services previously prescribed by a dentist who will not be on the premises during the appointment; and

2. Consent to receiving the dental hygiene services;

(iv) Written emergency procedures are in place and the dental hygienist is trained to implement the emergency procedures;

(v) A designated licensed dentist is available for consultation with the dental hygienist; and

(vi) The number of unsupervised clinical hours worked by a supervised dental hygienist in any given [calendar week] **3–MONTH PERIOD** is less than 60 percent of the dental hygienist's total hours **WORKED DURING THAT 3–MONTH PERIOD**.

(5) A supervising dentist may not employ more than two dental hygienists to work under the dentist's general supervision at any given time.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 566

(House Bill 576)

AN ACT concerning

Dental Hygienists – Expanded Functions

FOR the purpose of altering the definition of "practice dental hygiene"; authorizing the State Board of Dental Examiners to adopt certain regulations; altering the authority of the Board to adopt certain rules and regulations concerning the administration of certain anesthesia by certain dental hygienists; authorizing certain dental hygienists to administer certain anesthesia under certain circumstances; requiring certain dental hygienists to meet certain educational and examination requirements before performing certain functions; altering a certain calculation of the number of unsupervised clinical hours worked by supervised dental hygienists under certain circumstances; and generally relating to the practice of dental hygiene.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 4–101(k), 4–205(a)(1), 4–206, and 4–308(i)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY adding to
Article – Health Occupations
Section 4–206.1
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

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

Article – Health Occupations

4–101.

(k) "Practice dental hygiene" means to:

(1) Perform a preliminary dental examination;

(2) Perform a complete prophylaxis, including the removal of any deposit, accretion, or stain from the surface of a tooth or a restoration;

(3) Polish a tooth or a restoration;

(4) Chart cavities, restorations, missing teeth, periodontal conditions, and other features observed during preliminary examination, prophylaxis, or polishing;

(5) Apply a medicinal agent to a tooth for a prophylactic purpose;

(6) Take a dental X ray; **[**or**]**

(7) PERFORM A MANUAL CURETTAGE IN CONJUNCTION WITH SCALING AND ROOT PLANING;

~~**(8) MONITOR A PATIENT TO WHOM NITROUS OXIDE IS ADMINISTERED;**~~

~~**(9)**~~ **(8) ADMINISTER LOCAL ANESTHESIA IN ACCORDANCE WITH § 4–206.1 OF THIS TITLE; OR**

[(7)**]** ~~**(10)**~~ **(9)** Perform any other intraoral function that the Board authorizes by a rule or regulation adopted under § 4–206 of this title.

4–205.

(a) In addition to the powers set forth elsewhere in this title, the Board may:

(1) Adopt regulations governing:

(i) The administration of general anesthesia by a licensed dentist;

(ii) The administration of sedation by a licensed dentist;

(iii) The use of a dental assistant by a licensed dentist in performing intraoral procedures;

(iv) Subject to subsection (b) of this section, the issuance of a permit to a facility not otherwise regulated where a dentist administers or has general anesthesia or sedation administered;

(v) Subject to subsection (b) of this section, the issuance of a permit to a dentist who administers or has general anesthesia or sedation administered;

(vi) Reasonable requirements for the training and evaluation of a dentist before the dentist may administer general anesthesia or sedation other than nitrous oxide administered alone and not in conjunction with:

1. Another method of diminishing or eliminating pain; or

2. Medication used for diminishing or eliminating anxiety;

(VII) REASONABLE REQUIREMENTS FOR:

1. THE EDUCATION, TRAINING, EVALUATION, AND EXAMINATION OF A DENTAL HYGIENIST BEFORE THE DENTAL HYGIENIST MAY PERFORM MANUAL CURETTAGE IN CONJUNCTION WITH SCALING AND ROOT PLANING; AND

2. PERFORMANCE BY A DENTAL HYGIENIST OF MANUAL CURETTAGE IN CONJUNCTION WITH SCALING AND ROOT PLANING;

~~**(VIII) REASONABLE REQUIREMENTS FOR:**~~

~~**1. THE EDUCATION, TRAINING, EVALUATION, AND EXAMINATION OF A DENTAL HYGIENIST BEFORE A DENTAL HYGIENIST MAY MONITOR A PATIENT BEING ADMINISTERED NITROUS OXIDE; AND**~~

~~**2. MONITORING BY A DENTAL HYGIENIST OF A PATIENT BEING ADMINISTERED NITROUS OXIDE;**~~

~~**(IX)**~~ **(VIII) REASONABLE REQUIREMENTS FOR:**

1. THE EDUCATION, TRAINING, EVALUATION, AND EXAMINATION OF A DENTAL HYGIENIST BEFORE THE DENTAL HYGIENIST MAY ADMINISTER LOCAL ANESTHESIA UNDER § 4–206.1 OF THIS SUBTITLE; AND

2. ADMINISTERING BY A DENTAL HYGIENIST OF LOCAL ANESTHESIA UNDER § 4–206.1 OF THIS SUBTITLE;

[(vii)**]** ~~**(X)**~~ **(IX)** The discipline of a holder of any facility or administration permit for the administration of general anesthesia or sedation; and

[(viii)**]** ~~**(XI)**~~ **(X)** The release of patient dental records;

4–206.

(a) Except as otherwise provided in this section, the Board may adopt rules and regulations that authorize a licensed dental hygienist to perform additional intraoral functions.

(b) The Board may not authorize a licensed dental hygienist to:

(1) Perform a diagnosis;

(2) Perform an extraction;

(3) Repair a cavity;

(4) Correct tooth placement;

(5) Perform a surgical procedure; or

(6) Administer anesthesia other than **THE FOLLOWING:**

(I) **[**topical**]** **TOPICAL** anesthesia**; OR**

(II) **LOCAL ANESTHESIA IN ACCORDANCE WITH § 4–206.1 OF THIS SUBTITLE**.

4–206.1.

(A) SUBJECT TO THE REQUIREMENTS OF SUBSECTIONS (B) AND (C) OF THIS SECTION, A DENTAL HYGIENIST MAY ADMINISTER LOCAL ANESTHESIA BY INFILTRATION FOR THE PURPOSE OF ANESTHETIZING SOFT TISSUE TO FACILITATE THE PERFORMANCE OF DENTAL HYGIENE PROCEDURES, BUT NOT AS A MEDICAL SPECIALTY, PROVIDED THE ADMINISTRATION OF LOCAL ANESTHESIA IS UNDER THE SUPERVISION OF A DENTIST WHO:

(1) IS PHYSICALLY PRESENT ON THE PREMISES; AND

(2) PRESCRIBES THE ADMINISTRATION OF LOCAL ANESTHESIA BY THE DENTAL HYGIENIST.

(B) BEFORE A DENTAL HYGIENIST MAY ADMINISTER LOCAL ANESTHESIA UNDER SUBSECTION (A) OF THIS SECTION, THE DENTAL HYGIENIST SHALL SUCCESSFULLY COMPLETE THE FOLLOWING:

(1) ANY EDUCATIONAL REQUIREMENTS ESTABLISHED BY THE BOARD; AND

(2) A WRITTEN AND CLINICAL EXAMINATION AS REQUIRED BY THE BOARD.

(C) A DENTAL HYGIENIST SHALL OBTAIN THE EDUCATIONAL REQUIREMENTS ESTABLISHED BY THE BOARD UNDER SUBSECTION (B)(1) OF THIS SECTION FROM AN ACCREDITED DENTAL HYGIENE PROGRAM.

4–308.

(i) (1) In this subsection, "private dental office" means a dental office owned and operated by:

(i) A licensed dentist; or

(ii) A professional corporation, partnership, limited liability company, or limited liability partnership owned and controlled by a licensed dentist.

(2) While it is effective, a general license to practice dental hygiene issued under this title authorizes the licensee to practice dental hygiene under the general supervision of a licensed dentist in a private dental office.

(3) A private dental office in which a dental hygienist is authorized to practice under the general supervision of a licensed dentist shall ensure that:

(i) The supervising dentist holds an active license to practice dentistry in this State;

(ii) The dental hygienist holds an active license to practice dental hygiene in this State;

(iii) The dental hygienist has at least 1,500 hours of dental hygiene clinical practice in direct patient care; and

(iv) There is a written agreement between the supervising dentist and the dental hygienist practicing under general supervision that clearly sets forth the terms and conditions under which the dental hygienist may practice,

including a statement that the dental hygienist may provide dental hygiene services without the supervising dentist on the premises.

(4) A dental hygienist may perform authorized dental hygiene services without the supervising dentist on the premises only if:

(i) After the supervising dentist examines and evaluates a patient, the prescribed and authorized treatment to be provided by the dental hygienist is written in the patient's records;

(ii) 1. Treatments authorized by a supervising dentist to be provided by the dental hygienist are rendered no later than 7 months from the date the patient was examined and evaluated by the supervising dentist; and

2. Upon expiration of a prescription or prescribed treatment, the supervising dentist examines and reevaluates the patient before writing a new prescription and authorization for treatment;

(iii) Prior to an appointment, the patient or the custodial parent or legal guardian of a minor or incompetent adult shall:

1. Be informed that a dental hygienist will be providing services previously prescribed by a dentist who will not be on the premises during the appointment; and

2. Consent to receiving the dental hygiene services;

(iv) Written emergency procedures are in place and the dental hygienist is trained to implement the emergency procedures;

(v) A designated licensed dentist is available for consultation with the dental hygienist; and

(vi) The number of unsupervised clinical hours worked by a supervised dental hygienist in any given **[**calendar week**]** **3–MONTH PERIOD** is less than 60 percent of the dental hygienist's total hours **WORKED DURING THAT 3–MONTH PERIOD**.

(5) A supervising dentist may not employ more than two dental hygienists to work under the dentist's general supervision at any given time.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 567

(Senate Bill 613)

AN ACT concerning

CINA, Guardianship, Adoption, Custody, and Visitation – Disability of Parent, Guardian, Custodian, or Party

FOR the purpose of ~~prohibiting a court, in making a disposition on a child in need of assistance (CINA) petition, from considering a disability of a parent, guardian, or custodian of a child except under certain circumstances~~ *establishing that, in making a disposition on a child in need of assistance (CINA) petition, a disability of the child's parent, guardian, or custodian is relevant only to a certain extent; establishing that, in determining whether to grant custody and guardianship of a CINA to a relative or nonrelative, a disability of the relative or nonrelative is relevant only to a certain extent*; prohibiting a local department of social services, a guardian, or a child placement agency, in certain adoption proceedings, from withholding consent to an adoption solely because a prospective adoptive parent has a disability; prohibiting a court, in ruling on a certain adoption petition, from denying the petition solely because the petitioner has a disability; prohibiting a child from being committed to the custody or guardianship of a local department and placed in an out–of–home placement solely because the child's parent or guardian has a disability; requiring the Social Services Administration to adopt certain regulations prohibiting a local department from taking certain actions solely because a child's parent or guardian has a disability; ~~prohibiting a court, in any custody or visitation proceeding, from considering a disability of a party, except under certain circumstances~~ *establishing that, in any custody or visitation proceeding, a disability of a party is relevant only to a certain extent*; defining a certain term; *altering a certain definition;* and generally relating to the disability of certain individuals in certain CINA, guardianship, adoption, custody, or visitation proceedings.

BY repealing and reenacting, without amendments,
Article – Courts and Judicial Proceedings
Section 3–801(a), (f), and (g) ~~and 3–819.2(a)~~
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 3–819(b) and ~~3–819.2(g)~~ *3–819.2(a) and (g)*
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Family Law
Section 5–338(b), 5–350(b), 5–3A–35(b), 5–3B–19(b), and 5–525
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

BY adding to
Article – Family Law
Section 9–107
Annotated Code of Maryland
(2006 Replacement Volume and 2008 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

3–801.

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

(f) "Child in need of assistance" means a child who requires court intervention because:

(1) The child has been abused, has been neglected, has a developmental disability, or has a mental disorder; and

(2) The child's parents, guardian, or custodian are unable or unwilling to give proper care and attention to the child and the child's needs.

(g) "CINA" means a child in need of assistance.

3–819.

(b) (1) In making a disposition on a CINA petition under this subtitle, the court shall:

(i) Find that the child is not in need of assistance and, except as provided in subsection (e) of this section, dismiss the case;

(ii) Hold in abeyance a finding on whether a child with a developmental disability or a mental illness is a child in need of assistance and:

1. Order the local department to assess or reassess the family and child's eligibility for placement of the child in accordance with a voluntary placement agreement under § 5–525(a)(1)(i) of the Family Law Article;

2. Order the local department to report back to the court in writing within 30 days unless the court extends the time period for good cause shown;

3. If the local department does not find the child eligible for placement in accordance with a voluntary placement agreement, hold a hearing to determine whether the family and child are eligible for placement of the child in accordance with a voluntary placement agreement; and

4. After the hearing:

A. Find that the child is not in need of assistance and order the local department to offer to place the child in accordance with a voluntary placement agreement under § 5–525(a)(1)(i) of the Family Law Article;

B. Find that the child is in need of assistance; or

C. Dismiss the case; or

(iii) Subject to paragraph (2) of this subsection, find that the child is in need of assistance and:

1. Not change the child's custody status; or

2. Commit the child on terms the court considers appropriate to the custody of:

A. A parent;

B. Subject to § 3–819.2 of this subtitle, a relative, or other individual; or

C. A local department, the Department of Health and Mental Hygiene, or both, including designation of the type of facility where the child is to be placed.

(2) (I) 1. IN THIS PARAGRAPH, "DISABILITY" MEANS ~~A PHYSICAL IMPAIRMENT THAT SUBSTANTIALLY LIMITS ONE OR MORE OF THE MAJOR LIFE ACTIVITIES OF AN INDIVIDUAL.~~

~~2. "DISABILITY" DOES NOT INCLUDE ILLEGAL USE OF OR ADDICTION TO:~~

~~A. A CONTROLLED DANGEROUS SUBSTANCE AS DEFINED IN § 5–101 OF THE CRIMINAL LAW ARTICLE; OR~~

~~B. A CONTROLLED SUBSTANCE AS DEFINED IN § 102 OF THE FEDERAL CONTROLLED SUBSTANCES ACT~~:

A. A PHYSICAL DISABILITY, INFIRMITY, MALFORMATION, OR DISFIGUREMENT THAT IS CAUSED BY BODILY INJURY, BIRTH DEFECT, OR ILLNESS, INCLUDING EPILEPSY;

B. A MENTAL IMPAIRMENT OR DEFICIENCY;

C. A RECORD OF HAVING A PHYSICAL OR MENTAL IMPAIRMENT AS DEFINED UNDER THIS PARAGRAPH; OR

D. BEING REGARDED AS HAVING A PHYSICAL OR MENTAL IMPAIRMENT AS DEFINED UNDER THIS PARAGRAPH.

2. "DISABILITY" INCLUDES:

A. ANY DEGREE OF PARALYSIS OR AMPUTATION;

B. BLINDNESS OR VISUAL IMPAIRMENT;

C. DEAFNESS OR HEARING IMPAIRMENT;

D. MUTENESS OR SPEECH IMPEDIMENT;

E. PHYSICAL RELIANCE ON A SERVICE ANIMAL OR A WHEELCHAIR OR OTHER REMEDIAL APPLIANCE OR DEVICE; AND

F. INTELLECTUAL DISABILITY, AS DEFINED IN § 7–101 OF THE HEALTH – GENERAL ARTICLE, AND ANY OTHER MENTAL IMPAIRMENT OR DEFICIENCY THAT MAY HAVE NECESSITATED REMEDIAL OR SPECIAL EDUCATION AND RELATED SERVICES.

(II) IN MAKING A DISPOSITION ON A CINA PETITION UNDER THIS SUBTITLE, ~~THE COURT MAY NOT CONSIDER A DISABILITY OF A CHILD'S PARENT, GUARDIAN, OR CUSTODIAN, UNLESS THE COURT SPECIFICALLY FINDS THAT THE DISABILITY CAUSES THE PARENT, GUARDIAN, OR CUSTODIAN TO BE UNABLE TO GIVE PROPER CARE AND ATTENTION TO THE CHILD AND THE CHILD'S NEEDS~~ *A DISABILITY OF THE CHILD'S PARENT, GUARDIAN, OR CUSTODIAN IS RELEVANT ONLY TO THE EXTENT THAT THE COURT FINDS, BASED ON EVIDENCE IN THE RECORD, THAT THE DISABILITY AFFECTS THE ABILITY OF THE PARENT, GUARDIAN, OR CUSTODIAN TO GIVE PROPER CARE AND ATTENTION TO THE CHILD AND THE CHILD'S NEEDS.*

[(2)**] (3)** Unless good cause is shown, a court shall give priority to the child's relatives over nonrelatives when committing the child to the custody of an individual other than a parent.

3–819.2.

(a) (1) In this section, "disability" means ~~a physical impairment that substantially limits one or more of the major life activities of an individual.~~

~~(2) "Disability" does not include illegal use of or addiction to:~~

~~(i) A controlled dangerous substance as defined in § 5–101 of the Criminal Law Article; or~~

~~(ii) A controlled substance as defined in § 102 of the federal Controlled Substances Act~~***:***

(I) A PHYSICAL DISABILITY, INFIRMITY, MALFORMATION, OR DISFIGUREMENT THAT IS CAUSED BY BODILY INJURY, BIRTH DEFECT, OR ILLNESS, INCLUDING EPILEPSY;

(II) A MENTAL IMPAIRMENT OR DEFICIENCY;

(III) A RECORD OF HAVING A PHYSICAL OR MENTAL IMPAIRMENT AS DEFINED UNDER THIS SUBSECTION; OR

(IV) BEING REGARDED AS HAVING A PHYSICAL OR MENTAL IMPAIRMENT AS DEFINED UNDER THIS SUBSECTION.

(2) "DISABILITY" INCLUDES:

(I) ANY DEGREE OF PARALYSIS OR AMPUTATION;

(II) BLINDNESS OR VISUAL IMPAIRMENT;

(III) DEAFNESS OR HEARING IMPAIRMENT;

(IV) MUTENESS OR SPEECH IMPEDIMENT;

(V) PHYSICAL RELIANCE ON A SERVICE ANIMAL OR A WHEELCHAIR OR OTHER REMEDIAL APPLIANCE OR DEVICE; AND

(VI) INTELLECTUAL DISABILITY, AS DEFINED IN § 7–101 OF THE HEALTH – GENERAL ARTICLE, AND ANY OTHER MENTAL IMPAIRMENT OR

DEFICIENCY THAT MAY HAVE NECESSITATED REMEDIAL OR SPECIAL EDUCATION AND RELATED SERVICES.

(g) In determining whether to grant custody and guardianship to a relative or a nonrelative under this section, ~~the court may not consider a disability of the relative or nonrelative, unless the court **SPECIFICALLY** finds that the disability causes a condition that is detrimental to the best interests of the child~~ ***A DISABILITY OF THE RELATIVE OR NONRELATIVE IS RELEVANT ONLY TO THE EXTENT THAT THE COURT FINDS, BASED ON EVIDENCE IN THE RECORD, THAT THE DISABILITY AFFECTS THE BEST INTEREST OF THE CHILD***.

Article – Family Law

5–338.

(b) **(1)** **(I)** **IN THIS SUBSECTION, "DISABILITY" MEANS** ~~**A PHYSICAL IMPAIRMENT THAT SUBSTANTIALLY LIMITS ONE OR MORE OF THE MAJOR LIFE ACTIVITIES OF AN INDIVIDUAL.**~~

~~**(II) "DISABILITY" DOES NOT INCLUDE ILLEGAL USE OF OR ADDICTION TO:**~~

~~**1. A CONTROLLED DANGEROUS SUBSTANCE AS DEFINED IN § 5–101 OF THE CRIMINAL LAW ARTICLE; OR**~~

~~**2. A CONTROLLED SUBSTANCE AS DEFINED IN § 102 OF THE FEDERAL CONTROLLED SUBSTANCES ACT**~~***:***

1. A PHYSICAL DISABILITY, INFIRMITY, MALFORMATION, OR DISFIGUREMENT THAT IS CAUSED BY BODILY INJURY, BIRTH DEFECT, OR ILLNESS, INCLUDING EPILEPSY;

2. A MENTAL IMPAIRMENT OR DEFICIENCY;

3. A RECORD OF HAVING A PHYSICAL OR MENTAL IMPAIRMENT AS DEFINED UNDER THIS PARAGRAPH; OR

4. BEING REGARDED AS HAVING A PHYSICAL OR MENTAL IMPAIRMENT AS DEFINED UNDER THIS PARAGRAPH.

(II) "DISABILITY" INCLUDES:

1. ANY DEGREE OF PARALYSIS OR AMPUTATION;

2. BLINDNESS OR VISUAL IMPAIRMENT;

3. DEAFNESS OR HEARING IMPAIRMENT;

4. MUTENESS OR SPEECH IMPEDIMENT;

5. PHYSICAL RELIANCE ON A SERVICE ANIMAL OR A WHEELCHAIR OR OTHER REMEDIAL APPLIANCE OR DEVICE; AND

***6. INTELLECTUAL DISABILITY, AS DEFINED IN § 7–101 OF THE HEALTH – GENERAL ARTICLE, AND ANY OTHER MENTAL IMPAIRMENT OR DEFICIENCY THAT MAY HAVE NECESSITATED REMEDIAL OR SPECIAL EDUCATION AND RELATED SERVICES*.**

(2) A local department may not withhold consent for the sole reason that**:**

(I) the race, religion, color, or national origin of a prospective adoptive parent differs from that of the child or parent**; OR**

(II) A PROSPECTIVE ADOPTIVE PARENT HAS A DISABILITY.

5–350.

(b) **(1) (I) IN THIS SUBSECTION, "DISABILITY" MEANS** ~~**A PHYSICAL IMPAIRMENT THAT SUBSTANTIALLY LIMITS ONE OR MORE OF THE MAJOR LIFE ACTIVITIES OF AN INDIVIDUAL.**~~

~~**(II) "DISABILITY" DOES NOT INCLUDE ILLEGAL USE OF OR ADDICTION TO:**~~

~~**1. A CONTROLLED DANGEROUS SUBSTANCE AS DEFINED IN § 5–101 OF THE CRIMINAL LAW ARTICLE; OR**~~

~~**2. A CONTROLLED SUBSTANCE AS DEFINED IN § 102 OF THE FEDERAL CONTROLLED SUBSTANCES ACT**~~***:***

1. A PHYSICAL DISABILITY, INFIRMITY, MALFORMATION, OR DISFIGUREMENT THAT IS CAUSED BY BODILY INJURY, BIRTH DEFECT, OR ILLNESS, INCLUDING EPILEPSY;

2. A MENTAL IMPAIRMENT OR DEFICIENCY;

3. A RECORD OF HAVING A PHYSICAL OR MENTAL IMPAIRMENT AS DEFINED UNDER THIS PARAGRAPH; OR

4. BEING REGARDED AS HAVING A PHYSICAL OR MENTAL IMPAIRMENT AS DEFINED UNDER THIS PARAGRAPH.

(II) "DISABILITY" INCLUDES:

1. ANY DEGREE OF PARALYSIS OR AMPUTATION;

2. BLINDNESS OR VISUAL IMPAIRMENT;

3. DEAFNESS OR HEARING IMPAIRMENT;

4. MUTENESS OR SPEECH IMPEDIMENT;

5. PHYSICAL RELIANCE ON A SERVICE ANIMAL OR A WHEELCHAIR OR OTHER REMEDIAL APPLIANCE OR DEVICE; AND

***6. INTELLECTUAL DISABILITY, AS DEFINED IN § 7–101 OF THE HEALTH – GENERAL ARTICLE, AND ANY OTHER MENTAL IMPAIRMENT OR DEFICIENCY THAT MAY HAVE NECESSITATED REMEDIAL OR SPECIAL EDUCATION AND RELATED SERVICES*.**

(2) A guardian may not withhold consent for the sole reason that**:**

(I) the race, religion, color, or national origin of a prospective adoptive parent differs from that of the child or parent**; OR**

(II) A PROSPECTIVE ADOPTIVE PARENT HAS A DISABILITY.

5–3A–35.

(b) **(1) (I) IN THIS SUBSECTION, "DISABILITY" MEANS** ~~**A PHYSICAL IMPAIRMENT THAT SUBSTANTIALLY LIMITS ONE OR MORE OF THE MAJOR LIFE ACTIVITIES OF AN INDIVIDUAL.**~~

~~**(II) "DISABILITY" DOES NOT INCLUDE ILLEGAL USE OF OR ADDICTION TO:**~~

~~**1. A CONTROLLED DANGEROUS SUBSTANCE AS DEFINED IN § 5–101 OF THE CRIMINAL LAW ARTICLE; OR**~~

~~**2. A CONTROLLED SUBSTANCE AS DEFINED IN § 102 OF THE FEDERAL CONTROLLED SUBSTANCES ACT**~~***:***

1. A PHYSICAL DISABILITY, INFIRMITY, MALFORMATION, OR DISFIGUREMENT THAT IS CAUSED BY BODILY INJURY, BIRTH DEFECT, OR ILLNESS, INCLUDING EPILEPSY;

2. A MENTAL IMPAIRMENT OR DEFICIENCY;

3. A RECORD OF HAVING A PHYSICAL OR MENTAL IMPAIRMENT AS DEFINED UNDER THIS PARAGRAPH; OR

4. BEING REGARDED AS HAVING A PHYSICAL OR MENTAL IMPAIRMENT AS DEFINED UNDER THIS PARAGRAPH.

(II) "DISABILITY" INCLUDES:

1. ANY DEGREE OF PARALYSIS OR AMPUTATION;

2. BLINDNESS OR VISUAL IMPAIRMENT;

3. DEAFNESS OR HEARING IMPAIRMENT;

4. MUTENESS OR SPEECH IMPEDIMENT;

5. PHYSICAL RELIANCE ON A SERVICE ANIMAL OR A WHEELCHAIR OR OTHER REMEDIAL APPLIANCE OR DEVICE; AND

***6. INTELLECTUAL DISABILITY, AS DEFINED IN § 7–101 OF THE HEALTH – GENERAL ARTICLE, AND ANY OTHER MENTAL IMPAIRMENT OR DEFICIENCY THAT MAY HAVE NECESSITATED REMEDIAL OR SPECIAL EDUCATION AND RELATED SERVICES*.**

(2) A child placement agency may not withhold consent for the sole reason that**:**

(I) the race, religion, color, or national origin of a prospective adoptive parent differs from that of the child or parent**; OR**

(II) A PROSPECTIVE ADOPTIVE PARENT HAS A DISABILITY.

5–3B–19.

(b) **(1) (I) IN THIS SUBSECTION, "DISABILITY" MEANS** ~~A PHYSICAL IMPAIRMENT THAT SUBSTANTIALLY LIMITS ONE OR MORE OF THE MAJOR LIFE ACTIVITIES OF AN INDIVIDUAL.~~

~~(II) "DISABILITY" DOES NOT INCLUDE ILLEGAL USE OF OR ADDICTION TO:~~

~~1. A CONTROLLED DANGEROUS SUBSTANCE AS DEFINED IN § 5–101 OF THE CRIMINAL LAW ARTICLE; OR~~

~~2. A CONTROLLED SUBSTANCE AS DEFINED IN § 102 OF THE FEDERAL CONTROLLED SUBSTANCES ACT~~:

1. A PHYSICAL DISABILITY, INFIRMITY, MALFORMATION, OR DISFIGUREMENT THAT IS CAUSED BY BODILY INJURY, BIRTH DEFECT, OR ILLNESS, INCLUDING EPILEPSY;

2. A MENTAL IMPAIRMENT OR DEFICIENCY;

3. A RECORD OF HAVING A PHYSICAL OR MENTAL IMPAIRMENT AS DEFINED UNDER THIS PARAGRAPH; OR

4. BEING REGARDED AS HAVING A PHYSICAL OR MENTAL IMPAIRMENT AS DEFINED UNDER THIS PARAGRAPH.

(II) "DISABILITY" INCLUDES:

1. ANY DEGREE OF PARALYSIS OR AMPUTATION;

2. BLINDNESS OR VISUAL IMPAIRMENT;

3. DEAFNESS OR HEARING IMPAIRMENT;

4. MUTENESS OR SPEECH IMPEDIMENT;

5. PHYSICAL RELIANCE ON A SERVICE ANIMAL OR A WHEELCHAIR OR OTHER REMEDIAL APPLIANCE OR DEVICE; AND

***6. INTELLECTUAL DISABILITY, AS DEFINED IN § 7–101 OF THE HEALTH – GENERAL ARTICLE, AND ANY OTHER MENTAL IMPAIRMENT OR DEFICIENCY THAT MAY HAVE NECESSITATED REMEDIAL OR SPECIAL EDUCATION AND RELATED SERVICES*.**

(2) In ruling on an adoption petition under this subtitle, a court may not deny the petition solely because the petitioner**:**

(I) is single or unmarried**; OR**

(II) HAS A DISABILITY.

5–525.

(A) (1) IN THIS SECTION, "DISABILITY" MEANS ~~**A PHYSICAL IMPAIRMENT THAT SUBSTANTIALLY LIMITS ONE OR MORE OF THE MAJOR LIFE ACTIVITIES OF AN INDIVIDUAL.**~~

~~**(2) "DISABILITY" DOES NOT INCLUDE ILLEGAL USE OF OR ADDICTION TO:**~~

~~**(I) A CONTROLLED DANGEROUS SUBSTANCE AS DEFINED IN § 5–101 OF THE CRIMINAL LAW ARTICLE; OR**~~

~~**(II) A CONTROLLED SUBSTANCE AS DEFINED IN § 102 OF THE FEDERAL CONTROLLED SUBSTANCES ACT:**~~

(I) A PHYSICAL DISABILITY, INFIRMITY, MALFORMATION, OR DISFIGUREMENT THAT IS CAUSED BY BODILY INJURY, BIRTH DEFECT, OR ILLNESS, INCLUDING EPILEPSY;

(II) A MENTAL IMPAIRMENT OR DEFICIENCY;

(III) A RECORD OF HAVING A PHYSICAL OR MENTAL IMPAIRMENT AS DEFINED UNDER THIS SUBSECTION; OR

(IV) BEING REGARDED AS HAVING A PHYSICAL OR MENTAL IMPAIRMENT AS DEFINED UNDER THIS SUBSECTION.

(2) "DISABILITY" INCLUDES:

(I) ANY DEGREE OF PARALYSIS OR AMPUTATION;

(II) BLINDNESS OR VISUAL IMPAIRMENT;

(III) DEAFNESS OR HEARING IMPAIRMENT;

(IV) MUTENESS OR SPEECH IMPEDIMENT;

(V) PHYSICAL RELIANCE ON A SERVICE ANIMAL OR A WHEELCHAIR OR OTHER REMEDIAL APPLIANCE OR DEVICE; AND

(VI) INTELLECTUAL DISABILITY, AS DEFINED IN § 7–101 OF THE HEALTH – GENERAL ARTICLE, AND ANY OTHER MENTAL IMPAIRMENT OR

***DEFICIENCY THAT MAY HAVE NECESSITATED REMEDIAL OR SPECIAL EDUCATION AND RELATED SERVICES*.**

[(a)**] (B)** (1) The Administration shall establish a program of out–of–home placement for minor children:

(i) who are placed in the custody of a local department, for a period of not more than 180 days, by a parent or legal guardian under a voluntary placement agreement;

(ii) who are abused, abandoned, neglected, or dependent, if a juvenile court:

1. has determined that continued residence in the child's home is contrary to the child's welfare; and

2. has committed the child to the custody or guardianship of a local department; or

(iii) who, with the approval of the Administration, are placed in an out–of–home placement by a local department under a voluntary placement agreement subject to paragraph (2) of this subsection.

(2) (i) A local department may not seek legal custody of a child under a voluntary placement agreement if the child has a developmental disability or a mental illness and the purpose of the voluntary placement agreement is to obtain treatment or care related to the child's disability that the parent is unable to provide.

(ii) A child described in subparagraph (i) of this paragraph may remain in an out–of–home placement under a voluntary placement agreement for more than 180 days if the child's disability necessitates care or treatment in the out–of–home placement and a juvenile court makes a finding that continuation of the placement is in the best interests of the child.

(iii) Each local department shall designate, from existing staff, a staff person to administer requests for voluntary placement agreements for children with developmental disabilities or mental illnesses.

(iv) Each local department shall report annually to the Administration on the number of requests for voluntary placement agreements for children with developmental disabilities or mental illnesses that have been received, the outcome of each request, and the reason for each denial.

(v) On receipt of a request for a voluntary placement agreement for a child with a developmental disability or a mental illness, a local department shall discuss the child's case at the next meeting of the local coordinating council for the

purpose of determining whether any alternative or interim services for the child and family may be provided by any agency.

[(b)**] (C)** In establishing the out–of–home placement program the Administration shall:

(1) provide time–limited family reunification services to a child placed in an out–of–home placement and to the parents or guardian of the child, in order to facilitate the child's safe and appropriate reunification within a timely manner;

(2) concurrently develop and implement a permanency plan that is in the best interests of the child; and

(3) provide training on an annual basis for the staff at each local department who administer requests for voluntary placement agreements for children with developmental disabilities or mental illnesses under subsection **[**(a)**] (B)** of this section.

[(c)**] (D)** (1) The local department shall provide 24–hour a day care and supportive services for a child who is committed to its custody or guardianship in an out–of–home placement on a short–term basis or placed in accordance with a voluntary placement agreement.

(2) (i) A child may not be committed to the custody or guardianship of a local department and placed in an out–of–home placement solely because the child's parent or guardian lacks shelter **OR HAS A DISABILITY** or solely because the child's parents are financially unable to provide treatment or care for a child with a developmental disability or mental illness.

(ii) The local department shall make appropriate referrals to emergency shelter services and other services for the homeless family with a child which lacks shelter.

[(d)**] (E)** (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)**] (F)** (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.

[(f)**] (G)** (1) The local department shall:

(i) prepare the permanency plan in writing within 60 days of the date the child comes into care;

(ii) if the child is under the jurisdiction of the juvenile court, furnish the plan to the child's parents, the child or the child's counsel, and to the juvenile court; and

(iii) maintain the plan in the agency's case record.

(2) The local department shall amend the plan promptly as necessary in light of the child's situation and any court orders which affect the child.

[(g)**] (H)** Unless a child has received a review from the local board of review of foster care under § 5–544 of this subtitle, the local department shall perform an administrative review every 6 months to determine the success of the efforts to meet the goals set out in the permanency plan or the agreement with the parents or guardians in voluntary placements.

[(h)**] (I)** (1) Foster parents who wish to adopt a foster child in their care and who wish to contest the agency's decision to place the child with another adoptive family may, within 30 days from the removal of the child, file with the agency a request for a hearing.

(2) Within 10 days after receipt of a request for a hearing under paragraph (1) of this subsection, the agency shall notify the Office of Administrative Hearings, which shall hold the hearing and issue a decision within 45 days of the receipt of the request.

[(i)**] (J)** The Administration shall adopt regulations that:

(1) establish goals and specify permanency planning procedures that:

(i) maximize the prospect for reducing length of stay in out–of–home placement in the best interests of children; and

(ii) implement the intent of this section;

(2) prohibit a local department from seeking the custody or guardianship of a child for placement in foster care solely because the child's parent or guardian lacks shelter **OR HAS A DISABILITY** or solely because the child's parents are financially unable to provide treatment or care for a child with a developmental disability or mental illness;

(3) specify the compelling reasons for placing a child in a local jurisdiction other than the local jurisdiction where the child's parent or guardian resides, under subsection **[**(e)(3)(ii)**] (F)(3)(II)** of this section;

(4) require the local department to make appropriate referrals to emergency shelter and other services for families with children who lack shelter;

(5) establish criteria for investigating and approving foster homes; and

(6) for cases in which the permanency plan recommended by the local department or under consideration by the court includes appointment of a guardian and rescission of the local department's custody or guardianship of a child:

(i) establish criteria for investigating and determining the suitability of prospective relative or nonrelative guardians; and

(ii) require the filing of a report with the court as provided in § 3–819.2 of the Courts Article.

9–107.

(A) (1) IN THIS SECTION, "DISABILITY" MEANS ~~A PHYSICAL IMPAIRMENT THAT SUBSTANTIALLY LIMITS ONE OR MORE OF THE MAJOR LIFE ACTIVITIES OF AN INDIVIDUAL.~~

~~(2) "DISABILITY" DOES NOT INCLUDE ILLEGAL USE OF OR ADDICTION TO:~~

~~(I) A CONTROLLED DANGEROUS SUBSTANCE AS DEFINED IN § 5–101 OF THE CRIMINAL LAW ARTICLE; OR~~

~~(II) A CONTROLLED SUBSTANCE AS DEFINED IN § 102 OF THE FEDERAL CONTROLLED SUBSTANCES ACT~~*:*

(I) A PHYSICAL DISABILITY, INFIRMITY, MALFORMATION, OR DISFIGUREMENT THAT IS CAUSED BY BODILY INJURY, BIRTH DEFECT, OR ILLNESS, INCLUDING EPILEPSY;

(II) A MENTAL IMPAIRMENT OR DEFICIENCY;

(III) A RECORD OF HAVING A PHYSICAL OR MENTAL IMPAIRMENT AS DEFINED UNDER THIS SUBSECTION; OR

(IV) BEING REGARDED AS HAVING A PHYSICAL OR MENTAL IMPAIRMENT AS DEFINED UNDER THIS SUBSECTION.

(2) "DISABILITY" INCLUDES:

(I) ANY DEGREE OF PARALYSIS OR AMPUTATION;

(II) BLINDNESS OR VISUAL IMPAIRMENT;

(III) DEAFNESS OR HEARING IMPAIRMENT;

(IV) MUTENESS OR SPEECH IMPEDIMENT;

(V) PHYSICAL RELIANCE ON A SERVICE ANIMAL OR A WHEELCHAIR OR OTHER REMEDIAL APPLIANCE OR DEVICE; AND

***(VI) INTELLECTUAL DISABILITY, AS DEFINED IN § 7–101 OF THE HEALTH – GENERAL ARTICLE, AND ANY OTHER MENTAL IMPAIRMENT OR DEFICIENCY THAT MAY HAVE NECESSITATED REMEDIAL OR SPECIAL EDUCATION AND RELATED SERVICES*.**

(B) IN ANY CUSTODY OR VISITATION PROCEEDING, ~~THE COURT MAY NOT CONSIDER A DISABILITY OF A PARTY, UNLESS THE COURT SPECIFICALLY FINDS THAT THE DISABILITY CAUSES A CONDITION THAT IS DETRIMENTAL TO THE BEST INTERESTS OF THE CHILD~~ *A DISABILITY OF A PARTY IS RELEVANT ONLY TO THE EXTENT THAT THE COURT FINDS, BASED ON EVIDENCE IN THE RECORD, THAT THE DISABILITY AFFECTS THE BEST INTEREST OF THE CHILD*.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 568

(House Bill 689)

AN ACT concerning

CINA, Guardianship, Adoption, Custody, and Visitation – Disability of Parent, Guardian, Custodian, or Party

FOR the purpose of ~~prohibiting a court, in making a disposition on a child in need of assistance (CINA) petition, from considering a disability of a parent, guardian, or custodian of a child except under certain circumstances~~ establishing that, in making a disposition on a child in need of assistance (CINA) petition, a disability of the child's parent, guardian, or custodian is relevant only to a certain extent; establishing that, in determining whether to grant custody and guardianship of a CINA to a relative or nonrelative, a disability of the relative or nonrelative is relevant only to a certain extent; prohibiting a local

department of social services, a guardian, or a child placement agency, in certain adoption proceedings, from withholding consent to an adoption solely because a prospective adoptive parent has a disability; prohibiting a court, in ruling on a certain adoption petition, from denying the petition solely because the petitioner has a disability; prohibiting a child from being committed to the custody or guardianship of a local department and placed in an out–of–home placement solely because the child's parent or guardian has a disability; requiring the Social Services Administration to adopt certain regulations prohibiting a local department from taking certain actions solely because a child's parent or guardian has a disability; ~~prohibiting a court, in any custody or visitation proceeding, from considering a disability of a party, except under certain circumstances~~ establishing that, in any custody or visitation proceeding, a disability of a party is relevant only to a certain extent; defining a certain term; altering a certain definition; and generally relating to the disability of certain individuals in certain CINA, guardianship, adoption, custody, or visitation proceedings.

BY repealing and reenacting, without amendments,
Article – Courts and Judicial Proceedings
Section 3–801(a), (f), and (g) ~~and 3–819.2(a)~~
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 3–819(b) and ~~3–819.2(g)~~ 3–819.2(a) and (g)
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Family Law
Section 5–338(b), 5–350(b), 5–3A–35(b), 5–3B–19(b), and 5–525
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

BY adding to
Article – Family Law
Section 9–107
Annotated Code of Maryland
(2006 Replacement Volume and 2008 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

3–801.

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

(f) "Child in need of assistance" means a child who requires court intervention because:

(1) The child has been abused, has been neglected, has a developmental disability, or has a mental disorder; and

(2) The child's parents, guardian, or custodian are unable or unwilling to give proper care and attention to the child and the child's needs.

(g) "CINA" means a child in need of assistance.

3–819.

(b) (1) In making a disposition on a CINA petition under this subtitle, the court shall:

(i) Find that the child is not in need of assistance and, except as provided in subsection (e) of this section, dismiss the case;

(ii) Hold in abeyance a finding on whether a child with a developmental disability or a mental illness is a child in need of assistance and:

1. Order the local department to assess or reassess the family and child's eligibility for placement of the child in accordance with a voluntary placement agreement under § 5–525(a)(1)(i) of the Family Law Article;

2. Order the local department to report back to the court in writing within 30 days unless the court extends the time period for good cause shown;

3. If the local department does not find the child eligible for placement in accordance with a voluntary placement agreement, hold a hearing to determine whether the family and child are eligible for placement of the child in accordance with a voluntary placement agreement; and

4. After the hearing:

A. Find that the child is not in need of assistance and order the local department to offer to place the child in accordance with a voluntary placement agreement under § 5–525(a)(1)(i) of the Family Law Article;

B. Find that the child is in need of assistance; or

C. Dismiss the case; or

(iii) Subject to paragraph (2) of this subsection, find that the child is in need of assistance and:

1. Not change the child's custody status; or

2. Commit the child on terms the court considers appropriate to the custody of:

A. A parent;

B. Subject to § 3–819.2 of this subtitle, a relative, or other individual; or

C. A local department, the Department of Health and Mental Hygiene, or both, including designation of the type of facility where the child is to be placed.

(2) (I) 1. IN THIS PARAGRAPH, "DISABILITY" MEANS ~~A PHYSICAL IMPAIRMENT THAT SUBSTANTIALLY LIMITS ONE OR MORE OF THE MAJOR LIFE ACTIVITIES OF AN INDIVIDUAL.~~

~~2. "DISABILITY" DOES NOT INCLUDE ILLEGAL USE OF OR ADDICTION TO:~~

~~A. A CONTROLLED DANGEROUS SUBSTANCE AS DEFINED IN § 5–101 OF THE CRIMINAL LAW ARTICLE; OR~~

~~B. A CONTROLLED SUBSTANCE AS DEFINED IN § 102 OF THE FEDERAL CONTROLLED SUBSTANCES ACT~~:

A. A PHYSICAL DISABILITY, INFIRMITY, MALFORMATION, OR DISFIGUREMENT THAT IS CAUSED BY BODILY INJURY, BIRTH DEFECT, OR ILLNESS, INCLUDING EPILEPSY;

B. A MENTAL IMPAIRMENT OR DEFICIENCY;

C. A RECORD OF HAVING A PHYSICAL OR MENTAL IMPAIRMENT AS DEFINED UNDER THIS PARAGRAPH; OR

D. BEING REGARDED AS HAVING A PHYSICAL OR MENTAL IMPAIRMENT AS DEFINED UNDER THIS PARAGRAPH.

2. "DISABILITY" INCLUDES:

A. ANY DEGREE OF PARALYSIS OR AMPUTATION;

B. BLINDNESS OR VISUAL IMPAIRMENT;

C. DEAFNESS OR HEARING IMPAIRMENT;

D. MUTENESS OR SPEECH IMPEDIMENT;

E. PHYSICAL RELIANCE ON A SERVICE ANIMAL OR A WHEELCHAIR OR OTHER REMEDIAL APPLIANCE OR DEVICE; AND

F. INTELLECTUAL DISABILITY, AS DEFINED IN § 7–101 OF THE HEALTH – GENERAL ARTICLE, AND ANY OTHER MENTAL IMPAIRMENT OR DEFICIENCY THAT MAY HAVE NECESSITATED REMEDIAL OR SPECIAL EDUCATION AND RELATED SERVICES.

(II) IN MAKING A DISPOSITION ON A CINA PETITION UNDER THIS SUBTITLE, ~~THE COURT MAY NOT CONSIDER A DISABILITY OF A CHILD'S PARENT, GUARDIAN, OR CUSTODIAN, UNLESS THE COURT SPECIFICALLY FINDS THAT THE DISABILITY CAUSES THE PARENT, GUARDIAN, OR CUSTODIAN TO BE UNABLE TO GIVE PROPER CARE AND ATTENTION TO THE CHILD AND THE CHILD'S NEEDS~~ A DISABILITY OF THE CHILD'S PARENT, GUARDIAN, OR CUSTODIAN IS RELEVANT ONLY TO THE EXTENT THAT THE COURT FINDS, BASED ON EVIDENCE IN THE RECORD, THAT THE DISABILITY AFFECTS THE ABILITY OF THE PARENT, GUARDIAN, OR CUSTODIAN TO GIVE PROPER CARE AND ATTENTION TO THE CHILD AND THE CHILD'S NEEDS.

[(2)**] (3)** Unless good cause is shown, a court shall give priority to the child's relatives over nonrelatives when committing the child to the custody of an individual other than a parent.

3–819.2.

(a) (1) In this section, "disability" means~~ a physical impairment that substantially limits one or more of the major life activities of an individual.~~

~~(2) "Disability" does not include illegal use of or addiction to:~~

~~(i) A controlled dangerous substance as defined in § 5–101 of the Criminal Law Article; or~~

~~(ii) A controlled substance as defined in § 102 of the federal Controlled Substances Act~~**:**

(I) A PHYSICAL DISABILITY, INFIRMITY, MALFORMATION, OR DISFIGUREMENT THAT IS CAUSED BY BODILY INJURY, BIRTH DEFECT, OR ILLNESS, INCLUDING EPILEPSY;

(II) A MENTAL IMPAIRMENT OR DEFICIENCY;

(III) A RECORD OF HAVING A PHYSICAL OR MENTAL IMPAIRMENT AS DEFINED UNDER THIS SUBSECTION; OR

(IV) BEING REGARDED AS HAVING A PHYSICAL OR MENTAL IMPAIRMENT AS DEFINED UNDER THIS SUBSECTION.

(2) "DISABILITY" INCLUDES:

(I) ANY DEGREE OF PARALYSIS OR AMPUTATION;

(II) BLINDNESS OR VISUAL IMPAIRMENT;

(III) DEAFNESS OR HEARING IMPAIRMENT;

(IV) MUTENESS OR SPEECH IMPEDIMENT;

(V) PHYSICAL RELIANCE ON A SERVICE ANIMAL OR A WHEELCHAIR OR OTHER REMEDIAL APPLIANCE OR DEVICE; AND

(VI) INTELLECTUAL DISABILITY, AS DEFINED IN § 7–101 OF THE HEALTH – GENERAL ARTICLE, AND ANY OTHER MENTAL IMPAIRMENT OR DEFICIENCY THAT MAY HAVE NECESSITATED REMEDIAL OR SPECIAL EDUCATION AND RELATED SERVICES.

(g) In determining whether to grant custody and guardianship to a relative or a nonrelative under this section, ~~the court may not consider a disability of the relative or nonrelative, unless the court **SPECIFICALLY** finds that the disability causes a condition that is detrimental to the best interests of the child~~ **A DISABILITY OF THE RELATIVE OR NONRELATIVE IS RELEVANT ONLY TO THE EXTENT THAT THE COURT FINDS, BASED ON EVIDENCE IN THE RECORD, THAT THE DISABILITY AFFECTS THE BEST INTEREST OF THE CHILD**.

Article – Family Law

5–338.

(b) **(1) (I) IN THIS SUBSECTION, "DISABILITY" MEANS** ~~**A PHYSICAL IMPAIRMENT THAT SUBSTANTIALLY LIMITS ONE OR MORE OF THE MAJOR LIFE ACTIVITIES OF AN INDIVIDUAL.**~~

~~(II) "DISABILITY" DOES NOT INCLUDE ILLEGAL USE OF OR ADDICTION TO:~~

~~1. A CONTROLLED DANGEROUS SUBSTANCE AS DEFINED IN § 5–101 OF THE CRIMINAL LAW ARTICLE; OR~~

~~2. A CONTROLLED SUBSTANCE AS DEFINED IN § 102 OF THE FEDERAL CONTROLLED SUBSTANCES ACT:~~

1. A PHYSICAL DISABILITY, INFIRMITY, MALFORMATION, OR DISFIGUREMENT THAT IS CAUSED BY BODILY INJURY, BIRTH DEFECT, OR ILLNESS, INCLUDING EPILEPSY;

2. A MENTAL IMPAIRMENT OR DEFICIENCY;

3. A RECORD OF HAVING A PHYSICAL OR MENTAL IMPAIRMENT AS DEFINED UNDER THIS PARAGRAPH; OR

4. BEING REGARDED AS HAVING A PHYSICAL OR MENTAL IMPAIRMENT AS DEFINED UNDER THIS PARAGRAPH.

(II) "DISABILITY" INCLUDES:

1. ANY DEGREE OF PARALYSIS OR AMPUTATION;

2. BLINDNESS OR VISUAL IMPAIRMENT;

3. DEAFNESS OR HEARING IMPAIRMENT;

4. MUTENESS OR SPEECH IMPEDIMENT;

5. PHYSICAL RELIANCE ON A SERVICE ANIMAL OR A WHEELCHAIR OR OTHER REMEDIAL APPLIANCE OR DEVICE; AND

6. INTELLECTUAL DISABILITY, AS DEFINED IN § 7–101 OF THE HEALTH – GENERAL ARTICLE, AND ANY OTHER MENTAL IMPAIRMENT OR DEFICIENCY THAT MAY HAVE NECESSITATED REMEDIAL OR SPECIAL EDUCATION AND RELATED SERVICES.

(2) A local department may not withhold consent for the sole reason that**:**

(I) the race, religion, color, or national origin of a prospective adoptive parent differs from that of the child or parent**; OR**

(II) A PROSPECTIVE ADOPTIVE PARENT HAS A DISABILITY.

5–350.

(b) **(1) (I) IN THIS SUBSECTION, "DISABILITY" MEANS** ~~**A PHYSICAL IMPAIRMENT THAT SUBSTANTIALLY LIMITS ONE OR MORE OF THE MAJOR LIFE ACTIVITIES OF AN INDIVIDUAL.**~~

~~**(II) "DISABILITY" DOES NOT INCLUDE ILLEGAL USE OF OR ADDICTION TO:**~~

~~**1. A CONTROLLED DANGEROUS SUBSTANCE AS DEFINED IN § 5–101 OF THE CRIMINAL LAW ARTICLE; OR**~~

~~**2. A CONTROLLED SUBSTANCE AS DEFINED IN § 102 OF THE FEDERAL CONTROLLED SUBSTANCES ACT**~~**:**

1. A PHYSICAL DISABILITY, INFIRMITY, MALFORMATION, OR DISFIGUREMENT THAT IS CAUSED BY BODILY INJURY, BIRTH DEFECT, OR ILLNESS, INCLUDING EPILEPSY;

2. A MENTAL IMPAIRMENT OR DEFICIENCY;

3. A RECORD OF HAVING A PHYSICAL OR MENTAL IMPAIRMENT AS DEFINED UNDER THIS PARAGRAPH; OR

4. BEING REGARDED AS HAVING A PHYSICAL OR MENTAL IMPAIRMENT AS DEFINED UNDER THIS PARAGRAPH.

(II) "DISABILITY" INCLUDES:

1. ANY DEGREE OF PARALYSIS OR AMPUTATION;

2. BLINDNESS OR VISUAL IMPAIRMENT;

3. DEAFNESS OR HEARING IMPAIRMENT;

4. MUTENESS OR SPEECH IMPEDIMENT;

5. PHYSICAL RELIANCE ON A SERVICE ANIMAL OR A WHEELCHAIR OR OTHER REMEDIAL APPLIANCE OR DEVICE; AND

6. INTELLECTUAL DISABILITY, AS DEFINED IN § 7–101 OF THE HEALTH – GENERAL ARTICLE, AND ANY OTHER MENTAL IMPAIRMENT OR DEFICIENCY THAT MAY HAVE NECESSITATED REMEDIAL OR SPECIAL EDUCATION AND RELATED SERVICES.

(2) A guardian may not withhold consent for the sole reason that**:**

(I) the race, religion, color, or national origin of a prospective adoptive parent differs from that of the child or parent**; OR**

(II) A PROSPECTIVE ADOPTIVE PARENT HAS A DISABILITY.

5–3A–35.

(b) **(1) (I) IN THIS SUBSECTION, "DISABILITY" MEANS** ~~**A PHYSICAL IMPAIRMENT THAT SUBSTANTIALLY LIMITS ONE OR MORE OF THE MAJOR LIFE ACTIVITIES OF AN INDIVIDUAL.**~~

~~**(II) "DISABILITY" DOES NOT INCLUDE ILLEGAL USE OF OR ADDICTION TO:**~~

~~**1. A CONTROLLED DANGEROUS SUBSTANCE AS DEFINED IN § 5–101 OF THE CRIMINAL LAW ARTICLE; OR**~~

~~**2. A CONTROLLED SUBSTANCE AS DEFINED IN § 102 OF THE FEDERAL CONTROLLED SUBSTANCES ACT**~~**:**

1. A PHYSICAL DISABILITY, INFIRMITY, MALFORMATION, OR DISFIGUREMENT THAT IS CAUSED BY BODILY INJURY, BIRTH DEFECT, OR ILLNESS, INCLUDING EPILEPSY;

2. A MENTAL IMPAIRMENT OR DEFICIENCY;

3. A RECORD OF HAVING A PHYSICAL OR MENTAL IMPAIRMENT AS DEFINED UNDER THIS PARAGRAPH; OR

4. BEING REGARDED AS HAVING A PHYSICAL OR MENTAL IMPAIRMENT AS DEFINED UNDER THIS PARAGRAPH.

(II) "DISABILITY" INCLUDES:

1. ANY DEGREE OF PARALYSIS OR AMPUTATION;

2. BLINDNESS OR VISUAL IMPAIRMENT;

3. DEAFNESS OR HEARING IMPAIRMENT;

4. MUTENESS OR SPEECH IMPEDIMENT;

5. PHYSICAL RELIANCE ON A SERVICE ANIMAL OR A WHEELCHAIR OR OTHER REMEDIAL APPLIANCE OR DEVICE; AND

6. INTELLECTUAL DISABILITY, AS DEFINED IN § 7–101 OF THE HEALTH – GENERAL ARTICLE, AND ANY OTHER MENTAL IMPAIRMENT OR DEFICIENCY THAT MAY HAVE NECESSITATED REMEDIAL OR SPECIAL EDUCATION AND RELATED SERVICES.

(2) A child placement agency may not withhold consent for the sole reason that**:**

(I) the race, religion, color, or national origin of a prospective adoptive parent differs from that of the child or parent**; OR**

(II) A PROSPECTIVE ADOPTIVE PARENT HAS A DISABILITY.

5–3B–19.

(b) **(1) (I) IN THIS SUBSECTION, "DISABILITY" MEANS** ~~**A PHYSICAL IMPAIRMENT THAT SUBSTANTIALLY LIMITS ONE OR MORE OF THE MAJOR LIFE ACTIVITIES OF AN INDIVIDUAL.**~~

~~**(II) "DISABILITY" DOES NOT INCLUDE ILLEGAL USE OF OR ADDICTION TO:**~~

~~**1. A CONTROLLED DANGEROUS SUBSTANCE AS DEFINED IN § 5–101 OF THE CRIMINAL LAW ARTICLE; OR**~~

~~**2. A CONTROLLED SUBSTANCE AS DEFINED IN § 102 OF THE FEDERAL CONTROLLED SUBSTANCES ACT**~~**:**

1. A PHYSICAL DISABILITY, INFIRMITY, MALFORMATION, OR DISFIGUREMENT THAT IS CAUSED BY BODILY INJURY, BIRTH DEFECT, OR ILLNESS, INCLUDING EPILEPSY;

2. A MENTAL IMPAIRMENT OR DEFICIENCY;

3. A RECORD OF HAVING A PHYSICAL OR MENTAL IMPAIRMENT AS DEFINED UNDER THIS PARAGRAPH; OR

4. BEING REGARDED AS HAVING A PHYSICAL OR MENTAL IMPAIRMENT AS DEFINED UNDER THIS PARAGRAPH.

(II) "DISABILITY" INCLUDES:

1. ANY DEGREE OF PARALYSIS OR AMPUTATION;

2. BLINDNESS OR VISUAL IMPAIRMENT;

3. DEAFNESS OR HEARING IMPAIRMENT;

4. MUTENESS OR SPEECH IMPEDIMENT;

5. PHYSICAL RELIANCE ON A SERVICE ANIMAL OR A WHEELCHAIR OR OTHER REMEDIAL APPLIANCE OR DEVICE; AND

6. INTELLECTUAL DISABILITY, AS DEFINED IN § 7–101 OF THE HEALTH – GENERAL ARTICLE, AND ANY OTHER MENTAL IMPAIRMENT OR DEFICIENCY THAT MAY HAVE NECESSITATED REMEDIAL OR SPECIAL EDUCATION AND RELATED SERVICES.

(2) In ruling on an adoption petition under this subtitle, a court may not deny the petition solely because the petitioner**:**

(I) is single or unmarried**; OR**

(II) HAS A DISABILITY.

5–525.

(A) (1) IN THIS SECTION, "DISABILITY" MEANS ~~**A PHYSICAL IMPAIRMENT THAT SUBSTANTIALLY LIMITS ONE OR MORE OF THE MAJOR LIFE ACTIVITIES OF AN INDIVIDUAL.**~~

~~**(2) "DISABILITY" DOES NOT INCLUDE ILLEGAL USE OF OR ADDICTION TO:**~~

~~**(I) A CONTROLLED DANGEROUS SUBSTANCE AS DEFINED IN § 5–101 OF THE CRIMINAL LAW ARTICLE; OR**~~

~~**(II) A CONTROLLED SUBSTANCE AS DEFINED IN § 102 OF THE FEDERAL CONTROLLED SUBSTANCES ACT:**~~

(I) A PHYSICAL DISABILITY, INFIRMITY, MALFORMATION, OR DISFIGUREMENT THAT IS CAUSED BY BODILY INJURY, BIRTH DEFECT, OR ILLNESS, INCLUDING EPILEPSY;

(II) A MENTAL IMPAIRMENT OR DEFICIENCY;

(III) A RECORD OF HAVING A PHYSICAL OR MENTAL IMPAIRMENT AS DEFINED UNDER THIS SUBSECTION; OR

(IV) BEING REGARDED AS HAVING A PHYSICAL OR MENTAL IMPAIRMENT AS DEFINED UNDER THIS SUBSECTION.

(2) "DISABILITY" INCLUDES:

(I) ANY DEGREE OF PARALYSIS OR AMPUTATION;

(II) BLINDNESS OR VISUAL IMPAIRMENT;

(III) DEAFNESS OR HEARING IMPAIRMENT;

(IV) MUTENESS OR SPEECH IMPEDIMENT;

(V) PHYSICAL RELIANCE ON A SERVICE ANIMAL OR A WHEELCHAIR OR OTHER REMEDIAL APPLIANCE OR DEVICE; AND

(VI) INTELLECTUAL DISABILITY, AS DEFINED IN § 7–101 OF THE HEALTH – GENERAL ARTICLE, AND ANY OTHER MENTAL IMPAIRMENT OR DEFICIENCY THAT MAY HAVE NECESSITATED REMEDIAL OR SPECIAL EDUCATION AND RELATED SERVICES.

[(a)**] (B)** (1) The Administration shall establish a program of out–of–home placement for minor children:

(i) who are placed in the custody of a local department, for a period of not more than 180 days, by a parent or legal guardian under a voluntary placement agreement;

(ii) who are abused, abandoned, neglected, or dependent, if a juvenile court:

1. has determined that continued residence in the child's home is contrary to the child's welfare; and

2. has committed the child to the custody or guardianship of a local department; or

(iii) who, with the approval of the Administration, are placed in an out–of–home placement by a local department under a voluntary placement agreement subject to paragraph (2) of this subsection.

(2) (i) A local department may not seek legal custody of a child under a voluntary placement agreement if the child has a developmental disability or a mental illness and the purpose of the voluntary placement agreement is to obtain treatment or care related to the child's disability that the parent is unable to provide.

(ii) A child described in subparagraph (i) of this paragraph may remain in an out–of–home placement under a voluntary placement agreement for more than 180 days if the child's disability necessitates care or treatment in the out–of–home placement and a juvenile court makes a finding that continuation of the placement is in the best interests of the child.

(iii) Each local department shall designate, from existing staff, a staff person to administer requests for voluntary placement agreements for children with developmental disabilities or mental illnesses.

(iv) Each local department shall report annually to the Administration on the number of requests for voluntary placement agreements for children with developmental disabilities or mental illnesses that have been received, the outcome of each request, and the reason for each denial.

(v) On receipt of a request for a voluntary placement agreement for a child with a developmental disability or a mental illness, a local department shall discuss the child's case at the next meeting of the local coordinating council for the purpose of determining whether any alternative or interim services for the child and family may be provided by any agency.

[(b)**] (C)** In establishing the out–of–home placement program the Administration shall:

(1) provide time–limited family reunification services to a child placed in an out–of–home placement and to the parents or guardian of the child, in order to facilitate the child's safe and appropriate reunification within a timely manner;

(2) concurrently develop and implement a permanency plan that is in the best interests of the child; and

(3) provide training on an annual basis for the staff at each local department who administer requests for voluntary placement agreements for children with developmental disabilities or mental illnesses under subsection **[**(a)**] (B)** of this section.

[(c)**] (D)** (1) The local department shall provide 24–hour a day care and supportive services for a child who is committed to its custody or guardianship in an out–of–home placement on a short–term basis or placed in accordance with a voluntary placement agreement.

(2) (i) A child may not be committed to the custody or guardianship of a local department and placed in an out–of–home placement solely because the child's parent or guardian lacks shelter **OR HAS A DISABILITY** or solely because the child's parents are financially unable to provide treatment or care for a child with a developmental disability or mental illness.

(ii) The local department shall make appropriate referrals to emergency shelter services and other services for the homeless family with a child which lacks shelter.

[(d)**] (E)** (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)**] (F)** (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.

[(f)**] (G)** (1) The local department shall:

(i) prepare the permanency plan in writing within 60 days of the date the child comes into care;

(ii) if the child is under the jurisdiction of the juvenile court, furnish the plan to the child's parents, the child or the child's counsel, and to the juvenile court; and

(iii) maintain the plan in the agency's case record.

(2) The local department shall amend the plan promptly as necessary in light of the child's situation and any court orders which affect the child.

[(g)**] (H)** Unless a child has received a review from the local board of review of foster care under § 5–544 of this subtitle, the local department shall perform an administrative review every 6 months to determine the success of the efforts to meet the goals set out in the permanency plan or the agreement with the parents or guardians in voluntary placements.

[(h)**] (I)** (1) Foster parents who wish to adopt a foster child in their care and who wish to contest the agency's decision to place the child with another adoptive family may, within 30 days from the removal of the child, file with the agency a request for a hearing.

(2) Within 10 days after receipt of a request for a hearing under paragraph (1) of this subsection, the agency shall notify the Office of Administrative Hearings, which shall hold the hearing and issue a decision within 45 days of the receipt of the request.

[(i)**] (J)** The Administration shall adopt regulations that:

(1) establish goals and specify permanency planning procedures that:

(i) maximize the prospect for reducing length of stay in out–of–home placement in the best interests of children; and

(ii) implement the intent of this section;

(2) prohibit a local department from seeking the custody or guardianship of a child for placement in foster care solely because the child's parent or guardian lacks shelter **OR HAS A DISABILITY** or solely because the child's parents are financially unable to provide treatment or care for a child with a developmental disability or mental illness;

(3) specify the compelling reasons for placing a child in a local jurisdiction other than the local jurisdiction where the child's parent or guardian resides, under subsection **[**(e)(3)(ii)**] (F)(3)(II)** of this section;

(4) require the local department to make appropriate referrals to emergency shelter and other services for families with children who lack shelter;

(5) establish criteria for investigating and approving foster homes; and

(6) for cases in which the permanency plan recommended by the local department or under consideration by the court includes appointment of a guardian and rescission of the local department's custody or guardianship of a child:

(i) establish criteria for investigating and determining the suitability of prospective relative or nonrelative guardians; and

(ii) require the filing of a report with the court as provided in § 3–819.2 of the Courts Article.

9–107.

(A) (1) IN THIS SECTION, "DISABILITY" MEANS~~**— A PHYSICAL IMPAIRMENT THAT SUBSTANTIALLY LIMITS ONE OR MORE OF THE MAJOR LIFE ACTIVITIES OF AN INDIVIDUAL.**~~

~~(2) "DISABILITY" DOES NOT INCLUDE ILLEGAL USE OF OR ADDICTION TO:~~

~~(I) A CONTROLLED DANGEROUS SUBSTANCE AS DEFINED IN § 5–101 OF THE CRIMINAL LAW ARTICLE; OR~~

~~(II) A CONTROLLED SUBSTANCE AS DEFINED IN § 102 OF THE FEDERAL CONTROLLED SUBSTANCES ACT~~:

(I) A PHYSICAL DISABILITY, INFIRMITY, MALFORMATION, OR DISFIGUREMENT THAT IS CAUSED BY BODILY INJURY, BIRTH DEFECT, OR ILLNESS, INCLUDING EPILEPSY;

(II) A MENTAL IMPAIRMENT OR DEFICIENCY;

(III) A RECORD OF HAVING A PHYSICAL OR MENTAL IMPAIRMENT AS DEFINED UNDER THIS SUBSECTION; OR

(IV) BEING REGARDED AS HAVING A PHYSICAL OR MENTAL IMPAIRMENT AS DEFINED UNDER THIS SUBSECTION.

(2) "DISABILITY" INCLUDES:

(I) ANY DEGREE OF PARALYSIS OR AMPUTATION;

(II) BLINDNESS OR VISUAL IMPAIRMENT;

(III) DEAFNESS OR HEARING IMPAIRMENT;

(IV) MUTENESS OR SPEECH IMPEDIMENT;

(V) PHYSICAL RELIANCE ON A SERVICE ANIMAL OR A WHEELCHAIR OR OTHER REMEDIAL APPLIANCE OR DEVICE; AND

(VI) INTELLECTUAL DISABILITY, AS DEFINED IN § 7–101 OF THE HEALTH – GENERAL ARTICLE, AND ANY OTHER MENTAL IMPAIRMENT OR DEFICIENCY THAT MAY HAVE NECESSITATED REMEDIAL OR SPECIAL EDUCATION AND RELATED SERVICES.

(B) IN ANY CUSTODY OR VISITATION PROCEEDING, ~~THE COURT MAY NOT CONSIDER A DISABILITY OF A PARTY, UNLESS THE COURT SPECIFICALLY FINDS THAT THE DISABILITY CAUSES A CONDITION THAT IS DETRIMENTAL TO THE BEST INTERESTS OF THE CHILD~~ A DISABILITY OF A PARTY IS RELEVANT

ONLY TO THE EXTENT THAT THE COURT FINDS, BASED ON EVIDENCE IN THE RECORD, THAT THE DISABILITY AFFECTS THE BEST INTEREST OF THE CHILD.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 569

(Senate Bill 614)

AN ACT concerning

Transportation – Baltimore Corridor Transit Study – Red Line Area

FOR the purpose of prohibiting the Maryland Transit Administration, under certain circumstances, from acquiring certain real property, during a certain period, for construction of the Baltimore Corridor Red Line transit project; altering the period during which the Administration shall conduct a certain study; declaring the intent of the General Assembly regarding certain matters; and generally relating to the Baltimore Corridor Red Line Transit Study.

BY repealing and reenacting, with amendments,
Chapter 2 of the Acts of the General Assembly of the 2006 Special Session
Section 1

BY repealing and reenacting, with amendments,
Chapter 3 of the Acts of the General Assembly of the 2006 Special Session
Section 1

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

Chapter 2 of the Acts of the 2006 Special Session

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That, in conducting the transit project referred to in the Maryland Consolidated Transportation Program for fiscal years **[**2006 through 2011**]** **2008 THROUGH 2013** as the Baltimore Corridor Transit Study – Red Line, the Maryland Transit Administration **[**shall**]**:

(1) **[**Consider**]** **SHALL CONSIDER** the establishment of a dedicated fund within the construction budget of the Red Line transit project to compensate

property owners whose property is damaged during the construction of any Red Line project;

(2) [Consider] **SHALL CONSIDER** the redevelopment of the commercial areas surrounding the Baltimore Corridor Transit Study – Red Line area, in consultation with:

(i) The Department of Business and Economic Development;

(ii) The Department of General Services;

(iii) The University of Maryland Medical System;

(iv) The University of Maryland, Baltimore;

(v) The City of Baltimore;

(vi) Baltimore County;

(vii) The surrounding communities; and

(viii) The property owners and business owners of the area comprising the Baltimore Corridor Transit Study – Red Line; and

(3) [Consider] **SHALL CONSIDER** methods for providing preference in hiring for construction jobs for the construction of any Red Line transit project to:

(i) residents of legislative districts in which the Red Line transit project will be constructed; or

(ii) residents of legislative districts adjacent to those in which the Red Line transit project will be constructed**; AND**

(4) MAY NOT ACQUIRE ANY REAL PROPERTY FOR CONSTRUCTION OF THE RED LINE TRANSIT PROJECT, IF THE ACQUISITION WOULD RESULT IN INVOLUNTARY RESIDENTIAL DISPLACEMENT.

Chapter 3 of the Acts of the 2006 Special Session

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That, in conducting the transit project referred to in the Maryland Consolidated Transportation Program for fiscal years [2006 through 2011] **2008 THROUGH 2013** as the Baltimore Corridor Transit Study – Red Line, the Maryland Transit Administration [shall]:

(1) [Consider] **SHALL CONSIDER** the establishment of a dedicated fund within the construction budget of the Red Line transit project to compensate property owners whose property is damaged during the construction of any Red Line project;

(2) [Consider] **SHALL CONSIDER** the redevelopment of the commercial areas surrounding the Baltimore Corridor Transit Study – Red Line area, in consultation with:

(i) The Department of Business and Economic Development;

(ii) The Department of General Services;

(iii) The University of Maryland Medical System;

(iv) The University of Maryland, Baltimore;

(v) The City of Baltimore;

(vi) Baltimore County;

(vii) The surrounding communities; and

(viii) The property owners and business owners of the area comprising the Baltimore Corridor Transit Study – Red Line; and

(3) [Consider] **SHALL CONSIDER** methods for providing preference in hiring for construction jobs for the construction of any Red Line transit project to:

(i) residents of legislative districts in which the Red Line transit project will be constructed; or

(ii) residents of legislative districts adjacent to those in which the Red Line transit project will be constructed**; AND**

(4) MAY NOT ACQUIRE ANY REAL PROPERTY FOR CONSTRUCTION OF THE RED LINE TRANSIT PROJECT, IF THE ACQUISITION WOULD RESULT IN <u>INVOLUNTARY</u> RESIDENTIAL DISPLACEMENT.

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the Maryland Transit Administration, in cooperation with the local governments in the Baltimore Corridor Transit Study – Red Line area and appropriate State agencies, develop and implement workforce development strategies that maximize participation by residents in the Red Line corridor in jobs created by and for the Red Line.

SECTION 3. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the Maryland Congressional Delegation is urged to advocate changes in federal law and policy that will:

(1) increase the level of federal funding for and formula participation in New Starts transit projects to a level consistent with other surface transportation investments; and

(2) reduce biases in the federal New Starts funding formula against the northeastern and industrial regions of the United States that have smaller public rights–of–way and higher utility relocation and environmental hazard mitigation costs.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 570

(House Bill 426)

AN ACT concerning

Transportation – Baltimore Corridor Transit Study – Red Line Area

FOR the purpose of prohibiting the Maryland Transit Administration, under certain circumstances, from acquiring certain real property, during a certain period, for construction of the Baltimore Corridor Red Line transit project; altering the period during which the Administration shall conduct a certain study; declaring the intent of the General Assembly regarding certain matters; and generally relating to the Baltimore Corridor Red Line Transit Study.

BY repealing and reenacting, with amendments,
Chapter 2 of the Acts of the General Assembly of the 2006 Special Session
Section 1

BY repealing and reenacting, with amendments,
Chapter 3 of the Acts of the General Assembly of the 2006 Special Session
Section 1

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

Chapter 2 of the Acts of the 2006 Special Session

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That, in conducting the transit project referred to in the Maryland Consolidated Transportation Program for fiscal years **[**2006 through 2011**]** **2008 THROUGH 2013** as the Baltimore Corridor Transit Study – Red Line, the Maryland Transit Administration **[**shall**]**:

(1) **[**Consider**]** **SHALL CONSIDER** the establishment of a dedicated fund within the construction budget of the Red Line transit project to compensate property owners whose property is damaged during the construction of any Red Line project;

(2) **[**Consider**]** **SHALL CONSIDER** the redevelopment of the commercial areas surrounding the Baltimore Corridor Transit Study – Red Line area, in consultation with:

(i) The Department of Business and Economic Development;

(ii) The Department of General Services;

(iii) The University of Maryland Medical System;

(iv) The University of Maryland, Baltimore;

(v) The City of Baltimore;

(vi) Baltimore County;

(vii) The surrounding communities; and

(viii) The property owners and business owners of the area comprising the Baltimore Corridor Transit Study – Red Line; and

(3) **[**Consider**]** **SHALL CONSIDER** methods for providing preference in hiring for construction jobs for the construction of any Red Line transit project to:

(i) residents of legislative districts in which the Red Line transit project will be constructed; or

(ii) residents of legislative districts adjacent to those in which the Red Line transit project will be constructed**; AND**

(4) MAY NOT ACQUIRE ANY REAL PROPERTY FOR CONSTRUCTION OF THE RED LINE TRANSIT PROJECT, IF THE ACQUISITION WOULD RESULT IN <u>INVOLUNTARY</u> RESIDENTIAL DISPLACEMENT.

Chapter 3 of the Acts of the 2006 Special Session

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That, in conducting the transit project referred to in the Maryland Consolidated Transportation Program for fiscal years **[**2006 through 2011**]** **2008 THROUGH 2013** as the Baltimore Corridor Transit Study – Red Line, the Maryland Transit Administration **[**shall**]**:

(1) **[**Consider**]** **SHALL CONSIDER** the establishment of a dedicated fund within the construction budget of the Red Line transit project to compensate property owners whose property is damaged during the construction of any Red Line project;

(2) **[**Consider**]** **SHALL CONSIDER** the redevelopment of the commercial areas surrounding the Baltimore Corridor Transit Study – Red Line area, in consultation with:

(i) The Department of Business and Economic Development;

(ii) The Department of General Services;

(iii) The University of Maryland Medical System;

(iv) The University of Maryland, Baltimore;

(v) The City of Baltimore;

(vi) Baltimore County;

(vii) The surrounding communities; and

(viii) The property owners and business owners of the area comprising the Baltimore Corridor Transit Study – Red Line; and

(3) **[**Consider**]** **SHALL CONSIDER** methods for providing preference in hiring for construction jobs for the construction of any Red Line transit project to:

(i) residents of legislative districts in which the Red Line transit project will be constructed; or

(ii) residents of legislative districts adjacent to those in which the Red Line transit project will be constructed**; AND**

(4) MAY NOT ACQUIRE ANY REAL PROPERTY FOR CONSTRUCTION OF THE RED LINE TRANSIT PROJECT, IF THE ACQUISITION WOULD RESULT IN <u>INVOLUNTARY</u> RESIDENTIAL DISPLACEMENT.

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the Maryland Transit Administration, in cooperation with the local governments in the Baltimore Corridor Transit Study – Red Line area and appropriate State agencies, develop and implement workforce development strategies that maximize participation by residents in the Red Line corridor in jobs created by and for the Red Line.

SECTION 3. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the Maryland Congressional Delegation is urged to advocate changes in federal law and policy that will:

(1) increase the level of federal funding for and formula participation in New Starts transit projects to a level consistent with other surface transportation investments; and

(2) reduce biases in the federal New Starts funding formula against the northeastern and industrial regions of the United States that have smaller public rights–of–way and higher utility relocation and environmental hazard mitigation costs.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 571

(Senate Bill 616)

AN ACT concerning

Insurance Producers – Continuing Education – ~~Exemption for~~ Funeral Directors and Morticians

FOR the purpose of ~~exempting~~ prohibiting the Maryland Insurance Commissioner from requiring an insurance producer to receive more than a certain number of hours of continuing education in a certain period if the insurance producer is also a ~~certain~~ licensed funeral ~~directors and~~ director or ~~certain~~ licensed ~~morticians~~ mortician who ~~sell~~ sells only certain life insurance policies or annuity contracts for a certain purpose ~~from continuing education requirements for insurance producers~~ and is not a viatical settlement broker; and generally relating to continuing education for insurance producers.

BY repealing and reenacting, with amendments,
Article – Insurance

Section 10–116
Annotated Code of Maryland
(2003 Replacement Volume and 2008 Supplement)

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

Article – Insurance

10–116.

(a) (1) Subject to subsections (b) and (c) of this section, the Commissioner shall require an insurance producer to receive continuing education as a condition of renewing the license of the insurance producer.

(2) (i) The Commissioner may not require an individual who holds a license to receive more than 24 hours of continuing education per renewal period.

(ii) If the individual holds a title insurance producer license, the Commissioner may not require the insurance producer to receive more than 16 hours of continuing education per renewal period.

(iii) If an insurance producer has held a license for 25 or more consecutive years as of October 1, 2008, the Commissioner may not require the insurance producer to receive more than 8 hours of continuing education per renewal period.

(iv) **THE COMMISSIONER MAY NOT REQUIRE AN INSURANCE PRODUCER TO RECEIVE MORE THAN 16 HOURS OF CONTINUING EDUCATION IN A RENEWAL PERIOD IF THE INSURANCE PRODUCER IS ALSO A LICENSED FUNERAL DIRECTOR OR LICENSED MORTICIAN WHO:**

1. SELLS ONLY LIFE INSURANCE POLICIES OR ANNUITY CONTRACTS THAT FUND A PRE–NEED CONTRACT AS DEFINED IN § 7–101 OF THE HEALTH OCCUPATIONS ARTICLE; AND

2. IS NOT A VIATICAL SETTLEMENT BROKER AS DEFINED IN § 8–601 OF THIS ARTICLE.

(V) Of the required hours of continuing education per renewal period required under subparagraphs (i), (ii), ~~and (iii)~~ **(III), AND (IV)** of this paragraph, at least 3 hours shall relate directly to ethics.

(3) Subject to paragraph (4) of this subsection, an insurance producer may satisfy the continuing education requirements of this subsection by submitting to the Commissioner or Commissioner's designee:

(i) proof that the insurance producer has completed the required hours of continuing education for the applicable renewal period; or

(ii) proof that the insurance producer has completed at least 8 hours of continuing education for the applicable renewal period and an affidavit that, over the previous 25 consecutive years, the insurance producer continually:

1. has held a license in the State; and

2. has been employed in the selling of insurance in the State.

(4) (i) To increase the level of education of insurance producers, an insurance producer shall obtain continuing education in the kind or subdivision of insurance for which the insurance producer has received a license.

(ii) Each insurance producer who possesses a license to sell health insurance and who sells long–term care insurance shall receive continuing education that directly relates to long–term care insurance.

(iii) Each insurance producer who possesses a license to sell property and casualty insurance and who sells flood insurance shall receive continuing education that directly relates to flood insurance.

(5) If continuing education is required, the Commissioner may grant a waiver to an insurance producer who has requested a waiver for reasons that the Commissioner determines warrant the waiver.

(6) An insurer may not prohibit one of its insurance producers from obtaining continuing education credits from any course approved by the Commissioner.

(b) The following individuals are exempt from the continuing education requirements under this section:

(1) employees of a health maintenance organization who are employed solely to solicit membership in the health maintenance organization under a contract between the health maintenance organization and the Department of Health and Mental Hygiene;

(2) attorneys at law of the State who are qualified as title insurance producers and who do not hold a license in any other kind or subdivision of insurance;

(3) individuals who hold only a limited lines license to act as an insurance producer for limited line credit insurance; ~~[~~and~~]~~

(4) insurance producers who hold only a limited lines license in any type of insurance designated by the Commissioner~~; AND~~

~~(5) LICENSED FUNERAL DIRECTORS OR LICENSED MORTICIANS WHO SELL ONLY LIFE INSURANCE POLICIES OR ANNUITY CONTRACTS THAT:~~

~~(I) FUND A PRE-NEED CONTRACT AS DEFINED UNDER § 7-101 OF THE HEALTH OCCUPATIONS ARTICLE; OR~~

~~(II) FUND PAYMENT OF BENEFITS USED ONLY TO OBTAIN FUNERAL GOODS AND SERVICES ON THE DEATH OF AN INDIVIDUAL~~.

(c) A nonresident licensee shall be deemed to have met the continuing education requirements of this section if:

(1) the nonresident licensee satisfies the continuing education requirements of the home state of the nonresident licensee; and

(2) the home state of the nonresident licensee allows an insurance producer who is a resident of this State to satisfy the continuing education requirements of the home state on the same basis by meeting the continuing education requirements of this State.

(d) The Commissioner may review all continuing education courses submitted and approve or disapprove courses.

(e) The Commissioner may adopt regulations to carry out this section.

(f) This section does not limit the authority of the Commissioner to review, approve, or disapprove continuing education courses, examinations, and other matters relating to the education and qualification of insurance producers.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 572

(House Bill 246)

AN ACT concerning

Insurance Producers – Continuing Education – ~~Exemption for~~ Funeral Directors and Morticians

FOR the purpose of ~~exempting~~ prohibiting the Maryland Insurance Commissioner from requiring an insurance producer to receive more than a certain number of hours of continuing education in a certain period if the insurance producer is also a ~~certain~~ licensed funeral ~~directors and~~ director or ~~certain~~ licensed ~~morticians~~ mortician who ~~sell~~ sells only certain life insurance policies or annuity contracts for a certain purpose *and is not a viatical settlement broker* ~~from continuing education requirements for insurance producers~~; and generally relating to continuing education for insurance producers.

BY repealing and reenacting, with amendments,
Article – Insurance
Section 10–116
Annotated Code of Maryland
(2003 Replacement Volume and 2008 Supplement)

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

Article – Insurance

10–116.

(a) (1) Subject to subsections (b) and (c) of this section, the Commissioner shall require an insurance producer to receive continuing education as a condition of renewing the license of the insurance producer.

(2) (i) The Commissioner may not require an individual who holds a license to receive more than 24 hours of continuing education per renewal period.

(ii) If the individual holds a title insurance producer license, the Commissioner may not require the insurance producer to receive more than 16 hours of continuing education per renewal period.

(iii) If an insurance producer has held a license for 25 or more consecutive years as of October 1, 2008, the Commissioner may not require the insurance producer to receive more than 8 hours of continuing education per renewal period.

(iv) **THE COMMISSIONER MAY NOT REQUIRE AN INSURANCE PRODUCER TO RECEIVE MORE THAN 16 HOURS OF CONTINUING EDUCATION IN A RENEWAL PERIOD IF THE INSURANCE PRODUCER IS ALSO A LICENSED FUNERAL DIRECTOR OR LICENSED MORTICIAN WHO*:***

1. **SELLS ONLY LIFE INSURANCE POLICIES OR ANNUITY CONTRACTS THAT FUND A PRE–NEED CONTRACT AS DEFINED IN § 7–101 OF THE HEALTH OCCUPATIONS ARTICLE*; AND***

2. ***IS NOT A VIATICAL SETTLEMENT BROKER AS DEFINED IN § 8–601 OF THIS ARTICLE.***

(V) Of the required hours of continuing education per renewal period required under subparagraphs (i), (ii), ~~and (iii)~~ **(III), AND (IV)** of this paragraph, at least 3 hours shall relate directly to ethics.

(3) Subject to paragraph (4) of this subsection, an insurance producer may satisfy the continuing education requirements of this subsection by submitting to the Commissioner or Commissioner's designee:

(i) proof that the insurance producer has completed the required hours of continuing education for the applicable renewal period; or

(ii) proof that the insurance producer has completed at least 8 hours of continuing education for the applicable renewal period and an affidavit that, over the previous 25 consecutive years, the insurance producer continually:

1. has held a license in the State; and

2. has been employed in the selling of insurance in the State.

(4) (i) To increase the level of education of insurance producers, an insurance producer shall obtain continuing education in the kind or subdivision of insurance for which the insurance producer has received a license.

(ii) Each insurance producer who possesses a license to sell health insurance and who sells long–term care insurance shall receive continuing education that directly relates to long–term care insurance.

(iii) Each insurance producer who possesses a license to sell property and casualty insurance and who sells flood insurance shall receive continuing education that directly relates to flood insurance.

(5) If continuing education is required, the Commissioner may grant a waiver to an insurance producer who has requested a waiver for reasons that the Commissioner determines warrant the waiver.

(6) An insurer may not prohibit one of its insurance producers from obtaining continuing education credits from any course approved by the Commissioner.

(b) The following individuals are exempt from the continuing education requirements under this section:

(1) employees of a health maintenance organization who are employed solely to solicit membership in the health maintenance organization under a contract between the health maintenance organization and the Department of Health and Mental Hygiene;

(2) attorneys at law of the State who are qualified as title insurance producers and who do not hold a license in any other kind or subdivision of insurance;

(3) individuals who hold only a limited lines license to act as an insurance producer for limited line credit insurance; ~~[~~and~~]~~

(4) insurance producers who hold only a limited lines license in any type of insurance designated by the Commissioner~~; AND~~

~~(5) LICENSED FUNERAL DIRECTORS OR LICENSED MORTICIANS WHO SELL ONLY LIFE INSURANCE POLICIES OR ANNUITY CONTRACTS THAT:~~

~~(I) FUND A PRE-NEED CONTRACT AS DEFINED UNDER § 7-101 OF THE HEALTH OCCUPATIONS ARTICLE; OR~~

~~(II) FUND PAYMENT OF BENEFITS USED ONLY TO OBTAIN FUNERAL GOODS AND SERVICES ON THE DEATH OF AN INDIVIDUAL~~.

(c) A nonresident licensee shall be deemed to have met the continuing education requirements of this section if:

(1) the nonresident licensee satisfies the continuing education requirements of the home state of the nonresident licensee; and

(2) the home state of the nonresident licensee allows an insurance producer who is a resident of this State to satisfy the continuing education requirements of the home state on the same basis by meeting the continuing education requirements of this State.

(d) The Commissioner may review all continuing education courses submitted and approve or disapprove courses.

(e) The Commissioner may adopt regulations to carry out this section.

(f) This section does not limit the authority of the Commissioner to review, approve, or disapprove continuing education courses, examinations, and other matters relating to the education and qualification of insurance producers.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 573

(Senate Bill 620)

AN ACT concerning

~~Crimes of Violence – Voided Revised Sentences~~
Criminal Procedure – ~~Violation of Crime Victim Rights – Subsequent Proceedings~~ *Hearing on Motion for Revision, Modification, or Reduction of Sentence or Disposition – Appearance of Victim or Victim's Representative*

FOR the purpose of ~~requiring a court to notify each victim of the crime for which the defendant was convicted before revising, modifying, or reducing the sentence imposed on the defendant for a certain crime of violence; providing the requirements for service of a certain notice to a victim; requiring a court to schedule a certain hearing under certain circumstances; providing that any revision, modification, or reduction of the sentence is void on a finding that the court failed to notify the victim; requiring a court to schedule a subsequent hearing under certain circumstances; defining a term; providing that, if the victim or the victim's representative notifies certain offices that the victim or the victim's representative was not notified, the court shall schedule a hearing to make a certain determination; requiring the court, if a certain finding is made, to allow the victim or the victim's representative to address the court or submit a certain impact statement or recommendation; requiring the court to consider certain information presented by the State, defendant, child respondent, victim, or victim's representative; authorizing a court to reaffirm, modify, or vacate a prior sentence or disposition of a certain defendant or child respondent under certain circumstances; requiring a court to set forth certain information in the record explaining why a certain modification is appropriate under certain circumstances; providing for the application of this Act; and generally relating to the revisory power of a court in criminal sentencing~~ *requiring a prosecuting attorney, at a hearing on a motion for a revision, modification, or reduction of a sentence or disposition in a certain court at which a certain victim or victim's representative fails to appear, to make a certain statement that proceeding without the appearance of the victim or the victim's representative is justified; authorizing a court to postpone a certain hearing under certain circumstances; and generally relating to the appearance of victims*

or victims' representatives at hearings on motions for revision, modification, or reduction of sentence or disposition.

BY repealing and reenacting, ~~without~~ with amendments,
Article – Criminal ~~Law~~ Procedure
Section ~~14–101(a)~~ ~~11–503~~ *11–403*
Annotated Code of Maryland
~~(2002 Volume and 2008 Supplement)~~ *(2008 Replacement Volume)*

~~BY adding to~~
~~Article – Criminal Procedure~~
~~Section 6–233~~
~~Annotated Code of Maryland~~
~~(2008 Replacement Volume)~~

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

~~**Article – Criminal Law**~~

~~14–101.~~

~~(a) In this section, "crime of violence" means:~~

~~(1) abduction;~~

~~(2) arson in the first degree;~~

~~(3) kidnapping;~~

~~(4) manslaughter, except involuntary manslaughter;~~

~~(5) mayhem;~~

~~(6) maiming, as previously proscribed under former Article 27, §§ 385 and 386 of the Code;~~

~~(7) murder;~~

~~(8) rape;~~

~~(9) robbery under § 3–402 or § 3–403 of this article;~~

~~(10) carjacking;~~

~~(11) armed carjacking;~~

~~(12) sexual offense in the first degree;~~

~~(13) sexual offense in the second degree;~~

~~(14) use of a handgun in the commission of a felony or other crime of violence;~~

~~(15) child abuse in the first degree under § 3–601 of this article;~~

~~(16) sexual abuse of a minor under § 3–602 of this article if:~~

~~(i) the victim is under the age of 13 years and the offender is an adult at the time of the offense; and~~

~~(ii) the offense involved:~~

~~1. vaginal intercourse, as defined in § 3–301 of this article;~~

~~2. a sexual act, as defined in § 3–301 of this article;~~

~~3. an act in which a part of the offender's body penetrates, however slightly, into the victim's genital opening or anus; or~~

~~4. the intentional touching, not through the clothing, of the victim's or the offender's genital, anal, or other intimate area for sexual arousal, gratification, or abuse;~~

~~(17) an attempt to commit any of the crimes described in items (1) through (16) of this subsection;~~

~~(18) continuing course of conduct with a child under § 3–315 of this article;~~

~~(19) assault in the first degree;~~

~~(20) assault with intent to murder;~~

~~(21) assault with intent to rape;~~

~~(22) assault with intent to rob;~~

~~(23) assault with intent to commit a sexual offense in the first degree; and~~

~~(24) assault with intent to commit a sexual offense in the second degree.~~

~~Article – Criminal Procedure~~

~~6–233.~~

~~(A) IN THIS SECTION, "VICTIM" MEANS A VICTIM OR A VICTIM'S REPRESENTATIVE WHO HAS FILED A CRIME VICTIM NOTIFICATION REQUEST FORM IN ACCORDANCE WITH § 11–104 OF THIS ARTICLE OR WHO HAS SUBMITTED A WRITTEN REQUEST TO THE STATE'S ATTORNEY TO BE NOTIFIED OF SUBSEQUENT PROCEEDINGS IN ACCORDANCE WITH § 11–503 OF THIS ARTICLE.~~

~~(B) (1) A COURT SHALL NOTIFY EACH VICTIM OF THE CRIME FOR WHICH THE DEFENDANT WAS CONVICTED BEFORE REVISING, MODIFYING, OR REDUCING THE SENTENCE IMPOSED ON THE DEFENDANT FOR A CRIME OF VIOLENCE AS DEFINED IN § 14–101 OF THE CRIMINAL LAW ARTICLE.~~

~~(2) NOTICE PROVIDED TO A VICTIM UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE:~~

~~(I) GIVEN IN WRITING; AND~~

~~(II) SENT BY CERTIFIED U.S. MAIL, RETURN RECEIPT REQUESTED, POSTAGE PREPAID TO THE MOST RECENT ADDRESS PROVIDED BY THE VICTIM ON THE CRIME VICTIM NOTIFICATION REQUEST FORM.~~

~~(3) A NOTICE PROVIDED TO A VICTIM UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL BE:~~

~~(I) SENT AT LEAST 14 BUSINESS DAYS BEFORE THE HEARING TO CONSIDER A MOTION TO REVISE, MODIFY, OR REDUCE THE SENTENCE IMPOSED ON THE DEFENDANT; AND~~

~~(II) CONSIDERED SERVED ON THE DATE THE NOTICE IS DEPOSITED IN THE U.S. POST OFFICE.~~

~~(C) (1) IF A VICTIM NOTIFIES THE STATE'S ATTORNEY'S OFFICE OR THE COURT THAT THE VICTIM WAS NOT NOTIFIED, AS REQUIRED BY THIS SECTION, WITHIN 1 YEAR OF THE COURT DATE THAT REVISED, MODIFIED, OR REDUCED THE SENTENCE, THE COURT SHALL SCHEDULE A HEARING TO DETERMINE IF PROPER NOTICE WAS GIVEN TO THE VICTIM.~~

~~(2) ON A COURT FINDING THAT THE VICTIM WAS NOT NOTIFIED AS REQUIRED BY THIS SECTION, ANY REVISION, MODIFICATION, OR REDUCTION OF THE SENTENCE IS VOID.~~

~~(D) IF THE COURT VOIDS A REVISED, MODIFIED, OR REDUCED SENTENCE BECAUSE A VICTIM WAS NOT NOTIFIED AS REQUIRED UNDER THIS SECTION, THE COURT SHALL SCHEDULE A NEW HEARING AT WHICH THE COURT MAY REVISE, MODIFY, OR REDUCE THE SENTENCE AFTER THE VICTIM HAS HAD AN OPPORTUNITY TO BE HEARD.~~

Article – Criminal Procedure

~~11–503.~~

~~(a) In this section, "subsequent proceeding" includes:~~

~~(1) a sentence review under § 8–102 of this article;~~

~~(2) a hearing on a request to have a sentence modified or vacated under the Maryland Rules;~~

~~(3) in a juvenile delinquency proceeding, a review of a commitment order or other disposition under the Maryland Rules;~~

~~(4) an appeal to the Court of Special Appeals;~~

~~(5) an appeal to the Court of Appeals; and~~

~~(6) any other postsentencing court proceeding.~~

~~(b) Following conviction or adjudication and sentencing or disposition of a defendant or child respondent, the State's Attorney shall notify the victim or victim's representative of a subsequent proceeding in accordance with § 11–104(c) of this title if:~~

~~(1) before the State's Attorney distributes notification request forms under § 11–104(c) of this title, the victim or victim's representative submitted to the State's Attorney a written request to be notified of subsequent proceedings; or~~

~~(2) after the State's Attorney distributes notification request forms under § 11–104(c) of this title, the victim or victim's representative submits a notification request form in accordance with § 11–104(d) of this title.~~

~~(c) (1) The State's Attorney's office shall:~~

~~(i) notify the victim or victim's representative of all appeals to the Court of Special Appeals and the Court of Appeals; and~~

~~(ii) send an information copy of the notification to the office of the Attorney General.~~

~~(2) After the initial notification to the victim or victim's representative or receipt of a notification request form, as defined in § 11–104 of this title, the office of the Attorney General shall:~~

~~(i) notify the victim or victim's representative of each subsequent date pertinent to the appeal, including dates of hearings, postponements, and decisions of the appellate courts; and~~

~~(ii) send an information copy of the notification to the State's Attorney's office.~~

~~(d) A notice sent under this section shall include the date, the time, the location, and a brief description of the subsequent proceeding.~~

~~**(E) (1) IF A VICTIM OR VICTIM'S REPRESENTATIVE NOTIFIES THE STATE'S ATTORNEY'S OFFICE, THE OFFICE OF THE ATTORNEY GENERAL, OR THE COURT THAT THE VICTIM OR THE VICTIM'S REPRESENTATIVE WAS NOT NOTIFIED, AS REQUIRED BY THIS SECTION, WITHIN 1 YEAR OF THE COURT DATE THAT REVISED, MODIFIED, OR REDUCED THE SENTENCE, THE COURT SHALL SCHEDULE A HEARING TO DETERMINE IF PROPER NOTICE WAS GIVEN TO THE VICTIM OR THE VICTIM'S REPRESENTATIVE.**~~

~~**(2) ON A FINDING OF THE COURT THAT THE VICTIM OR THE VICTIM'S REPRESENTATIVE WAS NOT NOTIFIED AS REQUIRED BY THIS SECTION, THE COURT SHALL ALLOW THE VICTIM OR THE VICTIM'S REPRESENTATIVE TO ADDRESS THE COURT OR SUBMIT A WRITTEN UPDATED VICTIM IMPACT STATEMENT OR RECOMMENDATION.**~~

~~**(3) AFTER HEARING FROM THE VICTIM OR THE VICTIM'S REPRESENTATIVE OR CONSIDERING A WRITTEN UPDATED VICTIM IMPACT STATEMENT OR RECOMMENDATION, THE COURT SHALL CONSIDER INFORMATION PRESENTED BY THE STATE, DEFENDANT, CHILD RESPONDENT, VICTIM, OR VICTIM'S REPRESENTATIVE, INCLUDING WHETHER THE DEFENDANT OR CHILD RESPONDENT HAS BEEN RELEASED AND HOW THE DEFENDANT OR CHILD RESPONDENT HAS CONFORMED BEHAVIOR TO THE CONDITIONS OF RELEASE, IF ANY.**~~

~~**(4) AFTER CONSIDERING THE INFORMATION PROVIDED TO THE COURT UNDER THIS SUBSECTION AND THE CONSTITUTIONAL AND STATUTORY**~~

~~**RIGHTS OF THE DEFENDANT, CHILD RESPONDENT, VICTIM, OR VICTIM'S REPRESENTATIVE, THE COURT MAY REAFFIRM, MODIFY, OR VACATE A PRIOR SENTENCE OR DISPOSITION IMPOSED IN A SUBSEQUENT PROCEEDING IN THE INTERESTS OF JUSTICE.**~~

~~**(5) IF THE COURT MODIFIES A PRIOR SENTENCE OR DISPOSITION UNDER THIS SUBSECTION AND THE MODIFICATION RESULTS IN AN INCREASED SENTENCE, THE COURT SHALL SET FORTH THE FACTS IN THE RECORD EXPLAINING WHY THE MODIFICATION IS APPROPRIATE.**~~

~~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 sentence imposed before the effective date of this Act.~~

11–403.

(a) In this section, "sentencing or disposition hearing" means a hearing at which the imposition of a sentence, disposition in a juvenile court proceeding, or alteration of a sentence or disposition in a juvenile court proceeding is considered.

(b) In the sentencing or disposition hearing the court:

(1) if practicable, shall allow the victim or the victim's representative to address the court under oath before the imposition of sentence or other disposition:

(i) at the request of the prosecuting attorney; or

(ii) if the victim has filed a notification request form under § 11–104 of this title; and

(2) may allow the victim or the victim's representative to address the court under oath before the imposition of sentence or other disposition at the request of the victim or the victim's representative.

(c) (1) If the victim or the victim's representative is allowed to address the court, the defendant or child respondent may cross–examine the victim or the victim's representative.

(2) The cross–examination is limited to the factual statements made to the court.

(d) (1) A victim or the victim's representative has the right not to address the court at the sentencing or disposition hearing.

(2) A person may not attempt to coerce a victim or the victim's representative to address the court at the sentencing or disposition hearing.

(E) (1) IF THE VICTIM OR THE VICTIM'S REPRESENTATIVE FAILS TO APPEAR AT A HEARING ON A MOTION FOR A REVISION, MODIFICATION, OR REDUCTION OF A SENTENCE OR DISPOSITION IN CIRCUIT COURT OR JUVENILE COURT, THE PROSECUTING ATTORNEY SHALL STATE ON THE RECORD THAT PROCEEDING WITHOUT THE APPEARANCE OF THE VICTIM OR THE VICTIM'S REPRESENTATIVE IS JUSTIFIED BECAUSE:

(I) THE VICTIM OR VICTIM'S REPRESENTATIVE WAS CONTACTED BY THE PROSECUTING ATTORNEY AND WAIVED THE RIGHT TO ATTEND THE HEARING;

(II) EFFORTS WERE MADE TO CONTACT THE VICTIM OR THE VICTIM'S REPRESENTATIVE AND, TO THE BEST KNOWLEDGE AND BELIEF OF THE PROSECUTING ATTORNEY, THE VICTIM OR VICTIM'S REPRESENTATIVE CANNOT BE LOCATED; OR

(III) THE VICTIM OR VICTIM'S REPRESENTATIVE HAS NOT FILED A NOTIFICATION REQUEST FORM UNDER § 11–104 OF THIS TITLE.

(2) IF THE COURT IS NOT SATISFIED BY THE STATEMENT THAT PROCEEDING WITHOUT THE APPEARANCE OF THE VICTIM OR THE VICTIM'S REPRESENTATIVE IS JUSTIFIED, OR, IF NO STATEMENT IS MADE, THE COURT MAY POSTPONE THE HEARING.

[(e)] (F) *A victim or victim's representative who has been denied a right provided under this section may file an application for leave to appeal in the manner provided under § 11–103 of this title.*

SECTION ~~3.~~ *2.* AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 574

(Senate Bill 621)

AN ACT concerning

Sales and Use and Property Tax – Exemptions – Solar Energy Equipment and Property

FOR the purpose of altering the definition of "solar energy equipment" for purposes of an exemption under the sales and use tax for certain geothermal equipment and solar energy equipment; altering the definition of "solar energy property" for purposes of a property tax exemption for certain solar energy equipment; and generally relating to certain tax exemptions for certain solar energy equipment.

BY repealing and reenacting, with amendments,
Article – Tax – General
Section 11–230
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 7–242
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

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

Article – Tax – General

11–230.

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

(2) "Geothermal equipment" means equipment that uses ground loop technology to heat and cool a structure.

(3) (i) "Solar energy equipment" means equipment that uses solar energy to heat or cool a structure, generate electricity ~~[~~to be used in a structure~~]~~ **OR SUPPLIED TO THE ELECTRIC GRID**, or provide hot water for use in a structure.

(ii) "Solar energy equipment" does not include equipment that is part of a nonsolar energy system or that uses any type of recreational facility or equipment as a storage medium.

(b) The sales and use tax does not apply to a sale of geothermal equipment or solar energy equipment.

Article – Tax – Property

7–242.

(a) In this section, "solar energy property" means equipment that is installed to use solar energy to generate electricity ~~[~~to be used in a structure~~]~~ **OR SUPPLIED TO THE ELECTRIC GRID**, or provide hot water for use in a structure.

(b) Except as provided in § 8–240 of this article, solar energy property is not subject to real property tax.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 575

(Senate Bill 627)

AN ACT concerning

Loan Assistance Repayment and Practice Assistance for Physicians

FOR the purpose of altering the eligibility for the Janet L. Hoffman Loan Assistance Repayment Program in a certain manner; repealing a certain prohibition on the hiring of more than a certain number of staff to administer a certain program; establishing the Maryland Loan Assistance Repayment Program Fund; providing for the composition of the Fund and expenditures from the Fund; establishing the Maryland Loan Assistance Repayment Program for Physicians; specifying that money in the Fund shall be used by the Office of Student Financial Assistance in the Maryland Higher Education Commission to administer the Program; requiring the Office ~~of Student Financial Assistance~~ to assist in the repayment of certain loans owed by certain physicians using certain funds; providing that certain money may not transfer or revert to the General Fund of the State but shall remain in a certain fund for a certain purpose; authorizing the Office to assist in the repayment of certain loans under certain circumstances; requiring the Office to prioritize funding for the repayment of loans through the Program in a certain manner; requiring the Office, in collaboration with the Department of Health and Mental Hygiene, to adopt certain regulations; making certain conforming changes; requiring the Maryland Health Care Commission and the Department of Business and Economic Development to report to the General Assembly on or before a certain date on the feasibility of providing assistance to physician practices in a certain manner; defining certain terms; and generally relating to loan assistance repayment and practice assistance for physicians.

BY repealing and reenacting, with amendments,

Article – Education
Section 18–1502
Annotated Code of Maryland
(2008 Replacement Volume)

BY adding to
Article – Education
Section 18–2801 through 18–2805 to be under the new subtitle "Subtitle 28. Maryland Loan Assistance Repayment Program for Physicians"
Annotated Code of Maryland
(2008 Replacement Volume)

BY repealing and reenacting, without amendments,
Article – Health Occupations
Section 14–207(a) and (b)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 14–207(c)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

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

Article – Education

18–1502.

(a) There is a program of loan assistance repayment known as the Janet L. Hoffman Loan Assistance Repayment Program in the State.

(b) **[**Subject to the provisions of subsection (c) of this section, the**]** **THE** Office of Student Financial Assistance shall assist in the repayment of the amount of any higher education loan owed by an individual who:

(1) (i) Receives a graduate, professional, or undergraduate degree from:

1. A college or university in the State of Maryland; **OR**

2. **[**A school of medicine; or

3.**]** A school of law; or

(ii) Receives a Resident Teacher Certificate (RTC) from the Department after completing an alternative teaching preparation program approved by the State Superintendent;

(2) Obtains eligible employment;

(3) Receives an income that is less than the maximum eligible total income levels established by the Office, including any additional sources of income; and

(4) Satisfies any other criteria established by the Office.

[(c) (1) Notwithstanding the provisions of subsection (b) of this section, the Office shall assist in the repayment of the amount of any higher education loan owed by a physician who engages in primary care in the State or by a medical resident specializing in primary care who agrees to practice for at least 2 years as a primary care physician in a geographic area of the State that has been designated by the Secretary of Health and Mental Hygiene as being medically underserved with the funds transferred to the Office by the Comptroller under § 14–207(c)(2)(i) of the Health Occupations Article.

(2) A physician who engages in primary care is not precluded from receiving assistance from the Office under subsection (b) of this section.

(3) Any unspent portions of the money that is transferred to the Office for use under this section from the Board of Physicians Fund may not be transferred to or revert to the General Fund of the State, but shall remain in the Fund maintained by the Office to administer these programs to assist physicians engaged in primary care as specified in paragraph (1) of this subsection.**]**

[(d)**] (C)** An applicant for assistance in the repayment of a commercial loan shall demonstrate to the Office that the commercial loan was used for tuition, educational expenses, or living expenses for graduate or undergraduate study.

[(e)**] (D)** Assistance in the repayment of a loan from an entity set forth in § 18–1501(c)(2) of this subtitle shall require the approval of the Office.

[(f) The Department shall employ not more than one staff member to administer the Department's portion of the Program established under this section.**]**

SUBTITLE 28. MARYLAND LOAN ASSISTANCE REPAYMENT PROGRAM FOR PHYSICIANS.

18–2801.

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

(B) "DEPARTMENT" MEANS THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE.

(C) "EDUCATION LOAN" MEANS ANY LOAN THAT IS OBTAINED FOR TUITION, EDUCATIONAL EXPENSES, OR LIVING EXPENSES FOR UNDERGRADUATE OR GRADUATE STUDY LEADING TO PRACTICE AS A PHYSICIAN.

(D) "FUND" MEANS THE MARYLAND LOAN ASSISTANCE REPAYMENT PROGRAM FUND.

(E) "PRIMARY CARE" INCLUDES:

(1) PRIMARY CARE;

(2) FAMILY MEDICINE;

(3) INTERNAL MEDICINE;

(4) OBSTETRICS;

(5) PEDIATRICS;

(6) GERIATRICS;

(7) EMERGENCY MEDICINE; AND

(8) PSYCHIATRY.

~~(D)~~ (F) "PROGRAM" MEANS THE MARYLAND LOAN ASSISTANCE REPAYMENT PROGRAM FOR PHYSICIANS.

18–2802.

(A) (1) THERE IS A MARYLAND LOAN ASSISTANCE REPAYMENT PROGRAM FUND IN THE STATE.

(2) THE FUND IS A CONTINUING, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7–302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(3) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

(4) THE FUND SHALL BE INVESTED AND REINVESTED IN THE SAME MANNER AS OTHER STATE FUNDS.

(5) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE PAID INTO THE FUND.

(B) THE FUND CONSISTS OF:

(1) REVENUE GENERATED THROUGH AN INCREASE, AS APPROVED BY THE HEALTH SERVICES COST REVIEW COMMISSION, TO THE RATE STRUCTURE OF ALL HOSPITALS IN ACCORDANCE WITH § 19–211 OF THE HEALTH – GENERAL ARTICLE; AND

(2) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.

(C) EXPENDITURES FROM THE FUND SHALL BE MADE BY AN APPROPRIATION IN THE ANNUAL STATE BUDGET OR BY AN APPROVED BUDGET AMENDMENT AS PROVIDED UNDER § 7–209 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(D) THE MONEY IN THE FUND SHALL BE USED BY THE OFFICE TO ADMINISTER THE PROGRAM.

18–2803.

THERE IS A MARYLAND LOAN ASSISTANCE REPAYMENT PROGRAM FOR PHYSICIANS IN THE STATE.

~~18–2803.~~ 18–2804.

(A) (1) IN THIS SECTION, "ELIGIBLE FIELD OF EMPLOYMENT" MEANS EMPLOYMENT BY AN ORGANIZATION, INSTITUTION, ASSOCIATION, SOCIETY, OR CORPORATION THAT IS EXEMPT FROM TAXATION UNDER § 501(C)(3) OR (4) OF THE INTERNAL REVENUE CODE OF 1986.

(2) "ELIGIBLE FIELD OF EMPLOYMENT" INCLUDES EMPLOYMENT BY THE STATE OR ANY LOCAL GOVERNMENT IN THE STATE.

(B) THE OFFICE SHALL ASSIST IN THE REPAYMENT WITH THE FUNDS TRANSFERRED TO THE OFFICE BY THE COMPTROLLER UNDER § 14–207(C)(2)(I) OF THE HEALTH OCCUPATIONS ARTICLE OF THE AMOUNT OF EDUCATION LOANS OWED BY A PHYSICIAN WHO:

(1) (I) PRACTICES PRIMARY CARE IN AN ELIGIBLE FIELD OF EMPLOYMENT IN A GEOGRAPHIC AREA OF THE STATE THAT HAS BEEN FEDERALLY DESIGNATED; OR

(II) IS A MEDICAL RESIDENT SPECIALIZING IN PRIMARY CARE WHO AGREES TO PRACTICE FOR AT LEAST 2 YEARS AS A PRIMARY CARE PHYSICIAN IN AN ELIGIBLE FIELD OF EMPLOYMENT IN A GEOGRAPHIC AREA OF THE STATE THAT HAS BEEN FEDERALLY DESIGNATED; AND

(2) MEETS ANY OTHER REQUIREMENTS ESTABLISHED BY THE OFFICE, IN CONSULTATION WITH THE DEPARTMENT.

(C) ANY UNSPENT PORTIONS OF THE MONEY THAT IS TRANSFERRED TO THE OFFICE FOR USE UNDER THIS SUBTITLE FROM THE BOARD OF PHYSICIANS FUND MAY NOT BE TRANSFERRED TO OR REVERT TO THE GENERAL FUND OF THE STATE, BUT SHALL REMAIN IN THE FUND MAINTAINED BY THE OFFICE TO ADMINISTER THE PROGRAM.

~~18–2804.~~ 18–2805.

(A) IN ADDITION TO THE ASSISTANCE PROVIDED UNDER § ~~18–2803~~ 18–2804 OF THIS SUBTITLE, THE OFFICE MAY, SUBJECT TO THE AVAILABILITY OF ~~FUNDING AND RESOURCES~~ MONEY IN THE FUND, ASSIST IN THE REPAYMENT OF AN EDUCATION LOAN OWED BY~~:~~

~~(1) A A PHYSICIAN WHO PRACTICES~~ *A PHYSICIAN WHO:*

(1) PRACTICES A MEDICAL SPECIALTY THAT HAS BEEN IDENTIFIED BY THE DEPARTMENT AS BEING IN SHORTAGE IN THE GEOGRAPHIC AREA OF THE STATE WHERE THE PHYSICIAN PRACTICES THAT SPECIALTY; AND ~~COMMITS~~

(2) COMMITS TO PRACTICING IN THE AREA FOR A PERIOD OF TIME DETERMINED BY THE OFFICE.

(B) THE OFFICE SHALL PRIORITIZE FUNDING FOR THE REPAYMENT OF EDUCATION LOANS THROUGH THE PROGRAM IN THE FOLLOWING ORDER:

(1) PHYSICIANS THAT MEET THE REQUIREMENTS UNDER § ~~18–2803(B)~~ 18–2804(B) OF THIS SUBTITLE;

(2) PHYSICIANS PRACTICING PRIMARY CARE IN A GEOGRAPHIC AREA WHERE THE DEPARTMENT HAS IDENTIFIED A SHORTAGE OF PRIMARY CARE PHYSICIANS; AND

(3) PHYSICIANS PRACTICING A MEDICAL SPECIALTY OTHER THAN PRIMARY CARE IN A GEOGRAPHIC AREA WHERE THE DEPARTMENT HAS IDENTIFIED A SHORTAGE OF THAT SPECIALTY.

~~18–2805.~~ 18–2806.

THE OFFICE, IN COLLABORATION WITH THE DEPARTMENT, SHALL ADOPT REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS SUBTITLE, INCLUDING:

(1) ESTABLISHING THE MAXIMUM NUMBER OF PARTICIPANTS IN THE PROGRAM EACH YEAR IN EACH PRIORITY AREA DESCRIBED UNDER § ~~18–2804~~ 18–2805 OF THIS SUBTITLE; AND

(2) ESTABLISHING THE MINIMUM AND MAXIMUM AMOUNT OF A LOAN AWARDED UNDER THIS SUBTITLE IN EACH PRIORITY AREA DESCRIBED UNDER § ~~18–2804~~ 18–2805 OF THIS SUBTITLE.

Article – Health Occupations

14–207.

(a) There is a Board of Physicians Fund.

(b) (1) The Board may set reasonable fees for the issuance and renewal of licenses and its other services.

(2) The fees charged shall be set so as to approximate the cost of maintaining the Board.

(3) Funds to cover the compensation and expenses of the Board members shall be generated by fees set under this section.

(c) (1) The Board shall pay all fees collected under the provisions of this title to the Comptroller of the State.

(2) (i) If the Governor does not include in the State budget at least $750,000 for the operation of the Health Personnel Shortage Incentive Grant Program under § 18–803 of the Education Article and the **[**Janet L. Hoffman Loan Assistance Repayment Program for primary care services under § 18–1502(c)**]** **MARYLAND LOAN ASSISTANCE REPAYMENT PROGRAM FOR PHYSICIANS UNDER TITLE 18,**

SUBTITLE 28 of the Education Article, as administered by the Maryland Higher Education Commission, the Comptroller shall distribute:

1. Except as provided in subparagraph (ii) of this paragraph, 12 percent of the fees received from the Board to the Office of Student Financial Assistance to be used as follows:

A. One–half to make grants under the Health Personnel Shortage Incentive Grant Program under § 18–803 of the Education Article; and

B. One–half to make grants under the **[**Janet L. Hoffman Loan Assistance Repayment Program under § 18–1502(c)**]** **MARYLAND LOAN ASSISTANCE REPAYMENT PROGRAM FOR PHYSICIANS UNDER TITLE 18, SUBTITLE 28** of the Education Article to physicians engaged in primary care or to medical residents specializing in primary care who agree to practice for at least 2 years as primary care physicians in a geographic area of the State that has been designated by the Secretary of Health and Mental Hygiene as being medically underserved; and

2. The balance of the fees to the Board of Physicians Fund.

(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) of this paragraph.

(iii) If the Governor includes in the State budget at least $750,000 for the operation of the Health Personnel Shortage Incentive Grant Program under § 18–803 of the Education Article and the **[**Janet L. Hoffman Loan Assistance Repayment Program for primary care services under § 18–1502(c)**]** **MARYLAND LOAN ASSISTANCE REPAYMENT PROGRAM FOR PHYSICIANS** of the Education Article, as administered by the Maryland Higher Education Commission, the Comptroller shall distribute the fees to the Board of Physicians Fund.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 1, 2009, the Maryland Health Care Commission and the Department of Business and Economic Development shall report to the General Assembly, in accordance with § 2–1246 of the State Government Article, on:

(a) The feasibility of expanding the eligibility criteria of State development programs to include providing assistance to physician practices in medically underserved areas in the State; and

(b) The feasibility of making economic development funding available for physician practices evolving to medical homes.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 576

(House Bill 714)

AN ACT concerning

Loan Assistance Repayment and Practice Assistance for Physicians

FOR the purpose of altering the eligibility for the Janet L. Hoffman Loan Assistance Repayment Program in a certain manner; repealing a certain prohibition on the hiring of more than a certain number of staff to administer a certain program; establishing the Maryland Loan Assistance Repayment Program Fund; providing for the composition of the Fund and expenditures from the Fund; establishing the Maryland Loan Assistance Repayment Program for Physicians; specifying that money in the Fund shall be used by the Office of Student Financial Assistance in the Maryland Higher Education Commission to administer the Program; requiring the Office ~~of Student Financial Assistance~~ to assist in the repayment of certain loans owed by certain physicians using certain funds; providing that certain money may not transfer or revert to the General Fund of the State but shall remain in a certain fund for a certain purpose; authorizing the Office to assist in the repayment of certain loans under certain circumstances; requiring the Office to prioritize funding for the repayment of loans through the Program in a certain manner; requiring the Office, in collaboration with the Department of Health and Mental Hygiene, to adopt certain regulations; making certain conforming changes; requiring the Maryland Health Care Commission and the Department of Business and Economic Development to report to the General Assembly on or before a certain date on the feasibility of providing assistance to physician practices in a certain manner; defining certain terms; and generally relating to loan assistance repayment and practice assistance for physicians.

BY repealing and reenacting, with amendments,
Article – Education
Section 18–1502
Annotated Code of Maryland
(2008 Replacement Volume)

BY adding to

Article – Education
Section 18–2801 through 18–2805 to be under the new subtitle "Subtitle 28. Maryland Loan Assistance Repayment Program for Physicians"
Annotated Code of Maryland
(2008 Replacement Volume)

BY repealing and reenacting, without amendments,
Article – Health Occupations
Section 14–207(a) and (b)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 14–207(c)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

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

Article – Education

18–1502.

(a) There is a program of loan assistance repayment known as the Janet L. Hoffman Loan Assistance Repayment Program in the State.

(b) **[**Subject to the provisions of subsection (c) of this section, the**]** **THE** Office of Student Financial Assistance shall assist in the repayment of the amount of any higher education loan owed by an individual who:

(1) (i) Receives a graduate, professional, or undergraduate degree from:

1. A college or university in the State of Maryland; **OR**

2. **[**A school of medicine; or

3.**]** A school of law; or

(ii) Receives a Resident Teacher Certificate (RTC) from the Department after completing an alternative teaching preparation program approved by the State Superintendent;

(2) Obtains eligible employment;

(3) Receives an income that is less than the maximum eligible total income levels established by the Office, including any additional sources of income; and

(4) Satisfies any other criteria established by the Office.

[(c) (1) Notwithstanding the provisions of subsection (b) of this section, the Office shall assist in the repayment of the amount of any higher education loan owed by a physician who engages in primary care in the State or by a medical resident specializing in primary care who agrees to practice for at least 2 years as a primary care physician in a geographic area of the State that has been designated by the Secretary of Health and Mental Hygiene as being medically underserved with the funds transferred to the Office by the Comptroller under § 14–207(c)(2)(i) of the Health Occupations Article.

(2) A physician who engages in primary care is not precluded from receiving assistance from the Office under subsection (b) of this section.

(3) Any unspent portions of the money that is transferred to the Office for use under this section from the Board of Physicians Fund may not be transferred to or revert to the General Fund of the State, but shall remain in the Fund maintained by the Office to administer these programs to assist physicians engaged in primary care as specified in paragraph (1) of this subsection.**]**

[(d)**] (C)** An applicant for assistance in the repayment of a commercial loan shall demonstrate to the Office that the commercial loan was used for tuition, educational expenses, or living expenses for graduate or undergraduate study.

[(e)**] (D)** Assistance in the repayment of a loan from an entity set forth in § 18–1501(c)(2) of this subtitle shall require the approval of the Office.

[(f) The Department shall employ not more than one staff member to administer the Department's portion of the Program established under this section.**]**

SUBTITLE 28. MARYLAND LOAN ASSISTANCE REPAYMENT PROGRAM FOR PHYSICIANS.

18–2801.

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

(B) "DEPARTMENT" MEANS THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE.

(C) "EDUCATION LOAN" MEANS ANY LOAN THAT IS OBTAINED FOR TUITION, EDUCATIONAL EXPENSES, OR LIVING EXPENSES FOR UNDERGRADUATE OR GRADUATE STUDY LEADING TO PRACTICE AS A PHYSICIAN.

(D) "FUND" MEANS THE MARYLAND LOAN ASSISTANCE REPAYMENT PROGRAM FUND.

(E) "PRIMARY CARE" INCLUDES:

(1) PRIMARY CARE;

(2) FAMILY MEDICINE;

(3) INTERNAL MEDICINE;

(4) OBSTETRICS;

(5) PEDIATRICS;

(6) GERIATRICS;

(7) EMERGENCY MEDICINE; AND

(8) PSYCHIATRY.

~~(D)~~ (F) "PROGRAM" MEANS THE MARYLAND LOAN ASSISTANCE REPAYMENT PROGRAM FOR PHYSICIANS.

18–2802.

(A) (1) THERE IS A MARYLAND LOAN ASSISTANCE REPAYMENT PROGRAM FUND IN THE STATE.

(2) THE FUND IS A CONTINUING, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7–302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(3) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

(4) THE FUND SHALL BE INVESTED AND REINVESTED IN THE SAME MANNER AS OTHER STATE FUNDS.

(5) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE PAID INTO THE FUND.

(B) THE FUND CONSISTS OF:

(1) REVENUE GENERATED THROUGH AN INCREASE, AS APPROVED BY THE HEALTH SERVICES COST REVIEW COMMISSION, TO THE RATE STRUCTURE OF ALL HOSPITALS IN ACCORDANCE WITH § 19–211 OF THE HEALTH – GENERAL ARTICLE; AND

(2) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.

(C) EXPENDITURES FROM THE FUND SHALL BE MADE BY AN APPROPRIATION IN THE ANNUAL STATE BUDGET OR BY AN APPROVED BUDGET AMENDMENT AS PROVIDED UNDER § 7–209 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(D) THE MONEY IN THE FUND SHALL BE USED BY THE OFFICE TO ADMINISTER THE PROGRAM.

18–2803.

THERE IS A MARYLAND LOAN ASSISTANCE REPAYMENT PROGRAM FOR PHYSICIANS IN THE STATE.

~~18–2803.~~ 18–2804.

(A) (1) IN THIS SECTION, "ELIGIBLE FIELD OF EMPLOYMENT" MEANS EMPLOYMENT BY AN ORGANIZATION, INSTITUTION, ASSOCIATION, SOCIETY, OR CORPORATION THAT IS EXEMPT FROM TAXATION UNDER § 501(C)(3) OR (4) OF THE INTERNAL REVENUE CODE OF 1986.

(2) "ELIGIBLE FIELD OF EMPLOYMENT" INCLUDES EMPLOYMENT BY THE STATE OR ANY LOCAL GOVERNMENT IN THE STATE.

(B) THE OFFICE SHALL ASSIST IN THE REPAYMENT WITH THE FUNDS TRANSFERRED TO THE OFFICE BY THE COMPTROLLER UNDER § 14–207(C)(2)(I) OF THE HEALTH OCCUPATIONS ARTICLE OF THE AMOUNT OF EDUCATION LOANS OWED BY A PHYSICIAN WHO:

(1) (I) PRACTICES PRIMARY CARE IN AN ELIGIBLE FIELD OF EMPLOYMENT IN A GEOGRAPHIC AREA OF THE STATE THAT HAS BEEN FEDERALLY DESIGNATED; OR

(II) IS A MEDICAL RESIDENT SPECIALIZING IN PRIMARY CARE WHO AGREES TO PRACTICE FOR AT LEAST 2 YEARS AS A PRIMARY CARE PHYSICIAN IN AN ELIGIBLE FIELD OF EMPLOYMENT IN A GEOGRAPHIC AREA OF THE STATE THAT HAS BEEN FEDERALLY DESIGNATED; AND

(2) MEETS ANY OTHER REQUIREMENTS ESTABLISHED BY THE OFFICE, IN CONSULTATION WITH THE DEPARTMENT.

(C) ANY UNSPENT PORTIONS OF THE MONEY THAT IS TRANSFERRED TO THE OFFICE FOR USE UNDER THIS SUBTITLE FROM THE BOARD OF PHYSICIANS FUND MAY NOT BE TRANSFERRED TO OR REVERT TO THE GENERAL FUND OF THE STATE, BUT SHALL REMAIN IN THE FUND MAINTAINED BY THE OFFICE TO ADMINISTER THE PROGRAM.

~~18–2804.~~ 18–2805.

(A) IN ADDITION TO THE ASSISTANCE PROVIDED UNDER § ~~18–2803~~ 18–2804 OF THIS SUBTITLE, THE OFFICE MAY, SUBJECT TO THE AVAILABILITY OF ~~FUNDING AND RESOURCES~~ MONEY IN THE FUND, ASSIST IN THE REPAYMENT OF AN EDUCATION LOAN OWED BY A PHYSICIAN WHO:

(1) ~~PRACTICES~~ PRACTICES A MEDICAL SPECIALTY THAT HAS BEEN IDENTIFIED BY THE DEPARTMENT AS BEING IN SHORTAGE IN THE GEOGRAPHIC AREA OF THE STATE WHERE THE PHYSICIAN PRACTICES THAT SPECIALTY; AND ~~COMMITS~~

(2) COMMITS TO PRACTICING IN THE AREA FOR A PERIOD OF TIME DETERMINED BY THE OFFICE.

(B) THE OFFICE SHALL PRIORITIZE FUNDING FOR THE REPAYMENT OF EDUCATION LOANS THROUGH THE PROGRAM IN THE FOLLOWING ORDER:

(1) PHYSICIANS THAT MEET THE REQUIREMENTS UNDER § ~~18–2803(B)~~ 18–2804(B) OF THIS SUBTITLE;

(2) PHYSICIANS PRACTICING PRIMARY CARE IN A GEOGRAPHIC AREA WHERE THE DEPARTMENT HAS IDENTIFIED A SHORTAGE OF PRIMARY CARE PHYSICIANS; AND

(3) PHYSICIANS PRACTICING A MEDICAL SPECIALTY OTHER THAN PRIMARY CARE IN A GEOGRAPHIC AREA WHERE THE DEPARTMENT HAS IDENTIFIED A SHORTAGE OF THAT SPECIALTY.

~~18–2805.~~ 18–2806.

THE OFFICE, IN COLLABORATION WITH THE DEPARTMENT, SHALL ADOPT REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS SUBTITLE, INCLUDING:

(1) ESTABLISHING THE MAXIMUM NUMBER OF PARTICIPANTS IN THE PROGRAM EACH YEAR IN EACH PRIORITY AREA DESCRIBED UNDER § ~~18–2804~~ 18–2805 OF THIS SUBTITLE; AND

(2) ESTABLISHING THE MINIMUM AND MAXIMUM AMOUNT OF A LOAN AWARDED UNDER THIS SUBTITLE IN EACH PRIORITY AREA DESCRIBED UNDER § ~~18–2804~~ 18–2805 OF THIS SUBTITLE.

Article – Health Occupations

14–207.

(a) There is a Board of Physicians Fund.

(b) (1) The Board may set reasonable fees for the issuance and renewal of licenses and its other services.

(2) The fees charged shall be set so as to approximate the cost of maintaining the Board.

(3) Funds to cover the compensation and expenses of the Board members shall be generated by fees set under this section.

(c) (1) The Board shall pay all fees collected under the provisions of this title to the Comptroller of the State.

(2) (i) If the Governor does not include in the State budget at least $750,000 for the operation of the Health Personnel Shortage Incentive Grant Program under § 18–803 of the Education Article and the **[**Janet L. Hoffman Loan Assistance Repayment Program for primary care services under § 18–1502(c)**]** **MARYLAND LOAN ASSISTANCE REPAYMENT PROGRAM FOR PHYSICIANS UNDER TITLE 18, SUBTITLE 28** of the Education Article, as administered by the Maryland Higher Education Commission, the Comptroller shall distribute:

1. Except as provided in subparagraph (ii) of this paragraph, 12 percent of the fees received from the Board to the Office of Student Financial Assistance to be used as follows:

A. One–half to make grants under the Health Personnel Shortage Incentive Grant Program under § 18–803 of the Education Article; and

B. One–half to make grants under the [Janet L. Hoffman Loan Assistance Repayment Program under § 18–1502(c)] **MARYLAND LOAN ASSISTANCE REPAYMENT PROGRAM FOR PHYSICIANS UNDER TITLE 18, SUBTITLE 28** of the Education Article to physicians engaged in primary care or to medical residents specializing in primary care who agree to practice for at least 2 years as primary care physicians in a geographic area of the State that has been designated by the Secretary of Health and Mental Hygiene as being medically underserved; and

2. The balance of the fees to the Board of Physicians Fund.

(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) of this paragraph.

(iii) If the Governor includes in the State budget at least $750,000 for the operation of the Health Personnel Shortage Incentive Grant Program under § 18–803 of the Education Article and the [Janet L. Hoffman Loan Assistance Repayment Program for primary care services under § 18–1502(c)] **MARYLAND LOAN ASSISTANCE REPAYMENT PROGRAM FOR PHYSICIANS** of the Education Article, as administered by the Maryland Higher Education Commission, the Comptroller shall distribute the fees to the Board of Physicians Fund.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 1, 2009, the Maryland Health Care Commission and the Department of Business and Economic Development shall report to the General Assembly, in accordance with § 2–1246 of the State Government Article, on:

(a) The feasibility of expanding the eligibility criteria of State development programs to include providing assistance to physician practices in medically underserved areas in the State; and

(b) The feasibility of making economic development funding available for physician practices evolving to medical homes.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 577

(Senate Bill 637)

AN ACT concerning

Health Insurance – Small Group Market Regulation – Modifications

FOR the purpose of repealing the termination provision of certain provisions of law relating to the rating of certain health benefit plans; requiring the Maryland Health Care Commission to maintain a certain application on its website; requiring the Commission to update certain information at least quarterly; applying certain provisions of law relating to preexisting conditions to certain policies or certificates issued to small employers; ~~authorizing certain carriers to offer certain health benefit plans that have greater benefits than those in the Comprehensive Standard Health Benefit Plan under certain circumstances; authorizing a carrier to offer benefits that differ from those in the Standard Plan under certain circumstances;~~ repealing a requirement that the Commission require that the minimum benefits allowed to be offered in the Standard Plan meet a certain level; repealing a certain requirement that the Standard Plan include certain uniform deductibles and cost sharing; requiring the Commission to specify certain deductibles and cost–sharing; repealing certain provisions of law authorizing certain health benefit plans to require certain deductibles and cost–sharing for benefits for preexisting conditions; ~~providing that certain benefits that vary from the Standard Plan and are approved by the Maryland Insurance Commissioner are subject to certain provisions of law applicable to the Standard Plan; authorizing the Commissioner to prohibit a carrier from offering benefits that vary from the Standard Plan under certain circumstances; altering the geographic areas for which a carrier may adjust the community rate for certain health benefit plans;~~ altering certain limits on the rate a carrier may charge based on adjustments to the community rate for certain health benefit plans due to certain factors; altering the due date of *and requirements for* a certain report; authorizing a carrier to adjust the community rate for certain health benefit plans for health status at certain rates under certain circumstances; authorizing a carrier to use certain health statements and health screenings to establish certain premium rates; prohibiting a carrier from limiting coverage or refusing to issue a health benefit plan to a certain small employer based on a health status–related factor; establishing that it is an unfair trade practice for a carrier knowingly to provide coverage to a small employer that discriminates against certain individuals under certain circumstances; making certain conforming changes; requiring the Commission to conduct a certain study and report on its findings and recommendations to the Governor and the General Assembly on or before a certain date; ~~providing for the termination of certain provisions of this Act;~~ providing for the effective dates of this Act; providing for a delayed effective date for certain provisions of this Act; providing for the application of certain

provisions of this Act; and generally relating to health benefit plans offered in the small group market.

BY repealing and reenacting, with amendments,
Chapter 600 of the Acts of the General Assembly of 2007
Section 2

BY adding to
Article – Health – General
Section 19–108.1
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Insurance
Section 15–508, ~~15–1204(a) through (d),~~ 15–1205, 15–1207, 15–1208, and 15–1213
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Chapter 600 of the Acts of 2007

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007. **[**It shall remain effective for a period of 4 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 the Laws of Maryland read as follows:

Article – Health – General

19–108.1.

(A) IN ADDITION TO THE DUTIES SET FORTH ELSEWHERE IN THIS SUBTITLE, THE COMMISSION SHALL MAINTAIN ON ITS WEBSITE AN APPLICATION THAT A SMALL BUSINESS MAY USE TO COMPARE PREMIUMS OF HEALTH BENEFIT PLANS OFFERED BY HEALTH INSURANCE CARRIERS UNDER TITLE 15, SUBTITLE 12 OF THE INSURANCE ARTICLE.

(B) THE APPLICATION REQUIRED UNDER THIS SECTION SHALL PROVIDE INFORMATION ON:

(1) PREMIUMS FOR HEALTH BENEFIT PLANS SOLD UNDER TITLE 15, SUBTITLE 12 OF THE INSURANCE ARTICLE, CATEGORIZED BY AGE BANDS; AND

(2) PREMIUMS FOR HEALTH BENEFIT PLANS SOLD UNDER TITLE 15, SUBTITLE 12 OF THE INSURANCE ARTICLE THAT INCLUDE RIDERS TYPICALLY PURCHASED BY SMALL EMPLOYERS IN THE STATE.

(C) THE COMMISSION SHALL UPDATE THE INFORMATION REQUIRED UNDER THIS SECTION AT LEAST QUARTERLY.

Article – Insurance

15–508.

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

(2) "Carrier" has the meaning stated in § 15–1301 of this title.

(3) "Enrollment date" has the meaning stated in § 15–1301 of this title.

(4) "Policy or certificate" means any group or blanket health insurance contract or policy that is issued or delivered in the State by an insurer or nonprofit health service plan that provides hospital, medical, or surgical benefits on an expense–incurred basis.

(5) "Preexisting condition provision" has the meaning stated in § 15–1301 of this title.

(6) "Late enrollee" has the meaning stated in § 15–1401 of this title.

(b) This section does not apply to a policy or certificate issued **[**to a small employer in accordance with Subtitle 12 of this title, or**]** to an individual in accordance with Subtitle 13 of this title.

(c) Except as otherwise provided in subsection (d) of this section, a carrier may impose a preexisting condition provision only if it:

(1) relates to a condition, regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the 6–month period ending on the enrollment date;

(2) extends for a period of not more than 12 months after the enrollment date or 18 months in the case of a late enrollee; and

(3) is reduced by the aggregate of the periods of creditable coverage, as defined in Subtitle 14 of this title.

(d) (1) Subject to paragraph (4) of this subsection, a carrier may not impose any preexisting condition provision on an individual who, as of the last day of the 30–day period beginning with the date of birth, is covered under creditable coverage.

(2) Subject to paragraph (4) of this subsection, a carrier may not impose any preexisting condition provisions on a child who:

(i) is adopted or placed for adoption before attaining 18 years of age; and

(ii) as of the last day of the 30–day period beginning on the date of adoption or placement for adoption, is covered under creditable coverage.

(3) A carrier may not impose any preexisting condition provisions relating to pregnancy.

(4) Paragraphs (1) and (2) of this subsection do not apply to an individual after the end of the first 63–day period during all of which the individual was not covered under any creditable coverage.

~~15–1204.~~

~~(a) In addition to any other requirement under this article, a carrier shall:~~

~~(1) have demonstrated the capacity to administer the health benefit plan, including adequate numbers and types of administrative personnel;~~

~~(2) have a satisfactory grievance procedure and ability to respond to enrollees' calls, questions, and complaints;~~

~~(3) provide, in the case of individuals covered under more than one health benefit plan, for coordination of coverage under all of those health benefit plans in an equitable manner; and~~

~~(4) design policies to help ensure adequate access to providers of health care.~~

~~(b) A person may not offer a health benefit plan in the State unless the person offers at least the Standard Plan.~~

~~(c) [A] IF A CARRIER OFFERS AT LEAST THE STANDARD PLAN, THE carrier ALSO may [not] offer a health benefit plan that has fewer OR GREATER benefits than those in the Standard Plan.~~

~~(d) A carrier may offer benefits~~ **[**~~in addition to~~**] THAT DIFFER FROM** ~~those in the Standard Plan if:~~

~~(1) the~~ **[**~~additional~~**]** ~~benefits:~~

~~(i) are offered and priced separately from benefits specified in accordance with § 15–1207 of this subtitle; and~~

~~(ii) do not have the effect of duplicating any of those benefits; and~~

~~(2) the carrier:~~

~~(i) clearly distinguishes the Standard Plan from other offerings of the carrier;~~

~~(ii) indicates the Standard Plan is the only plan required by State law; and~~

~~(iii) specifies that all enhancements to the Standard Plan are not required by State law.~~

15–1207.

(a) In accordance with Title 19, Subtitle 1 of the Health – General Article, the Commission shall adopt regulations that specify:

(1) the Comprehensive Standard Health Benefit Plan to apply under this subtitle; and

(2) the requirements for a wellness benefit offered by a carrier to apply under this subtitle.

(b) **[**The Commission shall require that the minimum benefits allowed to be offered in the Standard Plan:

(1) by a health maintenance organization, shall include at least the actuarial equivalent of the minimum benefits required to be offered by a federally qualified health maintenance organization; and

(2) by an insurer or nonprofit health service plan on an expense–incurred basis, shall be actuarially equivalent to at least the minimum benefits required to be offered under item (1) of this subsection.

(c)**]** (1) Subject to paragraph (2) of this subsection, the Commission shall exclude or limit benefits or adjust cost–sharing arrangements in the Standard Plan if

the average rate for the Standard Plan exceeds 10% of the average annual wage in the State.

(2) The Commission annually shall determine the average rate for the Standard Plan by using the average rate submitted by each carrier that offers the Standard Plan.

[(d)**] (C)** In establishing benefits, the Commission shall judge preventive services, medical treatments, procedures, and related health services based on:

(1) their effectiveness in improving the health status of individuals;

(2) their impact on maintaining and improving health and on reducing the unnecessary consumption of health care services; and

(3) their impact on the affordability of health care coverage.

[(e)**] (D)** The Commission may exclude:

(1) a health care service, benefit, coverage, or reimbursement for covered health care services that is required under this article or the Health – General Article to be provided or offered in a health benefit plan that is issued or delivered in the State by a carrier; or

(2) reimbursement required by statute, by a health benefit plan for a service when that service is performed by a health care provider who is licensed under the Health Occupations Article and whose scope of practice includes that service.

[(f)**] (E)** ~~The Standard Plan shall include uniform deductibles and cost–sharing associated with its benefits, as determined by the Commission~~ **THE COMMISSION SHALL SPECIFY THE DEDUCTIBLES AND COST–SHARING ASSOCIATED WITH THE BENEFITS IN THE STANDARD PLAN**.

[(g)**] (F)** In establishing cost–sharing as part of the Standard Plan, the Commission shall:

(1) include cost–sharing and other incentives to help prevent consumers from seeking unnecessary services;

(2) balance the effect of cost–sharing in reducing premiums and in affecting utilization of appropriate services; and

(3) limit the total cost–sharing that may be incurred by an individual in a year.

15–1208.

~~(a) (1) [A] EXCEPT AS PROVIDED IN THIS SECTION AND IN § 15–508 OF THIS TITLE, A carrier may not limit coverage under a health benefit plan for a preexisting condition.~~

~~(2) An exclusion of coverage for preexisting conditions may not be applied to health care services furnished for pregnancy or newborns.~~

~~(b) (1) This subsection does not apply to a late enrollee if:~~

~~(i) the individual requests enrollment within 30 days after becoming an eligible employee;~~

~~(ii) a court has ordered coverage to be provided for a spouse or minor child under a covered employee's health benefit plan;~~

~~(iii) a request for enrollment is made within 30 days after the eligible employee's marriage or the birth or adoption of a child; or~~

~~(iv) the individual or a family member of the individual who is eligible for enrollment under § 15–301.1 of the Health – General Article requests enrollment within 30 days after becoming eligible.~~

~~(2) Notwithstanding subsection (a) of this section, a late enrollee may be subject to a 12–month preexisting condition provision or a waiting period until the next open enrollment period not to exceed a 12–month period.~~

~~[(c) Except as provided in subsection (d) of this section, for a period not to exceed 6 months after the date an individual becomes an eligible employee, a health benefit plan may require deductibles and cost–sharing for benefits for a preexisting condition of the eligible employee in amounts not exceeding 1.5 times the amount of the standard deductibles and cost–sharing of other eligible employees if:~~

~~(1) the employee was not previously covered by a public or private plan of health insurance or another health benefit arrangement; and~~

~~(2) the employee was not previously employed by that employer.~~

~~(d) Subsection (c) of this section does not apply to an individual or a family member of an individual who is eligible for enrollment in the MCHP private option plan established under § 15–301.1 of the Health – General Article and is a late enrollee.]~~

THE PROVISIONS OF § 15–508 OF THIS TITLE APPLY TO A POLICY OR CERTIFICATE ISSUED TO A SMALL EMPLOYER.

15–1213.

(a) This section does not apply to any insurance enumerated in § 15–1201(f)(3)(i) through (xiii) of this subtitle.

(b) Each benefit offered [in addition to] ~~THAT VARIES FROM~~ the Standard Plan that increases access to care choices or lowers the cost–sharing arrangement in the Standard Plan ~~AND HAS BEEN APPROVED BY THE COMMISSIONER~~ is subject to all of the provisions of this subtitle applicable to the Standard Plan, including:

(1) guaranteed issuance;

(2) guaranteed renewal; **AND**

(3) adjusted community rating~~; and~~

~~(4) the prohibition on preexisting condition limitations~~.

(c) (1) Each benefit offered in addition to the Standard Plan that increases the type of services available or the frequency of services is not subject to guaranteed issuance but is subject to all other provisions of this subtitle applicable to the Standard Plan, including:

(i) guaranteed renewal; **AND**

(ii) adjusted community rating~~; and~~

~~(iii) the prohibition on preexisting condition limitations~~.

(2) For each additional benefit offered under this subsection, a carrier shall accept or reject the application of the entire group.

(3) The Commissioner may prohibit a carrier from offering [an additional benefit] ~~BENEFITS THAT VARY FROM THE STANDARD PLAN~~ under this subsection if the Commissioner finds that the [additional] ~~OFFERED~~ benefit will be sold in conjunction with the Standard Plan in a manner designed to promote risk selection or underwriting practices otherwise prohibited by this subtitle.

(d) (1) A benefit offered in addition to the Standard Plan to lower the cost–sharing arrangement in the Standard Plan in accordance with § 15–301.1 of the Health – General Article is subject to:

(i) guaranteed issuance;

(ii) guaranteed renewal; **AND**

(iii) adjusted community ~~rating; and~~ **RATING.**

~~(iv) the prohibition on preexisting condition limitations.~~

(2) A carrier that offers a benefit under this subsection shall be required to guarantee issuance and guarantee renewal of the additional benefit only to employers who are participating in the MCHP private option plan established under § 15–301.1 of the Health – General Article.

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

Article – Insurance

15–1205.

(a) (1) In establishing a community rate for a health benefit plan, a carrier shall use a rating methodology that is based on the experience of all risks covered by that health benefit plan without regard to **[**health status or occupation or**]** any **[**other**]** factor not specifically authorized under this subsection **OR SUBSECTION (F) OF THIS SECTION**.

(2) A carrier may adjust the community rate only for:

(i) age; **[**and**]**

(ii) geography based on the following contiguous areas of the State:

1. the Baltimore metropolitan area;

2. the District of Columbia metropolitan area;

3. Western Maryland; ~~[and]~~

4. Eastern **AND SOUTHERN MARYLAND;** and

~~**5.** Southern Maryland; AND~~

(III) HEALTH STATUS, AS PROVIDED IN SUBSECTION (F) OF THIS SECTION.

(3) Rates for a health benefit plan may vary based on family composition as approved by the Commissioner.

(4) (i) Subject to subparagraph (ii) of this paragraph, after applying the risk adjustment factors under paragraph (2) of this subsection, a carrier may offer a discount not to exceed 20% to a small employer for participation in a wellness program.

(ii) A discount offered under subparagraph (i) of this paragraph shall be:

1. applied to reduce the rate otherwise payable by the small employer;

2. actuarially justified;

3. offered uniformly to all small employers; and

4. approved by the Commissioner.

(b) A carrier shall apply all risk adjustment factors under **[**subsection (a)**]** **SUBSECTIONS (A) AND (F)** of this section consistently with respect to all health benefit plans that are issued, delivered, or renewed in the State.

(c) (1) ~~**(I)**~~ Based on the adjustments allowed under subsection **[**(a)(2)**]** **(A)(2)(I) AND (II)** of this section, a carrier may charge a rate that is **[**40%**]** ~~**65%**~~ **50%** above or **[**50%**]** ~~**65%**~~ below the community rate.

~~**(II) BEGINNING JULY 1, 2013, BASED ON THE ADJUSTMENTS ALLOWED UNDER SUBSECTION (A)(2)(I) AND (II) OF THIS SECTION, A CARRIER MAY CHARGE A RATE THAT IS 55% ABOVE OR 55% BELOW THE COMMUNITY RATE.**~~

(2) (i) On or before October 1, 2007, the Commission shall adopt regulations that require carriers to collect and report to the Commission data on participation, by rate band, in health benefit plans issued, delivered, or renewed under this subtitle.

(ii) On or before January 1, **[**2011**]** ~~**2012**~~ **2013**, the Commission shall report to the Governor and, in accordance with § 2–1246 of the State Government Article, the Senate Finance Committee and the House Health and Government Operations Committee regarding the effect of the **[**50%**]** ~~**65%**~~ rate **[**adjustment**]** **ADJUSTMENTS** authorized under paragraph ~~(1)~~ ~~**(1)(I)**~~ *(1)* of this subsection ***AND THE EFFECT OF THE ADJUSTMENT TO THE COMMUNITY RATE FOR HEALTH STATUS AUTHORIZED UNDER SUBSECTION (F) OF THIS SECTION*** on participation in health benefit plans issued, delivered, or renewed under this subtitle.

(d) (1) A carrier shall base its rating methods and practices on commonly accepted actuarial assumptions and sound actuarial principles.

(2) A carrier that is a health maintenance organization and that includes a subrogation provision in its contract as authorized under § 19–713.1(d) of the Health – General Article shall:

(i) use in its rating methodology an adjustment that reflects the subrogation; and

(ii) identify in its rate filing with the Administration, and annually in a form approved by the Commissioner, all amounts recovered through subrogation.

(e) (1) A carrier may offer an administrative discount to a small employer if the small employer elects to purchase, for its employees, an annuity, dental insurance, disability insurance, life insurance, long term care insurance, vision insurance, or, with the approval of the Commissioner, any other insurance sold by the carrier.

(2) The administrative discount shall be offered under the same terms and conditions for all qualifying small employers.

(F) (1) A CARRIER MAY ADJUST THE COMMUNITY RATE FOR A HEALTH BENEFIT PLAN FOR HEALTH STATUS ONLY ~~ON THE INITIAL ENROLLMENT OF THE SMALL EMPLOYER IN THE HEALTH BENEFIT PLAN~~ IF A SMALL EMPLOYER HAS NOT OFFERED A HEALTH BENEFIT PLAN ISSUED UNDER THIS SUBTITLE TO ITS EMPLOYEES IN THE 12 MONTHS PRIOR TO THE INITIAL ENROLLMENT OF THE SMALL EMPLOYER IN THE HEALTH BENEFIT PLAN.

(2) (I) BASED ON THE ADJUSTMENT ALLOWED UNDER PARAGRAPH (1) OF THIS SUBSECTION, IN ADDITION TO THE ADJUSTMENTS ALLOWED UNDER SUBSECTION (C)(1) OF THIS SECTION, A CARRIER MAY CHARGE:

1. IN THE FIRST YEAR OF ENROLLMENT, A RATE THAT IS 10% ABOVE OR BELOW THE COMMUNITY RATE;

2. IN THE SECOND YEAR OF ENROLLMENT, A RATE THAT IS 5% ABOVE OR BELOW THE COMMUNITY RATE; AND

3. IN THE THIRD YEAR OF ENROLLMENT, A RATE THAT IS 2% ABOVE OR BELOW THE COMMUNITY RATE.

(II) A CARRIER MAY NOT MAKE ANY ADJUSTMENT FOR HEALTH STATUS IN THE COMMUNITY RATE OF A HEALTH BENEFIT PLAN ISSUED

UNDER THIS SUBTITLE AFTER THE THIRD YEAR OF ENROLLMENT OF A SMALL EMPLOYER IN THE HEALTH BENEFIT PLAN.

(3) A CARRIER MAY USE HEALTH STATEMENTS, IN A FORM APPROVED BY THE COMMISSIONER, AND HEALTH SCREENINGS TO ESTABLISH AN ADJUSTMENT TO THE COMMUNITY RATE FOR HEALTH STATUS AS PROVIDED IN THIS SUBSECTION.

(4) A CARRIER MAY NOT LIMIT COVERAGE OFFERED BY THE CARRIER, OR REFUSE TO ISSUE A HEALTH BENEFIT PLAN TO ANY SMALL EMPLOYER THAT MEETS THE REQUIREMENTS OF THIS SUBTITLE, BASED ON A HEALTH STATUS–RELATED FACTOR.

(5) IT IS AN UNFAIR TRADE PRACTICE FOR A CARRIER KNOWINGLY TO PROVIDE COVERAGE TO A SMALL EMPLOYER THAT DISCRIMINATES AGAINST AN EMPLOYEE OR APPLICANT FOR EMPLOYMENT, BASED ON THE HEALTH STATUS OF THE EMPLOYEE OR APPLICANT OR A DEPENDENT OF THE EMPLOYEE OR APPLICANT, WITH RESPECT TO PARTICIPATION IN A HEALTH BENEFIT PLAN SPONSORED BY THE SMALL EMPLOYER.

~~SECTION 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:~~

~~**Article – Insurance**~~

~~15–1205.~~

~~(a) (1) In establishing a community rate for a health benefit plan, a carrier shall use a rating methodology that is based on the experience of all risks covered by that health benefit plan without regard to health status or occupation or any other factor not specifically authorized under this subsection.~~

~~(2) A carrier may adjust the community rate only for:~~

~~(i) age; and~~

~~(ii) geography based on the following contiguous areas of the State:~~

~~1. the Baltimore metropolitan area;~~

~~2. the District of Columbia metropolitan area;~~

~~3. Western Maryland; [and]~~

~~4. Eastern~~ **MARYLAND;** ~~and~~

~~5. Southern Maryland.~~

~~(3) Rates for a health benefit plan may vary based on family composition as approved by the Commissioner.~~

~~(4) (i) Subject to subparagraph (ii) of this paragraph, after applying the risk adjustment factors under paragraph (2) of this subsection, a carrier may offer a discount not to exceed 20% to a small employer for participation in a wellness program.~~

~~(ii) A discount offered under subparagraph (i) of this paragraph shall be:~~

~~1. applied to reduce the rate otherwise payable by the small employer;~~

~~2. actuarially justified;~~

~~3. offered uniformly to all small employers; and~~

~~4. approved by the Commissioner.~~

~~(b) A carrier shall apply all risk adjustment factors under subsection (a) of this section consistently with respect to all health benefit plans that are issued, delivered, or renewed in the State.~~

~~(c) (1) Based on the adjustments allowed under subsection (a)(2) of this section, a carrier may charge a rate that is 40% above or 50% below the community rate.~~

~~(2)~~ **[**~~(i)~~**]** ~~On or before October 1, 2007, the Commission shall adopt regulations that require carriers to collect and report to the Commission data on participation, by rate band, in health benefit plans issued, delivered, or renewed under this subtitle.~~

[~~(ii) On or before January 1, 2011, the Commission shall report to the Governor and, in accordance with § 2–1246 of the State Government Article, the Senate Finance Committee and the House Health and Government Operations Committee regarding the effect of the 50% rate adjustment authorized under paragraph (1) of this subsection on participation in health benefit plans issued, delivered, or renewed under this subtitle.~~**]**

~~(d) (1) A carrier shall base its rating methods and practices on commonly accepted actuarial assumptions and sound actuarial principles.~~

~~(2) A carrier that is a health maintenance organization and that includes a subrogation provision in its contract as authorized under § 19–713.1(d) of the Health – General Article shall:~~

~~(i) use in its rating methodology an adjustment that reflects the subrogation; and~~

~~(ii) identify in its rate filing with the Administration, and annually in a form approved by the Commissioner, all amounts recovered through subrogation.~~

~~(e) (1) A carrier may offer an administrative discount to a small employer if the small employer elects to purchase, for its employees, an annuity, dental insurance, disability insurance, life insurance, long–term care insurance, vision insurance, or, with the approval of the Commissioner, any other insurance sold by the carrier.~~

~~(2) The administrative discount shall be offered under the same terms and conditions for all qualifying small employers.~~

SECTION ~~5.~~ 4. AND BE IT FURTHER ENACTED, That:

(a) The Maryland Health Care Commission shall study:

(1) options to implement the use of value–based health care services and increase efficiencies in the Comprehensive Standard Health Benefit Plan;

(2) potential options for allowing plans with fewer benefits than the Standard Plan to be sold in the small group market, including the impact of any of the potential options and the need for any additional legislative authority for the Commission to implement any recommended options; and

(3) whether any additional authority is needed to effectively implement the website application required under § 19–108.1 of the Health – General Article, as enacted by Section 2 of this Act, that allows small businesses to compare premiums of health benefit plans issued under the small group market.

(b) On or before December 1, 2009, the Commission shall report on its findings and recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

SECTION ~~6.~~ 5. AND BE IT FURTHER ENACTED, That, Section 2 of this Act shall take effect October 1, 2009, and shall apply to all policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or after October 1, 2009.

SECTION ~~7.~~ 6. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall take effect ~~October 1, 2009~~ July 1, 2010, and shall apply to all policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or after ~~October 1, 2009~~ July 1, 2010. ~~It shall remain effective for a period of 5 years and, at the end of September 30, 2014, 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 8. AND BE IT FURTHER ENACTED, That Section 4 of this Act shall take effect on the taking effect of the termination provision specified in Section 7 of this Act.~~

SECTION ~~9.~~ 7. AND BE IT FURTHER ENACTED, That, except as provided in Sections ~~6, 7, and 8~~ 5 and 6 of this Act, this Act shall take effect July 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 578

(House Bill 674)

AN ACT concerning

Health Insurance – Small Group Market Regulation – Modifications

FOR the purpose of repealing the termination provision of certain provisions of law relating to the rating of certain health benefit plans; requiring the Maryland Health Care Commission to maintain a certain application on its website; requiring the Commission to update certain information at least quarterly; applying certain provisions of law relating to preexisting conditions to certain policies or certificates issued to small employers; ~~authorizing certain carriers to offer certain health benefit plans that have greater benefits than those in the Comprehensive Standard Health Benefit Plan under certain circumstances; authorizing a carrier to offer benefits that differ from those in the Standard Plan under certain circumstances;~~ repealing a requirement that the Commission require that the minimum benefits allowed to be offered in the Standard Plan meet a certain level; repealing a certain requirement that the Standard Plan include certain uniform deductibles and cost sharing; requiring the Commission to specify certain deductibles and cost–sharing; repealing certain provisions of law authorizing certain health benefit plans to require certain deductibles and cost–sharing for benefits for preexisting conditions; ~~providing that certain benefits that vary from the Standard Plan and are approved by the Maryland Insurance Commissioner are subject to certain provisions of law applicable to the Standard Plan; authorizing the~~

~~Commissioner to prohibit a carrier from offering benefits that vary from the Standard Plan under certain circumstances; altering the geographic areas for which a carrier may adjust the community rate for certain health benefit plans;~~ altering certain limits on the rate a carrier may charge based on adjustments to the community rate for certain health benefit plans due to certain factors; altering the due date of and requirements for a certain report; authorizing a carrier to adjust the community rate for certain health benefit plans for health status at certain rates under certain circumstances; authorizing a carrier to use certain health statements and health screenings to establish certain premium rates; prohibiting a carrier from limiting coverage or refusing to issue a health benefit plan to a certain small employer based on a health status–related factor; establishing that it is an unfair trade practice for a carrier knowingly to provide coverage to a small employer that discriminates against certain individuals under certain circumstances; making certain conforming changes; requiring the Commission to conduct a certain study and report on its findings and recommendations to the Governor and the General Assembly on or before a certain date; ~~providing for the termination of certain provisions of this Act;~~ providing for the effective dates of this Act; providing for a delayed effective date for certain provisions of this Act; providing for the application of certain provisions of this Act; and generally relating to health benefit plans offered in the small group market.

BY repealing and reenacting, with amendments,
Chapter 600 of the Acts of the General Assembly of 2007
Section 2

BY adding to
Article – Health – General
Section 19–108.1
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Insurance
Section 15–508, ~~15–1204(a) through (d),~~ 15–1205, 15–1207, 15–1208, and 15–1213
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Chapter 600 of the Acts of 2007

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007. **[**It shall remain effective for a period of 4 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 the Laws of Maryland read as follows:

Article – Health – General

19–108.1.

(A) IN ADDITION TO THE DUTIES SET FORTH ELSEWHERE IN THIS SUBTITLE, THE COMMISSION SHALL MAINTAIN ON ITS WEBSITE AN APPLICATION THAT A SMALL BUSINESS MAY USE TO COMPARE PREMIUMS OF HEALTH BENEFIT PLANS OFFERED BY HEALTH INSURANCE CARRIERS UNDER TITLE 15, SUBTITLE 12 OF THE INSURANCE ARTICLE.

(B) THE APPLICATION REQUIRED UNDER THIS SECTION SHALL PROVIDE INFORMATION ON:

(1) PREMIUMS FOR HEALTH BENEFIT PLANS SOLD UNDER TITLE 15, SUBTITLE 12 OF THE INSURANCE ARTICLE, CATEGORIZED BY AGE BANDS; AND

(2) PREMIUMS FOR HEALTH BENEFIT PLANS SOLD UNDER TITLE 15, SUBTITLE 12 OF THE INSURANCE ARTICLE THAT INCLUDE RIDERS TYPICALLY PURCHASED BY SMALL EMPLOYERS IN THE STATE.

(C) THE COMMISSION SHALL UPDATE THE INFORMATION REQUIRED UNDER THIS SECTION AT LEAST QUARTERLY.

Article – Insurance

15–508.

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

(2) "Carrier" has the meaning stated in § 15–1301 of this title.

(3) "Enrollment date" has the meaning stated in § 15–1301 of this title.

(4) "Policy or certificate" means any group or blanket health insurance contract or policy that is issued or delivered in the State by an insurer or nonprofit health service plan that provides hospital, medical, or surgical benefits on an expense–incurred basis.

(5) "Preexisting condition provision" has the meaning stated in § 15–1301 of this title.

(6) "Late enrollee" has the meaning stated in § 15–1401 of this title.

(b) This section does not apply to a policy or certificate issued **[**to a small employer in accordance with Subtitle 12 of this title, or**]** to an individual in accordance with Subtitle 13 of this title.

(c) Except as otherwise provided in subsection (d) of this section, a carrier may impose a preexisting condition provision only if it:

(1) relates to a condition, regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the 6–month period ending on the enrollment date;

(2) extends for a period of not more than 12 months after the enrollment date or 18 months in the case of a late enrollee; and

(3) is reduced by the aggregate of the periods of creditable coverage, as defined in Subtitle 14 of this title.

(d) (1) Subject to paragraph (4) of this subsection, a carrier may not impose any preexisting condition provision on an individual who, as of the last day of the 30–day period beginning with the date of birth, is covered under creditable coverage.

(2) Subject to paragraph (4) of this subsection, a carrier may not impose any preexisting condition provisions on a child who:

(i) is adopted or placed for adoption before attaining 18 years of age; and

(ii) as of the last day of the 30–day period beginning on the date of adoption or placement for adoption, is covered under creditable coverage.

(3) A carrier may not impose any preexisting condition provisions relating to pregnancy.

(4) Paragraphs (1) and (2) of this subsection do not apply to an individual after the end of the first 63–day period during all of which the individual was not covered under any creditable coverage.

~~15–1204.~~

~~(a) In addition to any other requirement under this article, a carrier shall:~~

~~(1) have demonstrated the capacity to administer the health benefit plan, including adequate numbers and types of administrative personnel;~~

~~(2) have a satisfactory grievance procedure and ability to respond to enrollees' calls, questions, and complaints;~~

~~(3) provide, in the case of individuals covered under more than one health benefit plan, for coordination of coverage under all of those health benefit plans in an equitable manner; and~~

~~(4) design policies to help ensure adequate access to providers of health care.~~

~~(b) A person may not offer a health benefit plan in the State unless the person offers at least the Standard Plan.~~

~~(c) [A] IF A CARRIER OFFERS AT LEAST THE STANDARD PLAN, THE carrier ALSO may [not] offer a health benefit plan that has fewer OR GREATER benefits than those in the Standard Plan.~~

~~(d) A carrier may offer benefits [in addition to] THAT DIFFER FROM those in the Standard Plan if:~~

~~(1) the [additional] benefits:~~

~~(i) are offered and priced separately from benefits specified in accordance with § 15–1207 of this subtitle; and~~

~~(ii) do not have the effect of duplicating any of those benefits; and~~

~~(2) the carrier:~~

~~(i) clearly distinguishes the Standard Plan from other offerings of the carrier;~~

~~(ii) indicates the Standard Plan is the only plan required by State law; and~~

~~(iii) specifies that all enhancements to the Standard Plan are not required by State law.~~

15–1207.

(a) In accordance with Title 19, Subtitle 1 of the Health – General Article, the Commission shall adopt regulations that specify:

(1) the Comprehensive Standard Health Benefit Plan to apply under this subtitle; and

(2) the requirements for a wellness benefit offered by a carrier to apply under this subtitle.

(b) **[**The Commission shall require that the minimum benefits allowed to be offered in the Standard Plan:

(1) by a health maintenance organization, shall include at least the actuarial equivalent of the minimum benefits required to be offered by a federally qualified health maintenance organization; and

(2) by an insurer or nonprofit health service plan on an expense–incurred basis, shall be actuarially equivalent to at least the minimum benefits required to be offered under item (1) of this subsection.

(c)**]** (1) Subject to paragraph (2) of this subsection, the Commission shall exclude or limit benefits or adjust cost–sharing arrangements in the Standard Plan if the average rate for the Standard Plan exceeds 10% of the average annual wage in the State.

(2) The Commission annually shall determine the average rate for the Standard Plan by using the average rate submitted by each carrier that offers the Standard Plan.

[(d)**] (C)** In establishing benefits, the Commission shall judge preventive services, medical treatments, procedures, and related health services based on:

(1) their effectiveness in improving the health status of individuals;

(2) their impact on maintaining and improving health and on reducing the unnecessary consumption of health care services; and

(3) their impact on the affordability of health care coverage.

[(e)**] (D)** The Commission may exclude:

(1) a health care service, benefit, coverage, or reimbursement for covered health care services that is required under this article or the Health – General Article to be provided or offered in a health benefit plan that is issued or delivered in the State by a carrier; or

(2) reimbursement required by statute, by a health benefit plan for a service when that service is performed by a health care provider who is licensed under the Health Occupations Article and whose scope of practice includes that service.

[(f)**] (E)** ~~The Standard Plan shall include uniform deductibles and cost–sharing associated with its benefits, as determined by the Commission~~ **THE COMMISSION SHALL SPECIFY THE DEDUCTIBLES AND COST–SHARING ASSOCIATED WITH THE BENEFITS IN THE STANDARD PLAN**.

[(g)**] (F)** In establishing cost–sharing as part of the Standard Plan, the Commission shall:

(1) include cost–sharing and other incentives to help prevent consumers from seeking unnecessary services;

(2) balance the effect of cost–sharing in reducing premiums and in affecting utilization of appropriate services; and

(3) limit the total cost–sharing that may be incurred by an individual in a year.

15–1208.

~~(a) (1)~~ ~~**[A] EXCEPT AS PROVIDED IN THIS SECTION AND IN § 15–508 OF THIS TITLE, A** carrier may not limit coverage under a health benefit plan for a preexisting condition.~~

~~(2) An exclusion of coverage for preexisting conditions may not be applied to health care services furnished for pregnancy or newborns.~~

~~(b) (1) This subsection does not apply to a late enrollee if:~~

~~(i) the individual requests enrollment within 30 days after becoming an eligible employee;~~

~~(ii) a court has ordered coverage to be provided for a spouse or minor child under a covered employee's health benefit plan;~~

~~(iii) a request for enrollment is made within 30 days after the eligible employee's marriage or the birth or adoption of a child; or~~

~~(iv) the individual or a family member of the individual who is eligible for enrollment under § 15–301.1 of the Health – General Article requests enrollment within 30 days after becoming eligible.~~

~~(2) Notwithstanding subsection (a) of this section, a late enrollee may be subject to a 12–month preexisting condition provision or a waiting period until the next open enrollment period not to exceed a 12–month period.~~

~~[(c) Except as provided in subsection (d) of this section, for a period not to exceed 6 months after the date an individual becomes an eligible employee, a health benefit plan may require deductibles and cost–sharing for benefits for a preexisting condition of the eligible employee in amounts not exceeding 1.5 times the amount of the standard deductibles and cost–sharing of other eligible employees if:~~

~~(1) the employee was not previously covered by a public or private plan of health insurance or another health benefit arrangement; and~~

~~(2) the employee was not previously employed by that employer.~~

~~(d) Subsection (c) of this section does not apply to an individual or a family member of an individual who is eligible for enrollment in the MCHP private option plan established under § 15–301.1 of the Health – General Article and is a late enrollee.]~~

THE PROVISIONS OF § 15–508 OF THIS TITLE APPLY TO A POLICY OR CERTIFICATE ISSUED TO A SMALL EMPLOYER.

15–1213.

(a) This section does not apply to any insurance enumerated in § 15–1201(f)(3)(i) through (xiii) of this subtitle.

(b) Each benefit offered [in addition to] ~~THAT VARIES FROM~~ the Standard Plan that increases access to care choices or lowers the cost–sharing arrangement in the Standard Plan ~~AND HAS BEEN APPROVED BY THE COMMISSIONER~~ is subject to all of the provisions of this subtitle applicable to the Standard Plan, including:

(1) guaranteed issuance;

(2) guaranteed renewal; **AND**

(3) adjusted community rating~~; and~~

~~(4) the prohibition on preexisting condition limitations~~.

(c) (1) Each benefit offered in addition to the Standard Plan that increases the type of services available or the frequency of services is not subject to guaranteed issuance but is subject to all other provisions of this subtitle applicable to the Standard Plan, including:

(i) guaranteed renewal; **AND**

(ii) adjusted community rating~~; and~~

~~(iii) the prohibition on preexisting condition limitations~~.

(2) For each additional benefit offered under this subsection, a carrier shall accept or reject the application of the entire group.

(3) The Commissioner may prohibit a carrier from offering ~~[~~an additional benefit~~]~~ ~~BENEFITS THAT VARY FROM THE STANDARD PLAN~~ under this subsection if the Commissioner finds that the ~~[~~additional~~]~~ ~~OFFERED~~ benefit will be sold in conjunction with the Standard Plan in a manner designed to promote risk selection or underwriting practices otherwise prohibited by this subtitle.

(d) (1) A benefit offered in addition to the Standard Plan to lower the cost–sharing arrangement in the Standard Plan in accordance with § 15–301.1 of the Health – General Article is subject to:

(i) guaranteed issuance;

(ii) guaranteed renewal; **AND**

(iii) adjusted community ~~rating; and~~ **RATING.**

~~(iv) the prohibition on preexisting condition limitations.~~

(2) A carrier that offers a benefit under this subsection shall be required to guarantee issuance and guarantee renewal of the additional benefit only to employers who are participating in the MCHP private option plan established under § 15–301.1 of the Health – General Article.

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

Article – Insurance

15–1205.

(a) (1) In establishing a community rate for a health benefit plan, a carrier shall use a rating methodology that is based on the experience of all risks covered by that health benefit plan without regard to **[**health status or occupation or**]** any **[**other**]** factor not specifically authorized under this subsection **OR SUBSECTION (F) OF THIS SECTION**.

(2) A carrier may adjust the community rate only for:

(i) age; **[**and**]**

(ii) geography based on the following contiguous areas of the State:

1. the Baltimore metropolitan area;

2. the District of Columbia metropolitan area;

3. Western Maryland; ~~[and]~~

4. Eastern **AND SOUTHERN MARYLAND;** and

~~**5.** Southern Maryland; AND~~

(III) HEALTH STATUS, AS PROVIDED IN SUBSECTION (F) OF THIS SECTION.

(3) Rates for a health benefit plan may vary based on family composition as approved by the Commissioner.

(4) (i) Subject to subparagraph (ii) of this paragraph, after applying the risk adjustment factors under paragraph (2) of this subsection, a carrier may offer a discount not to exceed 20% to a small employer for participation in a wellness program.

(ii) A discount offered under subparagraph (i) of this paragraph shall be:

1. applied to reduce the rate otherwise payable by the small employer;

2. actuarially justified;

3. offered uniformly to all small employers; and

4. approved by the Commissioner.

(b) A carrier shall apply all risk adjustment factors under **[**subsection (a)**]** **SUBSECTIONS (A) AND (F)** of this section consistently with respect to all health benefit plans that are issued, delivered, or renewed in the State.

(c) (1) Based on the adjustments allowed under subsection **[**(a)(2)**]** **(A)(2)(I) AND (II)** of this section, a carrier may charge a rate that is **[**40%**]** ~~**65%**~~ **50%** above or ~~**[**50%**]** **65%**~~ below the community rate.

(2) (i) On or before October 1, 2007, the Commission shall adopt regulations that require carriers to collect and report to the Commission data on

participation, by rate band, in health benefit plans issued, delivered, or renewed under this subtitle.

(ii) On or before January 1, **[**2011**]** ~~**2012**~~ **2013**, the Commission shall report to the Governor and, in accordance with § 2–1246 of the State Government Article, the Senate Finance Committee and the House Health and Government Operations Committee regarding the effect of the **[**50%**]** ~~**65%**~~ rate **[**adjustment**]** **ADJUSTMENTS** authorized under paragraph (1) of this subsection **AND THE EFFECT OF THE ADJUSTMENT TO THE COMMUNITY RATE FOR HEALTH STATUS AUTHORIZED UNDER SUBSECTION (F) OF THIS SECTION** on participation in health benefit plans issued, delivered, or renewed under this subtitle.

(d) (1) A carrier shall base its rating methods and practices on commonly accepted actuarial assumptions and sound actuarial principles.

(2) A carrier that is a health maintenance organization and that includes a subrogation provision in its contract as authorized under § 19–713.1(d) of the Health – General Article shall:

(i) use in its rating methodology an adjustment that reflects the subrogation; and

(ii) identify in its rate filing with the Administration, and annually in a form approved by the Commissioner, all amounts recovered through subrogation.

(e) (1) A carrier may offer an administrative discount to a small employer if the small employer elects to purchase, for its employees, an annuity, dental insurance, disability insurance, life insurance, long term care insurance, vision insurance, or, with the approval of the Commissioner, any other insurance sold by the carrier.

(2) The administrative discount shall be offered under the same terms and conditions for all qualifying small employers.

(F) (1) A CARRIER MAY ADJUST THE COMMUNITY RATE FOR A HEALTH BENEFIT PLAN FOR HEALTH STATUS ONLY ~~**ON THE INITIAL ENROLLMENT OF THE SMALL EMPLOYER IN THE HEALTH BENEFIT PLAN**~~ **IF A SMALL EMPLOYER HAS NOT OFFERED A HEALTH BENEFIT PLAN ISSUED UNDER THIS SUBTITLE TO ITS EMPLOYEES IN THE 12 MONTHS PRIOR TO THE INITIAL ENROLLMENT OF THE SMALL EMPLOYER IN THE HEALTH BENEFIT PLAN.**

(2) (I) BASED ON THE ADJUSTMENT ALLOWED UNDER PARAGRAPH (1) OF THIS SUBSECTION, IN ADDITION TO THE ADJUSTMENTS ALLOWED UNDER SUBSECTION (C)(1) OF THIS SECTION, A CARRIER MAY CHARGE:

1. IN THE FIRST YEAR OF ENROLLMENT, A RATE THAT IS 10% ABOVE OR BELOW THE COMMUNITY RATE;

2. IN THE SECOND YEAR OF ENROLLMENT, A RATE THAT IS 5% ABOVE OR BELOW THE COMMUNITY RATE; AND

3. IN THE THIRD YEAR OF ENROLLMENT, A RATE THAT IS 2% ABOVE OR BELOW THE COMMUNITY RATE.

(II) A CARRIER MAY NOT MAKE ANY ADJUSTMENT FOR HEALTH STATUS IN THE COMMUNITY RATE OF A HEALTH BENEFIT PLAN ISSUED UNDER THIS SUBTITLE AFTER THE THIRD YEAR OF ENROLLMENT OF A SMALL EMPLOYER IN THE HEALTH BENEFIT PLAN.

(3) A CARRIER MAY USE HEALTH STATEMENTS, IN A FORM APPROVED BY THE COMMISSIONER, AND HEALTH SCREENINGS TO ESTABLISH AN ADJUSTMENT TO THE COMMUNITY RATE FOR HEALTH STATUS AS PROVIDED IN THIS SUBSECTION.

(4) A CARRIER MAY NOT LIMIT COVERAGE OFFERED BY THE CARRIER, OR REFUSE TO ISSUE A HEALTH BENEFIT PLAN TO ANY SMALL EMPLOYER THAT MEETS THE REQUIREMENTS OF THIS SUBTITLE, BASED ON A HEALTH STATUS–RELATED FACTOR.

(5) IT IS AN UNFAIR TRADE PRACTICE FOR A CARRIER KNOWINGLY TO PROVIDE COVERAGE TO A SMALL EMPLOYER THAT DISCRIMINATES AGAINST AN EMPLOYEE OR APPLICANT FOR EMPLOYMENT, BASED ON THE HEALTH STATUS OF THE EMPLOYEE OR APPLICANT OR A DEPENDENT OF THE EMPLOYEE OR APPLICANT, WITH RESPECT TO PARTICIPATION IN A HEALTH BENEFIT PLAN SPONSORED BY THE SMALL EMPLOYER.

~~SECTION 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:~~

~~**Article – Insurance**~~

~~15–1205.~~

~~(a) (1) In establishing a community rate for a health benefit plan, a carrier shall use a rating methodology that is based on the experience of all risks covered by that health benefit plan without regard to health status or occupation or any other factor not specifically authorized under this subsection.~~

~~(2) A carrier may adjust the community rate only for:~~

~~(i) age; and~~

~~(ii) geography based on the following contiguous areas of the State:~~

~~1. the Baltimore metropolitan area;~~

~~2. the District of Columbia metropolitan area;~~

~~3. Western Maryland; [and]~~

~~4. Eastern **MARYLAND;** and~~

~~**5.** Southern Maryland.~~

~~(3) Rates for a health benefit plan may vary based on family composition as approved by the Commissioner.~~

~~(4) (i) Subject to subparagraph (ii) of this paragraph, after applying the risk adjustment factors under paragraph (2) of this subsection, a carrier may offer a discount not to exceed 20% to a small employer for participation in a wellness program.~~

~~(ii) A discount offered under subparagraph (i) of this paragraph shall be:~~

~~1. applied to reduce the rate otherwise payable by the small employer;~~

~~2. actuarially justified;~~

~~3. offered uniformly to all small employers; and~~

~~4. approved by the Commissioner.~~

~~(b) A carrier shall apply all risk adjustment factors under subsection (a) of this section consistently with respect to all health benefit plans that are issued, delivered, or renewed in the State.~~

~~(c) (1) Based on the adjustments allowed under subsection (a)(2) of this section, a carrier may charge a rate that is 40% above or 50% below the community rate.~~

~~(2) [(i)] On or before October 1, 2007, the Commission shall adopt regulations that require carriers to collect and report to the Commission data on~~

~~participation, by rate band, in health benefit plans issued, delivered, or renewed under this subtitle.~~

~~[(ii) On or before January 1, 2011, the Commission shall report to the Governor and, in accordance with § 2–1246 of the State Government Article, the Senate Finance Committee and the House Health and Government Operations Committee regarding the effect of the 50% rate adjustment authorized under paragraph (1) of this subsection on participation in health benefit plans issued, delivered, or renewed under this subtitle.]~~

~~(d) (1) A carrier shall base its rating methods and practices on commonly accepted actuarial assumptions and sound actuarial principles.~~

~~(2) A carrier that is a health maintenance organization and that includes a subrogation provision in its contract as authorized under § 19–713.1(d) of the Health – General Article shall:~~

~~(i) use in its rating methodology an adjustment that reflects the subrogation; and~~

~~(ii) identify in its rate filing with the Administration, and annually in a form approved by the Commissioner, all amounts recovered through subrogation.~~

~~(e) (1) A carrier may offer an administrative discount to a small employer if the small employer elects to purchase, for its employees, an annuity, dental insurance, disability insurance, life insurance, long term care insurance, vision insurance, or, with the approval of the Commissioner, any other insurance sold by the carrier.~~

~~(2) The administrative discount shall be offered under the same terms and conditions for all qualifying small employers.~~

SECTION ~~5.~~ 4. AND BE IT FURTHER ENACTED, That:

(a) The Maryland Health Care Commission shall study:

(1) options to implement the use of value–based health care services and increase efficiencies in the Comprehensive Standard Health Benefit Plan;

(2) potential options for allowing plans with fewer benefits than the Standard Plan to be sold in the small group market, including the impact of any of the potential options and the need for any additional legislative authority for the Commission to implement any recommended options; and

(3) whether any additional authority is needed to effectively implement the website application required under § 19–108.1 of the Health – General

Article, as enacted by Section 2 of this Act, that allows small businesses to compare premiums of health benefit plans issued under the small group market.

(b) On or before December 1, 2009, the Commission shall report on its findings and recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

SECTION ~~6.~~ 5. AND BE IT FURTHER ENACTED, That, Section 2 of this Act shall take effect October 1, 2009, and shall apply to all policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or after October 1, 2009.

SECTION ~~7.~~ 6. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall take effect ~~October 1, 2009~~ July 1, 2010, and shall apply to all policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or after ~~October 1, 2009~~ July 1, 2010. ~~It shall remain effective for a period of 5 years and, at the end of September 30, 2014, 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 8. AND BE IT FURTHER ENACTED, That Section 4 of this Act shall take effect on the taking effect of the termination provision specified in Section 7 of this Act.~~

SECTION ~~9.~~ 7. AND BE IT FURTHER ENACTED, That, except as provided in Sections ~~6, 7, and 8~~ 5 and 6 of this Act, this Act shall take effect July 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 579

(Senate Bill 645)

AN ACT concerning

Fraternal Benefit Societies – Exemption for Mutual Aid Associations – Clarification

FOR the purpose of clarifying that certain laws governing fraternal benefit societies and other insurance laws of the State do not apply to certain mutual aid associations that were organized before a certain date, have a membership composed of certain members of the Armed Forces or Sea Services of the United States, and have as a principal purpose to provide insurance and other benefits to certain individuals; and generally relating to exemptions of entities from regulation under State insurance laws.

BY repealing and reenacting, with amendments,

Article – Insurance
Section 8–404
Annotated Code of Maryland
(2003 Replacement Volume and 2008 Supplement)

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

Article – Insurance

8–404.

(a) Except as provided in this section, this subtitle and the other insurance laws of the State do not apply to:

(1) a grand or subordinate lodge or society, order, or association that:

(i) was doing business in the State on December 31, 1963;

(ii) provides benefits exclusively through local or subordinate lodges; and

(iii) does not issue benefit certificates;

(2) an order, society, or association that:

(i) 1. limits its membership to individuals engaged in one or more crafts or hazardous occupations in the same or similar lines of business; and

2. insures only its members and their families and dependents; or

(ii) 1. as to individual health insurance policies, offers those policies in this State only to members of the Mennonite Church and their dependents and families;

2. was formed as a fraternal benefit society under the laws of the State of Indiana prior to January 1, 1966 for the purpose of providing mutual aid in affiliation with the Mennonite Church; and

3. is registered as a foreign corporation under § 7–202 of the Corporations and Associations Article;

(3) a society or auxiliary of an order, society, or association described in item (2) of this subsection;

(4) a domestic society that:

(i) limits its membership to employees of a particular municipal area or a designated firm, business house, or corporation;

(ii) provides for individual death benefits not exceeding $400 per year or disability benefits not exceeding $350 per year or both; and

(iii) does not issue benefit certificates; **[**and**]**

(5) a domestic society or association that:

(i) has a purely religious, charitable, or benevolent purpose;

(ii) provides for individual death benefits not exceeding $400 per year or disability benefits not exceeding $350 per year or both;

(iii) does not issue benefit certificates; and

(iv) has a membership of not more than 1,000 individuals**; AND**

(6) ANY ASSOCIATION, WHETHER OR NOT A FRATERNAL BENEFIT SOCIETY:

(I) THAT WAS ORGANIZED BEFORE 1880;

(II) THE MEMBERS OF WHICH ARE OFFICERS OR ENLISTED, REGULAR OR RESERVE, ACTIVE, RETIRED, OR HONORABLY DISCHARGED MEMBERS OF THE ARMED FORCES OR THE SEA SERVICES OF THE UNITED STATES; AND

(III) A PRINCIPAL PURPOSE OF WHICH IS TO PROVIDE INSURANCE AND OTHER BENEFITS TO ITS MEMBERS AND THE DEPENDENTS OR BENEFICIARIES OF ITS MEMBERS.

(b) Except for an organization described in subsection (a)(2) or (3) of this section, a society that is exempt from this subtitle may not give, allow, or promise to give or allow to any person compensation for obtaining new members.

(c) The provisions of this subtitle relating to medical examination, valuation of benefit certificates, and incontestability do not apply to a society that:

(1) provides benefits in case of death or disability resulting solely from accident; and

(2) does not obligate itself to pay natural death or sickness benefits.

(d) By examination or otherwise, the Commissioner may require information from any society or association that will enable the Commissioner to determine whether the society or association is exempt from this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 580

(House Bill 537)

AN ACT concerning

Fraternal Benefit Societies – Exemption for Mutual Aid Associations – Clarification

FOR the purpose of clarifying that certain laws governing fraternal benefit societies and other insurance laws of the State do not apply to certain mutual aid associations that were organized before a certain date, have a membership composed of certain members of the Armed Forces or Sea Services of the United States, and have as a principal purpose to provide insurance and other benefits to certain individuals; and generally relating to exemptions of entities from regulation under State insurance laws.

BY repealing and reenacting, with amendments,
Article – Insurance
Section 8–404
Annotated Code of Maryland
(2003 Replacement Volume and 2008 Supplement)

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

Article – Insurance

8–404.

(a) Except as provided in this section, this subtitle and the other insurance laws of the State do not apply to:

(1) a grand or subordinate lodge or society, order, or association that:

(i) was doing business in the State on December 31, 1963;

(ii) provides benefits exclusively through local or subordinate lodges; and

(iii) does not issue benefit certificates;

(2) an order, society, or association that:

(i) 1. limits its membership to individuals engaged in one or more crafts or hazardous occupations in the same or similar lines of business; and

2. insures only its members and their families and dependents; or

(ii) 1. as to individual health insurance policies, offers those policies in this State only to members of the Mennonite Church and their dependents and families;

2. was formed as a fraternal benefit society under the laws of the State of Indiana prior to January 1, 1966 for the purpose of providing mutual aid in affiliation with the Mennonite Church; and

3. is registered as a foreign corporation under § 7–202 of the Corporations and Associations Article;

(3) a society or auxiliary of an order, society, or association described in item (2) of this subsection;

(4) a domestic society that:

(i) limits its membership to employees of a particular municipal area or a designated firm, business house, or corporation;

(ii) provides for individual death benefits not exceeding $400 per year or disability benefits not exceeding $350 per year or both; and

(iii) does not issue benefit certificates; **[**and**]**

(5) a domestic society or association that:

(i) has a purely religious, charitable, or benevolent purpose;

(ii) provides for individual death benefits not exceeding $400 per year or disability benefits not exceeding $350 per year or both;

(iii) does not issue benefit certificates; and

(iv) has a membership of not more than 1,000 individuals**; AND**

(6) ANY ASSOCIATION, WHETHER OR NOT A FRATERNAL BENEFIT SOCIETY:

(I) THAT WAS ORGANIZED BEFORE 1880;

(II) THE MEMBERS OF WHICH ARE OFFICERS OR ENLISTED, REGULAR OR RESERVE, ACTIVE, RETIRED, OR HONORABLY DISCHARGED MEMBERS OF THE ARMED FORCES OR THE SEA SERVICES OF THE UNITED STATES; AND

(III) A PRINCIPAL PURPOSE OF WHICH IS TO PROVIDE INSURANCE AND OTHER BENEFITS TO ITS MEMBERS AND THE DEPENDENTS OR BENEFICIARIES OF ITS MEMBERS.

(b) Except for an organization described in subsection (a)(2) or (3) of this section, a society that is exempt from this subtitle may not give, allow, or promise to give or allow to any person compensation for obtaining new members.

(c) The provisions of this subtitle relating to medical examination, valuation of benefit certificates, and incontestability do not apply to a society that:

(1) provides benefits in case of death or disability resulting solely from accident; and

(2) does not obligate itself to pay natural death or sickness benefits.

(d) By examination or otherwise, the Commissioner may require information from any society or association that will enable the Commissioner to determine whether the society or association is exempt from this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 581

(Senate Bill 651)

AN ACT concerning

Garrett County – Code of Ordinances – Natural Gas

FOR the purpose of repealing certain taxes on the purchase, distribution, and collection of natural gas in Garrett County; repealing certain taxes on purchasing natural gas in the county; repealing certain exclusions to the county natural gas tax; altering the amount of a certain Garrett County tax; requiring the tax to be distributed in certain amounts to the county and certain municipalities; repealing certain provisions to provide that the market value of natural gas in the county is the value at the mouth of the well; altering the day that certain taxes shall be paid; altering the frequency with which certain county taxes shall be paid; requiring a producer of natural gas in the county to make a certain report; requiring the Director of Finance to perform certain duties; repealing certain provisions relating to certain evidence in a judicial proceeding relating to failure to pay certain county taxes; repealing certain provisions creating a Garrett County Natural Gas Fund; repealing certain penalties that are applicable to purchasers of certain natural gas; making conforming changes; repealing certain definitions; altering certain definitions; and generally relating to natural gas distribution and production in Garrett County.

BY repealing and reenacting, with amendments,
The Public Local Laws of Garrett County
Section ~~51.02(A)~~ 51.01 through 51.07 and 51.99
Article 12 – Public Local Laws of Maryland
(2005 Edition and 2008 Supplement, as amended)

BY repealing
The Public Local Laws of Garrett County
Section 51.08
Article 12 – Public Local Laws of Maryland
(2005 Edition and 2008 Supplement, as amended)

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

Article 12 – Garrett County

51.01.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BUSINESS OF [COLLECTING, DISTRIBUTING OF PRODUCING GAS] **GAS PRODUCTION**. Applies to any person in the business of [purchasing or producing gas for resale to domestic and industrial consumers and includes any person who has voluntarily submitted to the regulations of the Federal Power Commission or the Public Service Commission regulations of the state] **PRODUCING GAS FOR SALE**.

[CARRIER. The owner, operator or manager of any means of transporting gas or any instrumentality that may now be used or come into use for such purpose.]

CASINGHEAD GAS. Any gas and/or vapor indigenous to an oil stratum and produced from such stratum with oil.

CUBIC FOOT OF GAS. The volume of gas expressed in cubic feet and computed at a base pressure of 6.28 ounces per square inch above the average barometric pressure of 14.4 pounds per square inch and a standard base and flowing temperature of 60°F, corrections to be made for pressure according to Boyle's law and for specific gravity according to tests made by the balance method.

[FIRST PURCHASER. Any person purchasing gas from the producer and includes any producer which is a utility retailing gas in Garrett County and any producer who does not sell his or her gas in Garrett County but transports it outside of the county before sale.]

GAS. Natural and casinghead gas or other gas taken from the earth or waters[.], regardless of whether produced from a gas well or from a well also productive of oil, distillate and/or condensate or other product.

[OPERATOR. The person having the active management and operation of the well.]

PERSON. Includes any person, firm, concern, receiver, trustee, executor, administrator, agent, institution, association, partnership, company, corporation, and persons acting under declarations of trust, as well as the trustees acting under such declarations of trust.

PRODUCER. Any person owning, controlling, managing or leasing any gas well and/or any person who produces in any manner any gas by taking it from the earth or waters in Garrett County[, and includes any person owning any royalty or other interest in any gas or its value, whether produced by him or her or by some other person on his or her behalf, either by lease, contract or otherwise].

PRODUCTION or TOTAL GAS PRODUCED. The total gross amount of gas produced[, including all royalty or other interest]. The amount for the purpose of the tax imposed by this chapter shall be measured or determined by meter readings showing 100% of the full volume expressed in cubic feet.

REPORT. Any report required to be furnished by this chapter or that may be required by the County Commissioners in the administration of this chapter.

[ROYALTY OWNERS. Includes all persons owning any mineral rights under any producing leasehold within Garrett County, other than the working interest,

which working interest is that of the person having the management and operation of the well.

SUBSEQUENT PURCHASER. Any person who purchases gas for any purpose whatsoever when the gas is purchased from any person other than the producer.**]**

TAXPAYER. Any person subject to the tax herein levied.

51.02.

(A) There is levied a ~~distribution and~~ production tax on the business or occupation of ~~collecting, distributing and~~ producing natural gas or other gases taken from the earth in Garrett County, computed as follows:

(1) A tax shall be paid on the gas produced ~~and saved for commercial purposes~~ within Garrett County, accounting from January 1, 1951, equivalent to **[**7%**]** **5.5%** of the wholesale market value ~~thereof as and~~ when produced~~, provided that the amount of the tax shall never be less than 11/150 of 1% per 1,000 cubic feet~~ **AT THE WELLHEAD**;

~~(2) In calculating the tax herein levied, the following shall be excluded:~~

~~(a) Gas injected into a natural oil- or gas-bearing reservoir in Garrett County, unless sold for such purpose;~~

~~(b) Gas produced from oil wells with oil and lawfully vented or flared;~~

~~(c) Gas used for lifting oil, unless sold for such purpose.~~

~~(3)~~ (2) **MONEY RECEIVED PURSUANT TO THE TAX SHALL BE DISTRIBUTED AS FOLLOWS:**

(A) TEN–ELEVENTHS TO THE COUNTY; AND

(B) ONE–ELEVENTH TO MUNICIPALITIES IN THE COUNTY DISTRIBUTED ON A PER CAPITA BASIS, BASED ON POPULATION RECORDS AS UPDATED BY THE STATE PLANNING COMMISSION.

(B) The market value of gas produced in Garrett County shall be the value thereof at the mouth of the well**[**; however, in case gas is sold for cash only, the tax shall be computed on the producer's gross cash receipts. In all cases where the whole or a part of the consideration for the sale of gas is a portion of the products extracted from the producer's gas or a portion of the residue gas, or both, the tax shall be computed on the gross value of all things of value received by the producer, including

any bonus or premium, provided that, notwithstanding any other provision herein to the contrary, where gas is processed for the liquid hydrocarbon content and the residue gas is returned by cycling methods, as distinguished from repressuring or pressure maintenance methods, to some gas–producing formation, the taxable value of such gas shall be 3/5 of the gross value of all liquids extracted, separated and saved from the gas, such value to be determined upon separation and extraction and prior to absorption, refining or procession of such hydrocarbons, and the quantity of the products shall be measured by the total yield of the processing plant from the gas.

(C) The tax hereby levied shall be the liability of the producer and purchaser of gas in the following proportions:

(1) The producer shall be liable for 60% of the tax hereby levied;

(2) The purchaser shall be liable for 40% of the tax hereby levied**]**.

[(D)**]** **(C)** The **[**first purchaser**]** **PRODUCER** of gas shall pay the total tax on all gas **[**purchased**]** **PRODUCED**, making the payments of tax to the County Commissioners of Garrett County by legal tender or cashier's check payable to the County Commissioners. **[**The first purchaser shall be entitled to deduct the proportionate amount of the tax chargeable to the producer and royalty owner from the amount due the producer from whom such gas is purchased, and the producer shall be entitled to deduct the proportionate amount of the tax chargeable to any other producer owning an interest in such gas from the amount due such other producer and shall be entitled to deduct the proportionate amount of the tax chargeable to any royalty owner from the amount due such royalty owner, and such moneys so deducted from payments due producers for the payment of this tax shall be held by the purchaser in trust for the use and benefit of Garrett County and shall not be commingled with any other funds held by the purchaser and shall be remitted to the County Commissioners, together with the purchaser's proportion of the tax, in accordance with the terms and provisions of this chapter.**]** It shall be the duty of each such **[**purchaser**]** **PRODUCER** to keep accurate records of all such gas **[**purchased**]** **PRODUCED**.

[(E)**]** **(D)** The tax herein levied shall be due and payable at the office of the County Commissioners of Garrett County **[**on the last day of April, July, October and January**]** **BY THE 15TH DAY OF EACH MONTH** of each calendar year, based on the amount of gas produced**[**, saved and collected during the calendar quarter ending on the last day of March, June, September and December, respectively, and on**]** **IN THE PRECEDING MONTH. ON** or before such date each **[**purchaser**]** **PRODUCER** shall make and deliver to the County Commissioners a verified report, on forms prescribed by **[**them**]** **THE COUNTY**, showing the gross amount of gas produced **[**and collected, less the exclusions and at the pressure base set out herein**]**, upon which the tax herein levied accrues, together with details as to the amount of gas, from what leases the gas was produced **[**and collected**]**, the correct names and addresses of the producer **[**and

purchaser] of the gas and such other information as the County Commissioners may require. In no event shall a producer [or purchaser] be relieved of responsibility for the tax until same shall have been paid[, and provided that in the event the amount of the tax herein levied as the producer's proportion thereof shall be withheld by a purchaser from payments due a producer and the purchaser fails to make payment of the tax to the County Commissioners as provided herein and the producer pays the tax himself or herself, the producer may bring legal action against such purchaser to recover the amount of tax so withheld, together with penalties and interest which may have accrued by failure to make such payment, and shall be entitled to reasonable attorney's fees and court costs incurred by legal action].

[(F)] **(E)** Unless the payment of tax on all gas produced [and collected] during any [quarter] **MONTH** or fractional part thereof shall be made on or before the date due as hereinabove specified, such payment shall become delinquent and a penalty of 10% of the amount of the tax shall be added, and the tax and penalty shall bear interest at the rate of 6% per annum from the date due until the date paid.

[(G) The producer's proportion of the tax herein levied shall be borne ratably by all interested parties, including royalty interest, lessor's interest or any other interest. whether by lease, contract or otherwise, except the purchaser's interest, and the purchaser is authorized and required to withhold from any payment due any interested parties the proportionate tax due and remit the same as above provided.

(H) The operator of each well from which gas is produced, saved and collected in Garrett County shall also make and deliver to the County Commissioners of Garrett County, on or before the due date of the payments provided above, a report of all gas produced and sold from each well during the preceding quarter, together with details as to amounts of gas, the name or location of the wells, the correct names and addresses of the producer and purchaser of the gas and such other information as the County Commissioners may require.

(I) The tax imposed is in lieu of all other taxes upon the gas, the property rights attached thereto or inherent therein and the values created thereby, and upon all leases or rights to develop and operate any lands for gas, the values created thereby and the property right attached thereto or inherent therein.]

51.03.

[(A)] When it shall appear that a taxpayer to whom the provisions of this chapter shall apply has erroneously paid more taxes than were due during any taxpaying period on account of a mistake either of fact or of law, it shall be the duty of the [County Treasurer] **DIRECTOR OF FINANCE**, upon order of the County Commissioners, to credit the total amount of taxes due by the taxpayer for the current period with the total amount of taxes so erroneously paid or to make refund in a proper case.

[(B) The tax levied shall be paid by the first purchaser purchasing gas from the producer, who shall make deduction as aforesaid; provided, however, that the failure of the first purchaser to pay the tax shall not relieve any subsequent purchaser from the payment of same where the first purchaser does not account for and pay the tax, and it shall be the duty of every person purchasing gas produced in Garrett County to satisfy himself, herself or itself that the tax on the gas has been or will be paid by the persons primarily liable therefor.]

51.04.

The County Commissioners may, through the County Auditors or other auditors and/or other technical assistants employed for the purpose of verifying reports and investigating the affairs of producers [and/or purchasers], determine whether the tax is being properly reported and paid. They shall have the power to enter upon the premises necessary in determining the correct tax liability and to examine or cause to be examined any books or records of any person subject to a tax under this chapter and to secure any other information directly or indirectly concerned in the enforcement of this chapter and to promulgate and enforce, according to law, rules and regulations pertinent to the enforcement of this chapter, which shall have full force and effect of law.

51.05.

If the County Commissioners are satisfied that the values used in computing the tax do not represent the **WHOLESALE** market value of the gas at the mouth of the well, they shall forthwith so notify the taxpayers concerned, and it shall be the duty of the County Commissioners to set a date for a hearing thereon, giving each taxpayer concerned not less than 10 days written notice thereof, and to call before them by proper process such persons as in their judgment may know the **WHOLESALE** market value of the gas at the mouth of the well, who shall testify under oath as to the **WHOLESALE** market value thereof. Each taxpayer shall have the right to be heard and present evidence. The County Commissioners, after hearing the evidence, shall fix the **WHOLESALE** market value of the gas at the mouth of the well by written findings in accordance with the evidence so introduced, and their findings in such case or cases shall be final, unless the taxpayer concerned shall pay the tax herein levied upon the **WHOLESALE** market value so fixed by the County Commissioners under protest within 60 days after the taxpayer has been notified in writing of the findings, or in the event the taxpayer does not pay the tax based on the values so determined by the County Commissioners within 60 days after having been notified of the findings. The findings of the County Commissioners shall be final, unless the taxpayer shall, within 60 days, appeal to the Circuit Court of Garrett County. Upon the appeal, the trial shall be de novo, but the findings of the County Commissioners shall be taken as prima facie evidence of the **WHOLESALE** market value of the gas at the mouth of the well, and the burden of proof shall rest upon the taxpayer to establish a lower **WHOLESALE** market value.

51.06.

In the event of any person engaged in the business of producing [or purchasing] any gas in Garrett County shall become delinquent in the payment of the proper taxes herein imposed or fails to file required reports with the County Commissioners, the County Commissioners shall have the right to enjoin any such person who is at fault from producing gas until the delinquent tax is paid or the reports are filed.

51.07.

[(A) (1) If any purchaser of natural and/or casinghead gas fails or refuses to pay any tax, penalty or interest within the time and manner provided by this chapter and it becomes necessary to bring suit or to intervene in any manner for the establishment or collection of the claim in any judicial proceedings, any report filed in the office of the County Commissioners by such purchaser or producer or representative of the purchaser or producer or a copy thereof certified to by the County Commissioners showing the amount of gas produced on which tax, penalties or interest have not been paid or any audit made by the County Commissioners or their representatives from the books of the purchaser when filed and sworn to by such representative as being made from the records of the purchaser shall be admissible in evidence in the proceedings and shall be prima facie evidence of the contents thereof; provided, however, that the incorrectness of the report or audit may be shown, and provided further that the report or audit may be admitted in evidence only against the party by or from whom it was made.

(2) In the event the County Commissioners shall file suit or claim for taxes provided for in the foregoing and attach or file as an exhibit any report or audit of the purchaser or producer and an affidavit made by the County Commissioners or their representative that the taxes shown to be due by the report or audit are past due and unpaid and that all payments and credits have been allowed, then, unless the party resisting the same shall file an answer in the same form and manner as required by law, the audit or report shall be taken as prima facie evidence thereof.]

[(B)] **(A)** ~~(1)~~ On notice from the County Commissioners, it shall be unlawful for any person to produce or remove any natural [and/or casinghead] gas from any lease in Garrett County whenever the [owner or operator of the lease] **PRODUCER** has failed to file reports as required under the provisions of this chapter.

~~(2)~~ ***(B)*** Whenever any lease producing natural [and/or casinghead] gas changes hands [or any purchaser of gas transfers his or her interest], it shall be the duty of the [owner or operator of the lease and any such purchaser of gas] **PRODUCER** to note on his or her last report that the lease or interest has been sold or transferred, showing the effective date of the change and the name and address of the individual, firm, association, joint–stock company, syndicate, copartnership, corporation, agency or receiver who will operate the lease or who bought the interest and will be responsible for the filing of reports provided for in this chapter. It further

shall be the duty of the new [owner or operator of the lease or interest] **PRODUCER** to note on his or her first report that the lease or interest has been acquired, showing the effective date of the change and the name and address of the individual, firm, association, joint–stock company, syndicate, copartnership, corporation, agency or receiver formerly owning and/or operating the lease or interest.

[51.08.

(A) There is created the Natural Gas Fund, to which all receipts from the tax imposed by this chapter shall be credited on the books of the County Treasurer of Garrett County.

(B) The Natural Gas Fund shall be allocated and paid out for the following purposes and in the order herein set out:

(1) Fifteen percent of the receipts from the tax received from gas produced within the corporate limits of any incorporated town in Garrett County shall be paid to corporate officials of the town;

(2) The first $50,000 or as much thereof as shall be received each year shall be used towards the liquidation of the present indebtedness of Garrett County for public school building purposes;

(3) The next $25,000 of receipts from the tax or so much thereof as shall be received each year shall be used towards the payment of the expenses of maintenance and operation of the Garrett County Memorial Hospital;

(4) The balance, if any, of the receipts each year shall be placed in a New School Building Repair and/or Addition Fund, to be expended by the County Commissioners and the Board of Education of Garrett County as they may deem expedient and necessary, subject to the approval of the State Superintendent of Schools.]

51.99.

(A) Any person, firm, association or corporation, whose failure, omission, default or violation it may be, shall be subject to a penalty of not less than $100 nor more than $1,000 for failure or omission to keep the records required herein or for the violation of any of the other provisions hereof, and each day's violation shall constitute a separate offense. Garrett County shall have a prior lien for all delinquent taxes, penalties and interests on all property and equipment used by the [purchaser] **PRODUCER** of gas in the business of [purchasing] **PRODUCING** gas, and if any [purchaser] **PRODUCER** of gas shall fail to remit the proper taxes, penalties and interest due, or any of them, the County Commissioners may employ auditors or other persons to ascertain the correct amount due, and the [purchaser] **PRODUCER** of gas shall be liable, as additional penalty, for the reasonable expenses of the reasonable

value of such services of representatives of the County Commissioners incurred in such investigation and audit[, provided that all funds collected for audits and examinations shall be placed in a Natural Gas Audit Fund of Garrett County and shall constitute a revolving fund which may be used from time to time by the County Commissioners in making such audits in addition to the general appropriation made for such purposes, and all of the funds to be placed in the Fund are appropriated for such purpose]. The County Commissioners of Garrett County are authorized to collect all delinquent taxes, penalties and other amounts due and to enforce all liens under this law by civil suit.

(B) (1) Whoever shall, as a producer [or purchaser] or as agent or representative of a producer [or purchaser], knowingly make any false entries or fail to make any proper entries in the books required by this chapter with the intent to defraud Garrett County, or whoever, as such, shall knowingly make a false or incomplete report as required by the provisions of this chapter, or whoever, as such, shall knowingly fail or refuse to make the report required to be made, or whoever, as such, shall destroy, mutilate or secrete any of the records required to be kept by the provisions of this chapter, or whoever, as such, shall hide or secrete with the intent to defraud any of the property upon which a lien is created hereunder, shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined in a sum of not less than $100 nor more than $1,000, or be confined in the county jail for not more than 12 months, or be punishable by both such fine and imprisonment.

(2) In addition thereto, the producer [or purchaser] or agent thereof shall forfeit to Garrett County, for any offense or the violation of any of the provisions hereof or any rule or regulation, a penalty of $1,000 for each such offense, to be recovered by Garrett County in a civil suit. The penalties prescribed in this section, both criminal and civil, are in addition to any and all other penalties prescribed in this chapter.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 582

(House Bill 803)

AN ACT concerning

Garrett County – Code of Ordinances – Natural Gas

FOR the purpose of repealing certain taxes on the purchase, distribution, and collection of natural gas in Garrett County; repealing certain taxes on purchasing natural gas in the county; repealing certain exclusions to the county natural gas tax; altering the amount of a certain Garrett County tax; requiring the tax to be distributed in certain amounts to the county and certain municipalities; repealing certain provisions to provide that the market value of natural gas in the county is the value at the mouth of the well; altering the day that certain taxes shall be paid; altering the frequency with which certain county taxes shall be paid; repealing a requirement that the operator of a well make certain reports concerning gas production and sales; requiring a producer of natural gas in the county to make a certain report; requiring the Director of Finance to perform certain duties; repealing certain provisions relating to certain evidence in a judicial proceeding relating to failure to pay certain county taxes; repealing certain provisions creating a Garrett County Natural Gas Fund; repealing certain penalties that are applicable to purchasers of certain natural gas; making conforming changes; repealing certain definitions; altering certain definitions; and generally relating to natural gas distribution and production in Garrett County.

BY repealing and reenacting, with amendments,
The Public Local Laws of Garrett County
Section ~~51.02(A)~~ 51.01 through 51.07 and 51.99
Article 12 – Public Local Laws of Maryland
(2005 Edition and 2008 Supplement, as amended)

BY repealing
The Public Local Laws of Garrett County
Section 51.08
Article 12 – Public Local Laws of Maryland
(2005 Edition and 2008 Supplement, as amended)

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

Article 12 – Garrett County

51.01.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BUSINESS OF [COLLECTING, DISTRIBUTING OF PRODUCING GAS] **GAS PRODUCTION**. Applies to any person in the business of [purchasing or producing gas for resale to domestic and industrial consumers and includes any person who has voluntarily submitted to the regulations of the Federal Power Commission or the Public Service Commission regulations of the state] **PRODUCING GAS FOR SALE**.

[CARRIER. The owner, operator or manager of any means of transporting gas or any instrumentality that may now be used or come into use for such purpose.]

CASINGHEAD GAS. Any gas and/or vapor indigenous to an oil stratum and produced from such stratum with oil.

CUBIC FOOT OF GAS. The volume of gas expressed in cubic feet and computed at a base pressure of 6.28 ounces per square inch above the average barometric pressure of 14.4 pounds per square inch and a standard base and flowing temperature of 60° F, corrections to be made for pressure according to Boyle's law and for specific gravity according to tests made by the balance method.

[FIRST PURCHASER. Any person purchasing gas from the producer and includes any producer which is a utility retailing gas in Garrett County and any producer who does not sell his or her gas in Garrett County but transports it outside of the county before sale.]

GAS. Natural and casinghead gas or other gas taken from the earth or waters[.], regardless of whether produced from a gas well or from a well also productive of oil, distillate and/or condensate or other product.

[OPERATOR. The person having the active management and operation of the well.]

PERSON. Includes any person, firm, concern, receiver, trustee, executor, administrator, agent, institution, association, partnership, company, corporation, and persons acting under declarations of trust, as well as the trustees acting under such declarations of trust.

PRODUCER. Any person owning, controlling, managing or leasing any gas well and/or any person who produces in any manner any gas by taking it from the earth or waters in Garrett County[, and includes any person owning any royalty or other interest in any gas or its value, whether produced by him or her or by some other person on his or her behalf, either by lease, contract or otherwise].

PRODUCTION or TOTAL GAS PRODUCED. The total gross amount of gas produced[, including all royalty or other interest]. The amount for the purpose of the tax imposed by this chapter shall be measured or determined by meter readings showing 100% of the full volume expressed in cubic feet.

REPORT. Any report required to be furnished by this chapter or that may be required by the County Commissioners in the administration of this chapter.

[ROYALTY OWNERS. Includes all persons owning any mineral rights under any producing leasehold within Garrett County, other than the working interest,

which working interest is that of the person having the management and operation of the well.

SUBSEQUENT PURCHASER. Any person who purchases gas for any purpose whatsoever when the gas is purchased from any person other than the producer.]

TAXPAYER. Any person subject to the tax herein levied.

51.02.

(A) There is levied a ~~distribution and~~ production tax on the business or occupation of ~~collecting, distributing and~~ producing natural gas or other gases taken from the earth in Garrett County, computed as follows:

(1) A tax shall be paid on the gas produced ~~and saved for commercial purposes~~ within Garrett County, accounting from January 1, 1951, equivalent to **[**7%**]** **5.5%** of the wholesale market value ~~thereof as and~~ when produced~~, provided that the amount of the tax shall never be less than 11/150 of 1% per 1,000 cubic feet~~ **AT THE WELLHEAD**;

~~(2) In calculating the tax herein levied, the following shall be excluded:~~

~~(a) Gas injected into a natural oil- or gas-bearing reservoir in Garrett County, unless sold for such purpose;~~

~~(b) Gas produced from oil wells with oil and lawfully vented or flared;~~

~~(c) Gas used for lifting oil, unless sold for such purpose.~~

~~(3)~~ (2) **MONEY RECEIVED PURSUANT TO THE TAX SHALL BE DISTRIBUTED AS FOLLOWS:**

(A) TEN–ELEVENTHS TO THE COUNTY; AND

(B) ONE–ELEVENTH TO MUNICIPALITIES IN THE COUNTY DISTRIBUTED ON A PER CAPITA BASIS, BASED ON POPULATION RECORDS AS UPDATED BY THE STATE PLANNING COMMISSION.

(B) The market value of gas produced in Garrett County shall be the value thereof at the mouth of the well**[**; however, in case gas is sold for cash only, the tax shall be computed on the producer's gross cash receipts. In all cases where the whole or a part of the consideration for the sale of gas is a portion of the products extracted from the producer's gas or a portion of the residue gas, or both, the tax shall be computed on the gross value of all things of value received by the producer, including

any bonus or premium, provided that, not withstanding any other provision herein to the contrary, where gas is processed for the liquid hydrocarbon content and the residue gas is returned by cycling methods, as distinguished from repressuring or pressure maintenance methods, to some gas–producing formation, the taxable value of such gas shall be 3/5 of the gross value of all liquids extracted, separated and saved from the gas, such value to be determined upon separation and extraction and prior to absorption, refining or procession of such hydrocarbons, and the quantity of the products shall be measured by the total yield of the processing plant from the gas.

(C) The tax hereby levied shall be the liability of the producer and purchaser of gas in the following proportions:

(1) The producer shall be liable for 60% of the tax hereby levied;

(2) The purchaser shall be liable for 40% of the tax hereby levied**]**.

[(D)**]** **(C)** The **[**first purchaser**]** **PRODUCER** of gas shall pay the total tax on all gas **[**purchased**]** **PRODUCED**, making the payments of tax to the County Commissioners of Garrett County by legal tender or cashier's check payable to the County Commissioners. **[**The first purchaser shall be entitled to deduct the proportionate amount of the tax chargeable to the producer and royalty owner from the amount due the producer from whom such gas is purchased, and the producer shall be entitled to deduct the proportionate amount of the tax chargeable to any other producer owning an interest in such gas from the amount due such other producer and shall be entitled to deduct the proportionate amount of the tax chargeable to any royalty owner from the amount due such royalty owner, and such moneys so deducted from payments due producers for the payment of this tax shall be held by the purchaser in trust for the use and benefit of Garrett County and shall not be commingled with any other funds held by the purchaser and shall be remitted to the County Commissioners, together with the purchaser's proportion of the tax, in accordance with the terms and provisions of this chapter.**]** It shall be the duty of each such **[**purchaser**]** **PRODUCER** to keep accurate records of all such gas **[**purchased**]** **PRODUCED**.

[(E)**]** **(D)** The tax herein levied shall be due and payable at the office of the County Commissioners of Garrett County **[**on the last day of April, July, October and January**]** **BY THE 15TH DAY OF EACH MONTH** of each calendar year, based on the amount of gas produced**[**, saved and collected during the calendar quarter ending on the last day of March, June, September and December, respectively, and on**]** **IN THE PRECEDING MONTH. ON** or before such date each **[**purchaser**]** **PRODUCER** shall make and deliver to the County Commissioners a verified report, on forms prescribed by **[**them**]** **THE COUNTY**, showing the gross amount of gas produced **[**and collected, less the exclusions and at the pressure base set out herein**]**, upon which the tax herein levied accrues, together with details as to the amount of gas, from what leases the gas was produced **[**and collected**]**, the correct names and addresses of the producer **[**and

purchaser] of the gas and such other information as the County Commissioners may require. In no event shall a producer [or purchaser] be relieved of responsibility for the tax until same shall have been paid[, and provided that in the event the amount of the tax herein levied as the producer's proportion thereof shall be withheld by a purchaser from payments due a producer and the purchaser fails to make payment of the tax to the County Commissioners as provided herein and the producer pays the tax himself or herself, the producer may bring legal action against such purchaser to recover the amount of tax so withheld, together with penalties and interest which may have accrued by failure to make such payment, and shall be entitled to reasonable attorney's fees and court costs incurred by legal action].

[(F)] **(E)** Unless the payment of tax on all gas produced [and collected] during any [quarter] **MONTH** or fractional part thereof shall be made on or before the date due as hereinabove specified, such payment shall become delinquent and a penalty of 10% of the amount of the tax shall be added, and the tax and penalty shall bear interest at the rate of 6% per annum from the date due until the date paid.

[(G) The producer's proportion of the tax herein levied shall be borne ratably by all interested parties, including royalty interest, lessor's interest or any other interest. whether by lease, contract or otherwise, except the purchaser's interest, and the purchaser is authorized and required to withhold from any payment due any interested parties the proportionate tax due and remit the same as above provided.

(H) The operator of each well from which gas is produced, saved and collected in Garrett County shall also make and deliver to the County Commissioners of Garrett County, on or before the due date of the payments provided above, a report of all gas produced and sold from each well during the preceding quarter, together with details as to amounts of gas, the name or location of the wells, the correct names and addresses of the producer and purchaser of the gas and such other information as the County Commissioners may require.

(I) The tax imposed is in lieu of all other taxes upon the gas, the property rights attached thereto or inherent therein and the values created thereby, and upon all leases or rights to develop and operate any lands for gas, the values created thereby and the property right attached thereto or inherent therein.]

51.03.

[(A)] When it shall appear that a taxpayer to whom the provisions of this chapter shall apply has erroneously paid more taxes than were due during any taxpaying period on account of a mistake either of fact or of law, it shall be the duty of the [County Treasurer] **DIRECTOR OF FINANCE**, upon order of the County Commissioners, to credit the total amount of taxes due by the taxpayer for the current period with the total amount of taxes so erroneously paid or to make refund in a proper case.

[(B) The tax levied shall be paid by the first purchaser purchasing gas from the producer, who shall make deduction as aforesaid; provided, however, that the failure of the first purchaser to pay the tax shall not relieve any subsequent purchaser from the payment of same where the first purchaser does not account for and pay the tax, and it shall be the duty of every person purchasing gas produced in Garrett County to satisfy himself, herself or itself that the tax on the gas has been or will be paid by the persons primarily liable therefor.]

51.04.

The County Commissioners may, through the County Auditors or other auditors and/or other technical assistants employed for the purpose of verifying reports and investigating the affairs of producers [and/or purchasers], determine whether the tax is being properly reported and paid. They shall have the power to enter upon the premises necessary in determining the correct tax liability and to examine or cause to be examined any books or records of any person subject to a tax under this chapter and to secure any other information directly or indirectly concerned in the enforcement of this chapter and to promulgate and enforce, according to law, rules and regulations pertinent to the enforcement of this chapter, which shall have full force and effect of law.

51.05.

If the County Commissioners are satisfied that the values used in computing the tax do not represent the **WHOLESALE** market value of the gas at the mouth of the well, they shall forthwith so notify the taxpayers concerned, and it shall be the duty of the County Commissioners to set a date for a hearing thereon, giving each taxpayer concerned not less than 10 days written notice thereof, and to call before them by proper process such persons as in their judgment may know the **WHOLESALE** market value of the gas at the mouth of the well, who shall testify under oath as to the **WHOLESALE** market value thereof. Each taxpayer shall have the right to be heard and present evidence. The County Commissioners, after hearing the evidence, shall fix the **WHOLESALE** market value of the gas at the mouth of the well by written findings in accordance with the evidence so introduced, and their findings in such case or cases shall be final, unless the taxpayer concerned shall pay the tax herein levied upon the **WHOLESALE** market value so fixed by the County Commissioners under protest within 60 days after the taxpayer has been notified in writing of the findings, or in the event the taxpayer does not pay the tax based on the values so determined by the County Commissioners within 60 days after having been notified of the findings. The findings of the County Commissioners shall be final, unless the taxpayer shall, within 60 days, appeal to the Circuit Court of Garrett County. Upon the appeal, the trial shall be de novo, but the findings of the County Commissioners shall be taken as prima facie evidence of the **WHOLESALE** market value of the gas at the mouth of the well, and the burden of proof shall rest upon the taxpayer to establish a lower **WHOLESALE** market value.

51.06.

In the event of any person engaged in the business of producing [or purchasing] any gas in Garrett County shall become delinquent in the payment of the proper taxes herein imposed or fails to file required reports with the County Commissioners, the County Commissioners shall have the right to enjoin any such person who is at fault from producing gas until the delinquent tax is paid or the reports are filed.

51.07.

[(A) (1) If any purchaser of natural and/or casinghead gas fails or refuses to pay any tax, penalty or interest within the time and manner provided by this chapter and it becomes necessary to bring suit or to intervene in any manner for the establishment or collection of the claim in any judicial proceedings, any report filed in the office of the County Commissioners by such purchaser or producer or representative of the purchaser or producer or a copy thereof certified to by the County Commissioners showing the amount of gas produced on which tax, penalties or interest have not been paid or any audit made by the County Commissioners or their representatives from the books of the purchaser when filed and sworn to by such representative as being made from the records of the purchaser shall be admissible in evidence in the proceedings and shall be prima facie evidence of the contents thereof; provided, however, that the incorrectness of the report or audit may be shown, and provided further that the report or audit may be admitted in evidence only against the party by or from whom it was made.

(2) In the event the County Commissioners shall file suit or claim for taxes provided for in the foregoing and attach or file as an exhibit any report or audit of the purchaser or producer and an affidavit made by the County Commissioners or their representative that the taxes shown to be due by the report or audit are past due and unpaid and that all payments and credits have been allowed, then, unless the party resisting the same shall file an answer in the same form and manner as required by law, the audit or report shall be taken as prima facie evidence thereof.]

[(B)] **(A)** ~~(1)~~ On notice from the County Commissioners, it shall be unlawful for any person to produce or remove any natural [and/or casinghead] gas from any lease in Garrett County whenever the [owner or operator of the lease] **PRODUCER** has failed to file reports as required under the provisions of this chapter.

~~(2)~~ ***(B)*** Whenever any lease producing natural [and/or casinghead] gas changes hands [or any purchaser of gas transfers his or her interest], it shall be the duty of the [owner or operator of the lease and any such purchaser of gas] **PRODUCER** to note on his or her last report that the lease or interest has been sold or transferred, showing the effective date of the change and the name and address of the individual, firm, association, joint–stock company, syndicate, copartnership, corporation, agency or receiver who will operate the lease or who bought the interest and will be responsible for the filing of reports provided for in this chapter. It further

shall be the duty of the new [owner or operator of the lease or interest] **PRODUCER** to note on his or her first report that the lease or interest has been acquired, showing the effective date of the change and the name and address of the individual, firm, association, joint–stock company, syndicate, copartnership, corporation, agency or receiver formerly owning and/or operating the lease or interest.

[51.08.

(A) There is created the Natural Gas Fund, to which all receipts from the tax imposed by this chapter shall be credited on the books of the County Treasurer of Garrett County.

(B) The Natural Gas Fund shall be allocated and paid out for the following purposes and in the order herein set out:

(1) Fifteen percent of the receipts from the tax received from gas produced within the corporate limits of any incorporated town in Garrett County shall be paid to corporate officials of the town;

(2) The first $50,000 or as much thereof as shall be received each year shall be used towards the liquidation of the present indebtedness of Garrett County for public school building purposes;

(3) The next $25,000 of receipts from the tax or so much thereof as shall be received each year shall be used towards the payment of the expenses of maintenance and operation of the Garrett County Memorial Hospital;

(4) The balance, if any, of the receipts each year shall be placed in a New School Building Repair and/or Addition Fund, to be expended by the County Commissioners and the Board of Education of Garrett County as they may deem expedient and necessary, subject to the approval of the State Superintendent of Schools.]

51.99.

(A) Any person, firm, association or corporation, whose failure, omission, default or violation it may be, shall be subject to a penalty of not less than $100 nor more than $1,000 for failure or omission to keep the records required herein or for the violation of any of the other provisions hereof, and each day's violation shall constitute a separate offense. Garrett County shall have a prior lien for all delinquent taxes, penalties and interests on all property and equipment used by the [purchaser] **PRODUCER** of gas in the business of [purchasing] **PRODUCING** gas, and if any [purchaser] **PRODUCER** of gas shall fail to remit the proper taxes, penalties and interest due, or any of them, the County Commissioners may employ auditors or other persons to ascertain the correct amount due, and the [purchaser] **PRODUCER** of gas shall be liable, as additional penalty, for the reasonable expenses of the reasonable

value of such services of representatives of the County Commissioners incurred in such investigation and audit[, provided that all funds collected for audits and examinations shall be placed in a Natural Gas Audit Fund of Garrett County and shall constitute a revolving fund which may be used from time to time by the County Commissioners in making such audits in addition to the general appropriation made for such purposes, and all of the funds to be placed in the Fund are appropriated for such purpose]. The County Commissioners of Garrett County are authorized to collect all delinquent taxes, penalties and other amounts due and to enforce all liens under this law by civil suit.

(B) (1) Whoever shall, as a producer [or purchaser] or as agent or representative of a producer [or purchaser], knowingly make any false entries or fail to make any proper entries in the books required by this chapter with the intent to defraud Garrett County, or whoever, as such, shall knowingly make a false or incomplete report as required by the provisions of this chapter, or whoever, as such, shall knowingly fail or refuse to make the report required to be made, or whoever, as such, shall destroy, mutilate or secrete any of the records required to be kept by the provisions of this chapter, or whoever, as such, shall hide or secrete with the intent to defraud any of the property upon which a lien is created hereunder, shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined in a sum of not less than $100 nor more than $1,000, or be confined in the county jail for not more than 12 months, or be punishable by both such fine and imprisonment.

(2) In addition thereto, the producer [or purchaser] or agent thereof shall forfeit to Garrett County, for any offense or the violation of any of the provisions hereof or any rule or regulation, a penalty of $1,000 for each such offense, to be recovered by Garrett County in a civil suit. The penalties prescribed in this section, both criminal and civil, are in addition to any and all other penalties prescribed in this chapter.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 583

(Senate Bill 654)

AN ACT concerning

Violent Crimes – Conditional Release Under Mandatory Supervision – Limitation

FOR the purpose of establishing that an inmate convicted of a certain violent crime committed on or after a certain date is not eligible for a certain conditional release until after the inmate becomes eligible for parole; requiring a court, when a sentence of confinement is imposed for a certain violent crime, to state in open court the minimum time a certain defendant must serve before becoming eligible for a certain conditional release under mandatory supervision; and generally relating to imposing sentences.

BY repealing and reenacting, without amendments,
Article – Correctional Services
Section 7–301(c) and (d)
Annotated Code of Maryland
(2008 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Correctional Services
Section 7–501
Annotated Code of Maryland
(2008 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Criminal Procedure
Section 6–217
Annotated Code of Maryland
(2008 Replacement Volume)

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

Article – Correctional Services

7–301.

(c) (1) (i) Except as provided in subparagraph (ii) of this paragraph, an inmate who has been sentenced to the Division of Correction after being convicted of a violent crime committed on or after October 1, 1994, is not eligible for parole until the inmate has served the greater of:

1. one–half of the inmate's aggregate sentence for violent crimes; or

2. one–fourth of the inmate's total aggregate sentence.

(ii) An inmate who has been sentenced to the Division of Correction after being convicted of a violent crime committed on or after October 1, 1994, and who has been sentenced to more than one term of imprisonment, including a term during which the inmate is eligible for parole and a term during which the

inmate is not eligible for parole, is not eligible for parole until the inmate has served the greater of:

1. one–half of the inmate's aggregate sentence for violent crimes;

2. one–fourth of the inmate's total aggregate sentence; or

3. a period equal to the term during which the inmate is not eligible for parole.

(2) An inmate who is serving a term of imprisonment for a violent crime committed on or after October 1, 1994, shall receive an administrative review of the inmate's progress in the correctional facility after the inmate has served the greater of:

(i) one–fourth of the inmate's aggregate sentence; or

(ii) if the inmate is serving a term of imprisonment that includes a mandatory term during which the inmate is not eligible for parole, a period equal to the term during which the inmate is not eligible for parole.

(d) (1) Except as provided in paragraphs (2) and (3) of this subsection, an inmate who has been sentenced to life imprisonment is not eligible for parole consideration until the inmate has served 15 years or the equivalent of 15 years considering the allowances for diminution of the inmate's term of confinement under § 6–218 of the Criminal Procedure Article and Title 3, Subtitle 7 of this article.

(2) An inmate who has been sentenced to life imprisonment as a result of a proceeding under § 2–303 or § 2–304 of the Criminal Law Article is not eligible for parole consideration until the inmate has served 25 years or the equivalent of 25 years considering the allowances for diminution of the inmate's term of confinement under § 6–218 of the Criminal Procedure Article and Title 3, Subtitle 7 of this article.

(3) (i) If an inmate has been sentenced to imprisonment for life without the possibility of parole under § 2–203 or § 2–304 of the Criminal Law Article, the inmate is not eligible for parole consideration and may not be granted parole at any time during the inmate's sentence.

(ii) This paragraph does not restrict the authority of the Governor to pardon or remit any part of a sentence under § 7–601 of this title.

(4) If eligible for parole under this subsection, an inmate serving a term of life imprisonment may only be paroled with the approval of the Governor.

7–501.

(A) [The] **EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE** Division of Correction shall grant a conditional release from confinement to an inmate who:

(1) is serving a term of confinement of more than 12 months;

(2) was sentenced on or after July 2, 1970, to the jurisdiction of the Division of Correction; and

(3) has served the term or terms, less diminution credit awarded under Title 3, Subtitle 7 and Title 11, Subtitle 5 of this article.

(B) AN INMATE CONVICTED OF A VIOLENT CRIME COMMITTED ON OR AFTER OCTOBER 1, 2009, IS NOT ELIGIBLE FOR A CONDITIONAL RELEASE UNDER THIS SECTION UNTIL AFTER THE INMATE BECOMES ELIGIBLE FOR PAROLE UNDER § 7–301(C) OR (D) OF THIS TITLE.

Article – Criminal Procedure

6–217.

(a) When a sentence of confinement that is to be served is imposed for a violent crime as defined in § 7–101 of the Correctional Services Article for which a defendant will be eligible for parole under § 7–301(c) or (d) of the Correctional Services Article, the court shall state in open court the minimum time the defendant must serve before becoming eligible for parole **AND BEFORE BECOMING ELIGIBLE FOR CONDITIONAL RELEASE UNDER MANDATORY SUPERVISION UNDER § 7–501 OF THE CORRECTIONAL SERVICES ARTICLE**.

(b) The statement required by subsection (a) of this section is for information only and is not a part of the sentence.

(c) The failure of a court to comply with subsection (a) of this section does not affect the legality or efficacy of the sentence.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 584

(House Bill 638)

AN ACT concerning

Violent Crimes – Conditional Release Under Mandatory Supervision – Limitation

FOR the purpose of establishing that an inmate convicted of a certain violent crime committed on or after a certain date is not eligible for a certain conditional release until after the inmate becomes eligible for parole; requiring a court, when a sentence of confinement is imposed for a certain violent crime, to state in open court the minimum time a certain defendant must serve before becoming eligible for a certain conditional release under mandatory supervision; and generally relating to imposing sentences.

BY repealing and reenacting, without amendments,
Article – Correctional Services
Section 7–301(c) and (d)
Annotated Code of Maryland
(2008 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Correctional Services
Section 7–501
Annotated Code of Maryland
(2008 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Criminal Procedure
Section 6–217
Annotated Code of Maryland
(2008 Replacement Volume)

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

Article – Correctional Services

7–301.

(c) (1) (i) Except as provided in subparagraph (ii) of this paragraph, an inmate who has been sentenced to the Division of Correction after being convicted of a violent crime committed on or after October 1, 1994, is not eligible for parole until the inmate has served the greater of:

1. one–half of the inmate's aggregate sentence for violent crimes; or

2. one–fourth of the inmate's total aggregate sentence.

(ii) An inmate who has been sentenced to the Division of Correction after being convicted of a violent crime committed on or after October 1, 1994, and who has been sentenced to more than one term of imprisonment, including a term during which the inmate is eligible for parole and a term during which the inmate is not eligible for parole, is not eligible for parole until the inmate has served the greater of:

1. one–half of the inmate's aggregate sentence for violent crimes;

2. one–fourth of the inmate's total aggregate sentence; or

3. a period equal to the term during which the inmate is not eligible for parole.

(2) An inmate who is serving a term of imprisonment for a violent crime committed on or after October 1, 1994, shall receive an administrative review of the inmate's progress in the correctional facility after the inmate has served the greater of:

(i) one–fourth of the inmate's aggregate sentence; or

(ii) if the inmate is serving a term of imprisonment that includes a mandatory term during which the inmate is not eligible for parole, a period equal to the term during which the inmate is not eligible for parole.

(d) (1) Except as provided in paragraphs (2) and (3) of this subsection, an inmate who has been sentenced to life imprisonment is not eligible for parole consideration until the inmate has served 15 years or the equivalent of 15 years considering the allowances for diminution of the inmate's term of confinement under § 6–218 of the Criminal Procedure Article and Title 3, Subtitle 7 of this article.

(2) An inmate who has been sentenced to life imprisonment as a result of a proceeding under § 2–303 or § 2–304 of the Criminal Law Article is not eligible for parole consideration until the inmate has served 25 years or the equivalent of 25 years considering the allowances for diminution of the inmate's term of confinement under § 6–218 of the Criminal Procedure Article and Title 3, Subtitle 7 of this article.

(3) (i) If an inmate has been sentenced to imprisonment for life without the possibility of parole under § 2–203 or § 2–304 of the Criminal Law Article, the inmate is not eligible for parole consideration and may not be granted parole at any time during the inmate's sentence.

(ii) This paragraph does not restrict the authority of the Governor to pardon or remit any part of a sentence under § 7–601 of this title.

(4) If eligible for parole under this subsection, an inmate serving a term of life imprisonment may only be paroled with the approval of the Governor.

7–501.

(A) [The] **EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE** Division of Correction shall grant a conditional release from confinement to an inmate who:

(1) is serving a term of confinement of more than 12 months;

(2) was sentenced on or after July 2, 1970, to the jurisdiction of the Division of Correction; and

(3) has served the term or terms, less diminution credit awarded under Title 3, Subtitle 7 and Title 11, Subtitle 5 of this article.

(B) AN INMATE CONVICTED OF A VIOLENT CRIME COMMITTED ON OR AFTER OCTOBER 1, 2009, IS NOT ELIGIBLE FOR A CONDITIONAL RELEASE UNDER THIS SECTION UNTIL AFTER THE INMATE BECOMES ELIGIBLE FOR PAROLE UNDER § 7–301(C) OR (D) OF THIS TITLE.

Article – Criminal Procedure

6–217.

(a) When a sentence of confinement that is to be served is imposed for a violent crime as defined in § 7–101 of the Correctional Services Article for which a defendant will be eligible for parole under § 7–301(c) or (d) of the Correctional Services Article, the court shall state in open court the minimum time the defendant must serve before becoming eligible for parole **AND BEFORE BECOMING ELIGIBLE FOR CONDITIONAL RELEASE UNDER MANDATORY SUPERVISION UNDER § 7–501 OF THE CORRECTIONAL SERVICES ARTICLE**.

(b) The statement required by subsection (a) of this section is for information only and is not a part of the sentence.

(c) The failure of a court to comply with subsection (a) of this section does not affect the legality or efficacy of the sentence.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 585

(Senate Bill 661)

AN ACT concerning

Health Insurance – Use of Physician Rating Systems by Carriers

FOR the purpose of ~~providing that a carrier may only use a physician rating system for certain health benefit plans if the system meets certain requirements; providing that a carrier may only use certain categories of measurements in a physician rating system; prohibiting a carrier from rating a physician based solely on cost efficiency; requiring a carrier to calculate and disclose certain measures in a certain manner; requiring a carrier to disclose a material change in a physician rating system at a certain time; requiring a carrier to use certain risk adjustments in determining the quality of performance and the cost efficiency of a physician; requiring a carrier to describe its physician rating system to certain physicians in a certain manner; requiring a carrier to make certain disclosures to certain physicians and enrollees; requiring a carrier to ensure that certain data is accurate; requiring a carrier to use certain measurements under certain circumstances; requiring a carrier to describe to certain physicians and to a certain ratings examiner certain information; requiring a carrier to make certain determinations in determining the data to be used to measure the quality of performance of a physician; requiring a carrier to use the most current claims and data to measure physician quality of performance; requiring a carrier to use certain computer software under certain circumstances; requiring a carrier that uses a physician rating system to establish a certain complaint process for enrollees; requiring a carrier that uses a physician rating system to post certain information on its website in a certain manner; requiring a carrier to provide certain physicians certain information at a certain time before making certain information available to enrollees; prohibiting a carrier from making a certain change under certain circumstances; requiring a carrier to establish a certain appeals process under certain circumstances; providing that a ratings examiner shall have oversight and review of the appeals process; requiring a carrier to contract with and pay for a ratings examiner to review certain physician rating systems; prohibiting a carrier from implementing a physician rating system until the carrier submits the system to a certain ratings examiner for review; requiring a carrier to make certain disclosures and provide certain information to a ratings examiner; requiring a carrier to obtain certain reviews by a ratings examiner under certain circumstances; requiring a carrier to disclose the results of any reviews conducted by a ratings examiner in a certain manner; requiring a certain ratings examiner to report annually to the Maryland Health Care Commission~~

~~and the Maryland Insurance Administration regarding certain information; authorizing the Insurance Commissioner, in consultation with the Maryland Health Care Commission, to adopt regulations to implement the provisions of this Act;~~ requiring the Maryland Health Care Commission to approve a certain entity to be a physician rating system examiner under certain circumstances; providing that an entity that has a certain program approved by a certain consortium is deemed to be a ratings examiner; prohibiting certain health insurance carriers from using a physician rating system unless the physician rating system is approved by a ratings examiner; requiring a carrier to contract with and pay for a ratings examiner to review certain physician rating systems; providing that a physician rating system of a carrier is deemed to meet certain requirements of this Act under certain circumstances; requiring certain carriers to establish a certain appeals process; requiring certain carriers to provide certain physicians with certain information under certain circumstances; prohibiting a carrier from disclosing a certain rating under certain circumstances; requiring a carrier to post certain information on a certain section of the carrier's website; requiring a carrier to notify the Maryland Insurance Commissioner of the results of a certain final review within a certain time period; authorizing the Commissioner to order a carrier to correct a certain deficiency or cease use of a certain physician rating system under certain circumstances; requiring certain carriers to annually report to the Commissioner on the number and outcome of certain appeals; requiring the Commissioner and the Health Care Commission to issue a certain report annually for the Governor and the General Assembly on or before a certain date; defining certain terms; providing for a delayed effective date; and generally relating to use of physician rating systems by health insurance carriers.

BY adding to
Article – Health – General
Section 19–142 and 19–143 to be under the new part "Part IV. Examiners of Physician Rating Systems"; and 19–706(ttt)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY adding to
Article – Insurance
Section 15–1701 through ~~15–1709~~ 15–1705 to be under the new subtitle "Subtitle 17. Regulation of Physician Rating Systems"
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – Health – General

PART IV. EXAMINERS OF PHYSICIAN RATING SYSTEMS.

19–142.

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

(B) "CARRIER" HAS THE MEANING STATED IN § 15–1301 OF THE INSURANCE ARTICLE.

(C) "ENROLLEE" MEANS AN INDIVIDUAL ENTITLED TO HEALTH BENEFITS FROM A CARRIER.

(D) "PHYSICIAN RATING SYSTEM" HAS THE MEANING STATED IN § 15–1701 OF THE INSURANCE ARTICLE.

(E) "RATINGS EXAMINER" MEANS AN INDEPENDENT ENTITY THAT IS APPROVED BY THE COMMISSION TO REVIEW PHYSICIAN RATING SYSTEMS.

19–143.

(A) THE COMMISSION SHALL APPROVE AN ENTITY THAT MEETS THE REQUIREMENTS OF THIS SECTION TO BE A RATINGS EXAMINER.

(B) TO BE APPROVED BY THE COMMISSION AS A RATINGS EXAMINER, AN ENTITY EXAMINING A PHYSICIAN RATING SYSTEM SHALL REQUIRE A PHYSICIAN RATING SYSTEM TO:

(1) USE ONLY QUALITY OF PERFORMANCE AND COST EFFICIENCY AS MEASUREMENT CATEGORIES;

(2) CALCULATE AND DISCLOSE SEPARATELY MEASURES OF COST EFFICIENCY AND QUALITY OF PERFORMANCE;

(3) DISCLOSE CLEARLY TO PHYSICIANS AND ENROLLEES THE PROPORTION OF THE COMPONENT SCORE FOR COST EFFICIENCY AND QUALITY OF PERFORMANCE IN EACH COMBINED SCORE;

(4) IN DETERMINING QUALITY OF PERFORMANCE, USE MEASURES:

(I) THAT ARE BASED ON NATIONALLY RECOGNIZED, EVIDENCE–BASED OR CONSENSUS–BASED CLINICAL RECOMMENDATIONS OR GUIDELINES; OR

(II) WHEN AVAILABLE, THAT ARE ENDORSED BY ENTITIES WHOSE WORK IN PHYSICIAN QUALITY OF PERFORMANCE IS GENERALLY ACCEPTED IN THE HEALTH CARE SYSTEM;

(5) DISCLOSE TO PHYSICIANS WHO ARE SUBJECT TO THE PHYSICIAN RATING SYSTEM:

(I) THE MEASUREMENTS FOR EACH CRITERION AND THE RELATIVE WEIGHT OF EACH CRITERION AND MEASUREMENT IN THE OVERALL RATING OF THE PHYSICIAN;

(II) 1. THE BASIS FOR THE CARRIER'S QUALITY OF PERFORMANCE RATINGS;

2. THE DATA USED TO DETERMINE THE QUALITY OF PERFORMANCE RATINGS; AND

3. THE RELATIVE WEIGHT OR RELEVANCE OF QUALITY OF PERFORMANCE TO THE OVERALL RATING OF A PHYSICIAN IN THE PHYSICIAN RATING SYSTEM;

(III) THE BASIS FOR DETERMINING WHETHER THERE IS A SUFFICIENT NUMBER OF PATIENTS AND EPISODES OF CARE FOR A GIVEN DISEASE STATE AND SPECIALTY TO GENERATE RELIABLE RATINGS FOR A PHYSICIAN; AND

(IV) THE METHODOLOGY USED TO DETERMINE HOW DATA IS ATTRIBUTED TO A PHYSICIAN;

(6) USE APPROPRIATE RISK ADJUSTMENTS TO ACCOUNT FOR THE CHARACTERISTICS OF THE PATIENT POPULATION SEEN BY A PHYSICIAN IN DETERMINING THE QUALITY OF PERFORMANCE AND COST EFFICIENCY OF THE PHYSICIAN;

(7) IN MEASURING THE COST EFFICIENCY OF THE PERFORMANCE OF A PHYSICIAN:

(I) COMPARE PHYSICIANS WITHIN THE SAME SPECIALTY WITHIN THE APPROPRIATE GEOGRAPHICAL MARKET; AND

(II) USE APPROPRIATE AND COMPREHENSIVE EPISODE OF CARE COMPUTER SOFTWARE TO EVALUATE THE COST EFFICIENCY OF THE PERFORMANCE OF A PHYSICIAN;

(8) (I) INCLUDE AN APPEALS PROCESS THAT A PHYSICIAN SUBJECT TO THE PHYSICIAN RATING SYSTEM MAY USE TO APPEAL THE RATING RECEIVED UNDER THE PHYSICIAN RATING SYSTEM; AND

(II) BASED ON THE OUTCOME OF AN APPEAL, MAKE ANY NECESSARY CORRECTIONS TO THE DATA USED TO RATE THE PHYSICIAN IN THE PHYSICIAN RATING SYSTEM; AND

(9) DISCLOSE TO PHYSICIANS AND ENROLLEES HOW THE PERSPECTIVES OF ENROLLEES, CONSUMER ADVOCATES, EMPLOYERS, LABOR UNIONS, AND PHYSICIANS WERE INCORPORATED INTO THE DEVELOPMENT OF THE PHYSICIAN RATING SYSTEM.

(C) NOTWITHSTANDING SUBSECTION (B) OF THIS SECTION, AN ENTITY THAT HAS A PHYSICIAN PERFORMANCE RATING CERTIFICATION PROGRAM APPROVED AFTER AUGUST 1, 2008, BY A NATIONAL CONSORTIUM OF EMPLOYER, CONSUMER, AND LABOR ORGANIZATIONS WORKING TOWARD A COMMON GOAL TO ENSURE THAT ALL AMERICANS HAVE ACCESS TO PUBLICLY REPORTED HEALTH CARE PERFORMANCE INFORMATION:

(1) IS DEEMED TO BE A RATINGS EXAMINER UNDER THIS PART; AND

(2) IS DEEMED TO MEET THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION.

19–144. RESERVED.

19–145. RESERVED.

19–706.

(TTT) THE PROVISIONS OF TITLE 15, SUBTITLE 17 OF THE INSURANCE ARTICLE APPLY TO HEALTH MAINTENANCE ORGANIZATIONS.

Article – Insurance

SUBTITLE 17. REGULATION OF PHYSICIAN RATING SYSTEMS.

15–1701.

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

(B) "CARRIER" HAS THE MEANING STATED IN § 15–1301 OF THIS TITLE.

(C) "ENROLLEE" MEANS ~~A PERSON~~ AN INDIVIDUAL ENTITLED TO HEALTH CARE BENEFITS FROM A CARRIER.

(D) "PHYSICIAN RATING SYSTEM" MEANS ANY PROGRAM THAT:

(1) MEASURES, ~~REPORTS~~ RATES, OR TIERS THE PERFORMANCE OF ~~A PHYSICIAN~~ PHYSICIANS UNDER CONTRACT WITH THE CARRIER; AND

(2) DISCLOSES THE MEASURES, RATES, OR TIERS TO ENROLLEES OR THE PUBLIC.

(E) "RATINGS EXAMINER" MEANS AN INDEPENDENT ENTITY THAT IS APPROVED BY THE MARYLAND HEALTH CARE COMMISSION TO REVIEW PHYSICIAN RATING SYSTEMS.

15–1702.

(A) A CARRIER MAY NOT USE A PHYSICIAN RATING SYSTEM UNLESS THE PHYSICIAN RATING SYSTEM IS APPROVED BY A RATINGS EXAMINER.

(B) A CARRIER SHALL CONTRACT WITH AND PAY FOR A RATINGS EXAMINER TO REVIEW ANY PHYSICIAN RATING SYSTEM OF THE CARRIER.

(C) A PHYSICIAN RATING SYSTEM OF A CARRIER IS DEEMED TO MEET THE REQUIREMENTS OF THIS SECTION IF THE PHYSICIAN RATING SYSTEM:

(1) IS APPROVED BY A RATINGS EXAMINER AS OF JANUARY 1, 2010; AND

(2) NOTWITHSTANDING ANY REVISIONS TO THE PHYSICIAN RATING SYSTEM, MAINTAINS ITS APPROVAL BY THE RATINGS EXAMINER.

15–1703.

(A) A CARRIER THAT USES A PHYSICIAN RATING SYSTEM SHALL:

(1) ESTABLISH AN APPEALS PROCESS FOR PHYSICIANS TO USE TO CONTEST THEIR RATING; AND

(2) AT LEAST 45 DAYS BEFORE MAKING AVAILABLE TO ENROLLEES ANY NEW OR REVISED QUALITY OF PERFORMANCE OR COST–EFFICIENCY EVALUATIONS OR ANY NEW OR REVISED INCLUSIONS OR

EXCLUSIONS FROM A PHYSICIAN RATING SYSTEM, PROVIDE EACH PHYSICIAN INCLUDED IN THE PHYSICIAN RATING SYSTEM WITH:

(I) A NOTICE OF THE PROPOSED CHANGE;

(II) AN EXPLANATION OF THE DATA USED TO ASSESS THE PHYSICIAN AND HOW THE PHYSICIAN MAY ACCESS THE DATA;

(III) THE METHODOLOGY AND MEASURES USED TO ASSESS THE PHYSICIAN;

(IV) AN EXPLANATION OF THE RIGHT TO CONTEST THE RATING OF THE PHYSICIAN THROUGH THE APPEALS PROCESS OF THE CARRIER; AND

(V) INSTRUCTIONS ON HOW TO FILE A TIMELY APPEAL WITH THE CARRIER.

(B) IF A PHYSICIAN FILES A TIMELY APPEAL, AS DEFINED BY THE CARRIER, REGARDING THE RATING OF THE PHYSICIAN UNDER A PHYSICIAN RATING SYSTEM, THE CARRIER MAY NOT DISCLOSE THE RATING OF THE PHYSICIAN OR MAKE A CHANGE IN THE QUALITY OF PERFORMANCE OR COST–EFFICIENCY RATINGS OF THE PHYSICIAN UNTIL THE CARRIER COMPLETES ITS INVESTIGATION AND RENDERS A DECISION ON THE APPEAL.

(C) A CARRIER SHALL POST THE FOLLOWING INFORMATION PROMINENTLY ON THE SECTION OF THE CARRIER'S WEBSITE THAT DISCLOSES THE RATING OF A PHYSICIAN TO ENROLLEES OR TO THE PUBLIC:

(1) WHERE AN ENROLLEE CAN FIND THE PHYSICIAN PERFORMANCE RATINGS OF THE CARRIER;

(2) A DISCLOSURE THAT PHYSICIAN PERFORMANCE RATINGS ARE ONLY A GUIDE TO CHOOSING A PHYSICIAN BECAUSE THE RATINGS HAVE A RISK OF ERROR AND SHOULD NOT BE THE SOLE BASIS FOR SELECTING A PHYSICIAN;

(3) AN EXPLANATION OF THE PHYSICIAN RATING SYSTEM, INCLUDING THE BASIS ON WHICH PHYSICIAN PERFORMANCE IS MEASURED AND THE BASIS FOR DETERMINING THAT A PHYSICIAN IS NOT CURRENTLY RATED DUE TO INSUFFICIENT DATA OR A PENDING APPEAL;

(4) ANY LIMITATIONS OF THE DATA THAT THE CARRIER USES TO MEASURE PHYSICIAN PERFORMANCE;

(5) THE FACTORS AND CRITERIA USED IN THE CARRIER'S PHYSICIAN RATING SYSTEM, INCLUDING QUALITY OF PERFORMANCE MEASURES AND COST EFFICIENCY MEASURES; AND

(6) HOW A PHYSICIAN MAY APPEAL A PHYSICIAN RATING.

15–1704.

(A) A CARRIER SHALL NOTIFY THE COMMISSIONER OF THE RESULTS OF ANY FINAL REVIEW CONDUCTED BY A RATINGS EXAMINER OF A PHYSICIAN RATING SYSTEM OF THE CARRIER WITHIN 45 CALENDAR DAYS AFTER RECEIPT OF THE RESULTS BY THE CARRIER.

(B) IF THE REVIEW CONDUCTED BY A RATINGS EXAMINER OF A PHYSICIAN RATING SYSTEM OF A CARRIER INDICATES THAT THE PHYSICIAN RATING SYSTEM DOES NOT COMPLY WITH THE REQUIREMENTS OF TITLE 19, SUBTITLE 1, PART IV OF THE HEALTH – GENERAL ARTICLE, THE COMMISSIONER MAY ORDER THE CARRIER TO:

(1) CORRECT THE DEFICIENCY; OR

(2) CEASE THE USE OF THE PHYSICIAN RATING SYSTEM.

(C) A CARRIER USING A PHYSICIAN RATING SYSTEM SHALL REPORT ANNUALLY TO THE COMMISSIONER:

(1) THE NUMBER OF APPEALS FILED BY PHYSICIANS UNDER THIS SUBTITLE; AND

(2) THE OUTCOME OF THE APPEALS.

15–1705.

ON OR BEFORE DECEMBER 1 OF EACH YEAR, THE COMMISSIONER AND THE COMMISSION SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY, ON:

(1) THE NUMBER AND TYPES OF APPEALS THAT HAVE BEEN FILED BY PHYSICIANS UNDER THIS SUBTITLE AND THE OUTCOME OF THE APPEALS; AND

(2) THE NUMBER OF ENTITIES THAT HAVE BEEN APPROVED BY THE COMMISSION AS RATINGS EXAMINERS UNDER TITLE 19, SUBTITLE 1, PART IV OF THE HEALTH – GENERAL ARTICLE.

~~(A) A CARRIER MAY USE A PHYSICIAN RATING SYSTEM FOR HEALTH BENEFIT PLANS THAT ARE DELIVERED, ISSUED, OR RENEWED IN THE STATE ONLY IF THE PHYSICIAN RATING SYSTEM MEETS THE REQUIREMENTS OF THIS SUBTITLE.~~

~~(B) A CARRIER MAY USE ONLY THE FOLLOWING CATEGORIES OF MEASUREMENTS IN A PHYSICIAN RATING SYSTEM:~~

~~(1) QUALITY OF PERFORMANCE; AND~~

~~(2) COST EFFICIENCY.~~

~~(C) A CARRIER MAY NOT RATE A PHYSICIAN IN A PHYSICIAN RATING SYSTEM BASED SOLELY ON COST EFFICIENCY.~~

~~(D) (1) A CARRIER SHALL CALCULATE AND DISCLOSE SEPARATELY MEASURES OF THE COST EFFICIENCY AND QUALITY OF PERFORMANCE OF A PHYSICIAN.~~

~~(2) IF A CARRIER COMBINES INDIVIDUAL SCORES FOR QUALITY OF PERFORMANCE AND COST EFFICIENCY FOR ONE TOTAL COMBINED SCORE FOR A PHYSICIAN, THE CARRIER SHALL DISCLOSE CLEARLY TO PHYSICIANS UNDER CONTRACT WITH THE CARRIER AND ENROLLEES THE INDIVIDUAL COMPONENT SCORES OF THE PHYSICIAN AND THE PROPORTION OF EACH COMPONENT SCORE OF THE TOTAL COMBINED SCORE.~~

~~(E) AT LEAST 45 DAYS PRIOR TO IMPLEMENTATION OF A MATERIAL CHANGE IN THE PHYSICIAN RATING SYSTEM, A CARRIER SHALL DISCLOSE THE CHANGE TO PHYSICIANS UNDER CONTRACT WITH THE CARRIER.~~

~~(F) IN DETERMINING THE QUALITY OF PERFORMANCE AND THE COST EFFICIENCY OF A PHYSICIAN, A CARRIER SHALL USE APPROPRIATE RISK ADJUSTMENT TO ACCOUNT FOR THE CHARACTERISTICS OF THE PATIENT POPULATION SEEN BY THE PHYSICIAN.~~

~~(G) IN DESCRIBING THE CARRIER'S PHYSICIAN RATING SYSTEM TO PHYSICIANS, THE CARRIER SHALL CLEARLY INDICATE THE MEASUREMENTS FOR EACH CRITERION AND THE RELATIVE WEIGHT OF EACH CRITERION AND MEASUREMENT IN THE OVERALL RATING OF THE PHYSICIAN.~~

~~(II) A CARRIER SHALL DISCLOSE TO PHYSICIANS AND ENROLLEES HOW THE PERSPECTIVES OF ENROLLEES, CONSUMER ADVOCATES, EMPLOYERS, LABOR UNIONS, AND PHYSICIANS WERE INCORPORATED INTO THE DEVELOPMENT OF THE PHYSICIAN RATING SYSTEM.~~

~~(I) A CARRIER SHALL ENSURE THAT THE DATA RELIED ON TO DETERMINE THE RATING OF A PHYSICIAN IN A PHYSICIAN RATING SYSTEM IS ACCURATE.~~

~~(J) A CARRIER SHALL USE ACCURATE MEASUREMENTS TO DETERMINE THE QUALITY OF PERFORMANCE AND COST EFFICIENCY OF A PHYSICIAN.~~

~~15–1703.~~

~~(A) (1) TO DETERMINE QUALITY OF PERFORMANCE IN A PHYSICIAN RATING SYSTEM, A CARRIER SHALL USE MEASURES THAT ARE BASED ON NATIONALLY RECOGNIZED, EVIDENCE–BASED OR CONSENSUS–BASED CLINICAL RECOMMENDATIONS OR GUIDELINES.~~

~~(2) WHEN AVAILABLE, A CARRIER SHALL USE MEASURES TO DETERMINE QUALITY OF PERFORMANCE IN A PHYSICIAN RATING SYSTEM THAT ARE ENDORSED BY ENTITIES WHOSE WORK IN PHYSICIAN QUALITY OF PERFORMANCE IS GENERALLY ACCEPTED IN THE HEALTH CARE INDUSTRY.~~

~~(B) A CARRIER SHALL DISCLOSE TO PHYSICIANS UNDER CONTRACT WITH THE CARRIER THE BASIS OF THE CARRIER'S QUALITY OF PERFORMANCE RATINGS, THE DATA USED TO DETERMINE THE RATINGS, AND THE RELATIVE WEIGHT OR RELEVANCE OF QUALITY OF PERFORMANCE TO THE OVERALL RATING OF A PHYSICIAN IN THE PHYSICIAN RATING SYSTEM.~~

~~(C) A CARRIER SHALL DESCRIBE TO PHYSICIANS UNDER CONTRACT WITH THE CARRIER AND TO A RATINGS EXAMINER THE STATISTICAL BASIS FOR THE NUMBER OF PATIENTS FOR EACH DISEASE STATE OR SPECIALTY.~~

~~(D) IN DETERMINING THE DATA TO BE USED TO MEASURE THE QUALITY OF PERFORMANCE OF A PHYSICIAN, A CARRIER SHALL DETERMINE WHICH PHYSICIANS SHOULD BE HELD REASONABLY ACCOUNTABLE FOR THE CARE OF A PATIENT AND SHALL FULLY DISCLOSE TO PHYSICIANS UNDER CONTRACT WITH THE CARRIER THE METHODOLOGY USED TO DETERMINE HOW DATA WILL BE ATTRIBUTED TO A PHYSICIAN.~~

~~(E) A CARRIER SHALL USE THE MOST CURRENT CLAIMS AND DATA TO MEASURE PHYSICIAN QUALITY OF PERFORMANCE.~~

~~15–1704.~~

~~(A) IN MEASURING THE COST EFFICIENCY OF THE PERFORMANCE OF A PHYSICIAN, A CARRIER SHALL COMPARE PHYSICIANS WITHIN THE SAME SPECIALTY WITHIN THE APPROPRIATE GEOGRAPHICAL MARKET.~~

~~(B) A CARRIER SHALL USE APPROPRIATE AND COMPREHENSIVE EPISODE OF CARE COMPUTER SOFTWARE TO EVALUATE THE COST EFFICIENCY OF THE PERFORMANCE OF A PHYSICIAN.~~

~~(C) A CARRIER SHALL DISCLOSE TO PHYSICIANS UNDER CONTRACT WITH THE CARRIER THE BASIS OF THE CARRIER'S COST–EFFICIENCY RATINGS, THE DATA USED TO DETERMINE THE RATINGS, AND THE RELATIVE WEIGHT OR RELEVANCE OF COST EFFICIENCY TO THE OVERALL RATING OF A PHYSICIAN.~~

~~(D) A CARRIER SHALL DESCRIBE TO PHYSICIANS UNDER CONTRACT WITH THE CARRIER AND TO A RATINGS EXAMINER THE STATISTICAL BASIS FOR THE NUMBER OF PATIENT EPISODES OF CARE AND USE ACCURATE MEASUREMENTS OF THE COST EFFICIENCY OF THE PERFORMANCE OF A PHYSICIAN.~~

~~15–1705.~~

~~(A) A CARRIER THAT USES A PHYSICIAN RATING SYSTEM SHALL ESTABLISH A PROCESS FOR ENROLLEES TO SUBMIT COMPLAINTS ABOUT THE PHYSICIAN RATING SYSTEM.~~

~~(B) A CARRIER THAT USES A PHYSICIAN RATING SYSTEM SHALL POST THE FOLLOWING INFORMATION PROMINENTLY ON ITS WEBSITE:~~

~~(1) WHERE AN ENROLLEE CAN FIND THE PHYSICIAN PERFORMANCE RATINGS OF THE CARRIER;~~

~~(2) A DISCLOSURE THAT PHYSICIAN PERFORMANCE RATINGS ARE ONLY A GUIDE TO CHOOSING A PHYSICIAN BECAUSE THESE RATINGS HAVE A RISK OF ERROR AND SHOULD NOT BE THE SOLE BASIS FOR SELECTING A PHYSICIAN;~~

~~(3) AN EXPLANATION OF THE PHYSICIAN RATING SYSTEM, INCLUDING THE BASIS ON WHICH PHYSICIAN PERFORMANCE IS MEASURED AND THE BASIS FOR DETERMINING THAT A PHYSICIAN IS NOT CURRENTLY RATED DUE TO INSUFFICIENT DATA OR A PENDING APPEAL;~~

~~(4) ANY LIMITATIONS OF THE DATA THAT THE CARRIER USES TO MEASURE PHYSICIAN PERFORMANCE;~~

~~(5) DETAILS ON THE FACTORS AND CRITERIA USED IN THE CARRIER'S PHYSICIAN RATING SYSTEM, INCLUDING QUALITY OF PERFORMANCE MEASURES AND COST–EFFICIENCY MEASURES; AND~~

~~(6) HOW AN ENROLLEE MAY SUBMIT A COMPLAINT WITH THE CARRIER ABOUT THE PHYSICIAN RATING SYSTEM.~~

~~15–1706.~~

~~(A) AT LEAST 45 DAYS BEFORE MAKING AVAILABLE TO ENROLLEES ANY NEW OR REVISED QUALITY OF PERFORMANCE OR COST–EFFICIENCY EVALUATIONS OR ANY NEW OR REVISED INCLUSIONS OR EXCLUSIONS FROM A PHYSICIAN RATING SYSTEM, A CARRIER SHALL PROVIDE EACH PHYSICIAN UNDER CONTRACT WITH THE CARRIER:~~

~~(1) A NOTICE OF THE PROPOSED CHANGE;~~

~~(2) AN EXPLANATION OF THE DATA USED FOR THE PHYSICIAN AND HOW THE PHYSICIAN MAY ACCESS THE DATA;~~

~~(3) THE METHODOLOGY AND MEASURES USED TO ASSESS THE PHYSICIAN; AND~~

~~(4) AN EXPLANATION OF THE RIGHT OF THE PHYSICIAN TO MAKE CORRECTIONS TO THE DATA AND THE RATING AND TO APPEAL.~~

~~(B) A CARRIER SHALL ESTABLISH A PROCESS WHERE A PHYSICIAN UNDER CONTRACT WITH THE CARRIER MAY APPEAL THE RATING RECEIVED UNDER A PHYSICIAN RATING SYSTEM AND MAKE CORRECTIONS TO THE DATA USED TO RATE THE PHYSICIAN IN A PHYSICIAN RATING SYSTEM.~~

~~(C) A RATINGS EXAMINER SHALL HAVE OVERSIGHT AND REVIEW OF THE PHYSICIAN APPEALS PROCESS REQUIRED UNDER SUBSECTION (B) OF THIS SECTION.~~

~~(D) IF A PHYSICIAN FILES A TIMELY APPEAL WITH THE CARRIER, A CARRIER MAY NOT MAKE A CHANGE IN THE QUALITY OF PERFORMANCE OR COST–EFFICIENCY RATINGS OF THE PHYSICIAN UNTIL THE APPEAL IS COMPLETED.~~

~~15–1707.~~

~~(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, A CARRIER SHALL:~~

~~(1) CONTRACT WITH AND PAY FOR A RATINGS EXAMINER TO REVIEW ANY PHYSICIAN RATING SYSTEM OF THE CARRIER;~~

~~(2) COMPLETE AND MAINTAIN IN GOOD STANDING A REVIEW OF THE CARRIER'S PHYSICIAN RATING SYSTEM BY A RATINGS EXAMINER;~~

~~(3) FULLY DISCLOSE TO A RATINGS EXAMINER ITS PROCEDURES FOR ENROLLEE AND PHYSICIAN APPEALS AND GRIEVANCES RELATED TO THE CARRIER'S PHYSICIAN RATING SYSTEM.~~

~~(4) OBTAIN REVIEW BY A RATINGS EXAMINER OF ANY NATIONAL STANDARDIZED REVIEW PROCESSES THAT MAY BE NECESSARY TO ASSURE COMPLIANCE WITH THIS SUBTITLE;~~

~~(5) DISCLOSE THE RESULTS OF ANY REVIEWS CONDUCTED BY A RATINGS EXAMINER OF A PHYSICIAN RATING SYSTEM IN ALL LOCATIONS AND DOCUMENTS THAT DESCRIBE THE PHYSICIAN RATING SYSTEM; AND~~

~~(6) PROVIDE A PLAN TO A RATINGS EXAMINER TO USE AGGREGATED DATA, VALIDATED AS APPROPRIATE, AS A SUPPLEMENT TO TEST THE CARRIER'S CLAIMS DATA.~~

~~(B) A CARRIER MAY NOT IMPLEMENT A PHYSICIAN RATING SYSTEM UNTIL THE CARRIER SUBMITS THE SYSTEM TO THE RATINGS EXAMINER FOR REVIEW.~~

~~15–1708.~~

~~A RATINGS EXAMINER SHALL REPORT ANNUALLY TO THE MARYLAND HEALTH CARE COMMISSION AND THE MARYLAND INSURANCE ADMINISTRATION REGARDING METHODOLOGIES USED IN A PHYSICIAN RATING SYSTEM UNDER REVIEW BY THE RATINGS EXAMINER AND THE EXTENT TO WHICH THE PHYSICIAN RATING SYSTEM COMPLIES WITH THE PROVISIONS OF THIS SUBTITLE.~~

~~15–1709.~~

~~THE COMMISSIONER, IN CONSULTATION WITH THE MARYLAND HEALTH CARE COMMISSION, MAY ADOPT REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS SUBTITLE.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October 1, 2009~~ January 1, 2010.

Approved by the Governor, May 19, 2009.

Chapter 586

(House Bill 585)

AN ACT concerning

Health Insurance – Use of Physician Rating Systems by Carriers

FOR the purpose of ~~providing that a carrier may only use a physician rating system for certain health benefit plans if the system meets certain requirements; providing that a carrier may only use certain categories of measurements in a physician rating system; prohibiting a carrier from rating a physician based solely on cost efficiency; requiring a carrier to calculate and disclose certain measures in a certain manner; requiring a carrier to disclose a material change in a physician rating system at a certain time; requiring a carrier to use certain risk adjustments in determining the quality of performance and the cost efficiency of a physician; requiring a carrier to describe its physician rating system to certain physicians in a certain manner; requiring a carrier to make certain disclosures to certain physicians and enrollees; requiring a carrier to ensure that certain data is accurate; requiring a carrier to use certain measurements under certain circumstances; requiring a carrier to describe to certain physicians and to a certain ratings examiner certain information; requiring a carrier to make certain determinations in determining the data to be used to measure the quality of performance of a physician; requiring a carrier to use the most current claims and data to measure physician quality of performance; requiring a carrier to use certain computer software under certain circumstances; requiring a carrier that uses a physician rating system to establish a certain complaint process for enrollees; requiring a carrier that uses a physician rating system to post certain information on its website in a certain manner; requiring a carrier to provide certain physicians certain information at a certain time before making certain information available to enrollees; prohibiting a carrier from making a certain change under certain circumstances; requiring a carrier to establish a certain appeals process under certain circumstances; providing that a ratings examiner shall have oversight and review of the appeals process; requiring a carrier to contract with and pay for a ratings examiner to review certain physician rating systems; prohibiting a carrier from implementing a physician rating system until the carrier submits the system to a certain ratings examiner for review; requiring a carrier to make certain disclosures and provide certain information to a ratings examiner; requiring a carrier to obtain certain reviews by a ratings examiner under~~

~~certain circumstances; requiring a carrier to disclose the results of any reviews conducted by a ratings examiner in a certain manner; requiring a certain ratings examiner to report annually to the Office of the Attorney General and the Maryland Insurance Administration regarding certain information; authorizing the Insurance Commissioner, in consultation with the Office of the Attorney General, to adopt regulations to implement the provisions of this Act;~~ requiring the Maryland Health Care Commission to approve a certain entity to be a physician rating system examiner under certain circumstances; providing that an entity that has a certain program approved by a certain consortium is deemed to be a ratings examiner; prohibiting certain health insurance carriers from using a physician rating system unless the physician rating system is approved by a ratings examiner; requiring a carrier to contract with and pay for a ratings examiner to review certain physician rating systems; providing that a physician rating system of a carrier is deemed to meet certain requirements of this Act under certain circumstances; requiring certain carriers to establish a certain appeals process; requiring certain carriers to provide certain physicians with certain information under certain circumstances; prohibiting a carrier from disclosing a certain rating under certain circumstances; requiring a carrier to post certain information on a certain section of the carrier's website; requiring a carrier to notify the Maryland Insurance Commissioner of the results of a certain final review within a certain time period; authorizing the Commissioner to order a carrier to correct a certain deficiency or cease use of a certain physician rating system under certain circumstances; requiring certain carriers to annually report to the Commissioner on the number and outcome of certain appeals; *requiring the Commissioner and the Health Care Commission to issue a certain report annually for the Governor and the General Assembly on or before a certain date;* defining certain terms; providing for a delayed effective date; and generally relating to use of physician rating systems by health insurance carriers.

BY adding to
Article – Health – General
Section 19–142 and 19–143 to be under the new part "Part IV. Examiners of Physician Rating Systems"*; and 19–706(ttt)*
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY adding to
Article – Insurance
Section 15–1701 through ~~15–1709~~ ~~15–1704~~ *15–1705* to be under the new subtitle "Subtitle 17. Regulation of Physician Rating Systems"
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – Health – General

PART IV. EXAMINERS OF PHYSICIAN RATING SYSTEMS.

19–142.

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

(B) "CARRIER" HAS THE MEANING STATED IN § 15–1301 OF THE INSURANCE ARTICLE.

(C) "ENROLLEE" MEANS AN INDIVIDUAL ENTITLED TO HEALTH BENEFITS FROM A CARRIER.

(D) "PHYSICIAN RATING SYSTEM" HAS THE MEANING STATED IN § 15–1701 OF THE INSURANCE ARTICLE.

(E) "RATINGS EXAMINER" MEANS AN INDEPENDENT ENTITY THAT IS APPROVED BY THE COMMISSION TO REVIEW PHYSICIAN RATING SYSTEMS.

19–143.

(A) THE COMMISSION SHALL APPROVE AN ENTITY THAT MEETS THE REQUIREMENTS OF THIS SECTION TO BE A RATINGS EXAMINER.

(B) TO BE APPROVED BY THE COMMISSION AS A RATINGS EXAMINER, AN ENTITY EXAMINING A PHYSICIAN RATING SYSTEM SHALL REQUIRE A PHYSICIAN RATING SYSTEM TO:

(1) USE ONLY QUALITY OF PERFORMANCE AND COST EFFICIENCY AS MEASUREMENT CATEGORIES;

(2) CALCULATE AND DISCLOSE SEPARATELY MEASURES OF COST EFFICIENCY AND QUALITY OF PERFORMANCE;

(3) DISCLOSE CLEARLY TO PHYSICIANS AND ENROLLEES THE PROPORTION OF THE COMPONENT SCORE FOR COST EFFICIENCY AND QUALITY OF PERFORMANCE IN EACH COMBINED SCORE;

(4) IN DETERMINING QUALITY OF PERFORMANCE, USE MEASURES:

(I) THAT ARE BASED ON NATIONALLY RECOGNIZED, EVIDENCE–BASED OR CONSENSUS–BASED CLINICAL RECOMMENDATIONS OR GUIDELINES; OR

(II) WHEN AVAILABLE, THAT ARE ENDORSED BY ENTITIES WHOSE WORK IN PHYSICIAN QUALITY OF PERFORMANCE IS GENERALLY ACCEPTED IN THE HEALTH CARE SYSTEM;

(5) DISCLOSE TO PHYSICIANS WHO ARE SUBJECT TO THE PHYSICIAN RATING SYSTEM:

(I) THE MEASUREMENTS FOR EACH CRITERION AND THE RELATIVE WEIGHT OF EACH CRITERION AND MEASUREMENT IN THE OVERALL RATING OF THE PHYSICIAN;

(II) 1. THE BASIS FOR THE CARRIER'S QUALITY OF PERFORMANCE RATINGS;

2. THE DATA USED TO DETERMINE THE QUALITY OF PERFORMANCE RATINGS; AND

3. THE RELATIVE WEIGHT OR RELEVANCE OF QUALITY OF PERFORMANCE TO THE OVERALL RATING OF A PHYSICIAN IN THE PHYSICIAN RATING SYSTEM;

(III) THE BASIS FOR DETERMINING WHETHER THERE IS A SUFFICIENT NUMBER OF PATIENTS AND EPISODES OF CARE FOR A GIVEN DISEASE STATE AND SPECIALTY TO GENERATE RELIABLE RATINGS FOR A PHYSICIAN; AND

(IV) THE METHODOLOGY USED TO DETERMINE HOW DATA IS ATTRIBUTED TO A PHYSICIAN;

(6) USE APPROPRIATE RISK ADJUSTMENTS TO ACCOUNT FOR THE CHARACTERISTICS OF THE PATIENT POPULATION SEEN BY A PHYSICIAN IN DETERMINING THE QUALITY OF PERFORMANCE AND COST EFFICIENCY OF THE PHYSICIAN;

(7) IN MEASURING THE COST EFFICIENCY OF THE PERFORMANCE OF A PHYSICIAN:

(I) COMPARE PHYSICIANS WITHIN THE SAME SPECIALTY WITHIN THE APPROPRIATE GEOGRAPHICAL MARKET; AND

(II) USE APPROPRIATE AND COMPREHENSIVE EPISODE OF CARE COMPUTER SOFTWARE TO EVALUATE THE COST EFFICIENCY OF THE PERFORMANCE OF A PHYSICIAN;

(8) (I) INCLUDE AN APPEALS PROCESS THAT A PHYSICIAN SUBJECT TO THE PHYSICIAN RATING SYSTEM MAY USE TO APPEAL THE RATING RECEIVED UNDER THE PHYSICIAN RATING SYSTEM; AND

(II) BASED ON THE OUTCOME OF AN APPEAL, MAKE ANY NECESSARY CORRECTIONS TO THE DATA USED TO RATE THE PHYSICIAN IN THE PHYSICIAN RATING SYSTEM; AND

(9) DISCLOSE TO PHYSICIANS AND ENROLLEES HOW THE PERSPECTIVES OF ENROLLEES, CONSUMER ADVOCATES, EMPLOYERS, LABOR UNIONS, AND PHYSICIANS WERE INCORPORATED INTO THE DEVELOPMENT OF THE PHYSICIAN RATING SYSTEM.

(C) NOTWITHSTANDING SUBSECTION (B) OF THIS SECTION, AN ENTITY THAT HAS A PHYSICIAN PERFORMANCE RATING CERTIFICATION PROGRAM APPROVED AFTER AUGUST 1, 2008, BY A NATIONAL CONSORTIUM OF EMPLOYER, CONSUMER, AND LABOR ORGANIZATIONS WORKING TOWARD A COMMON GOAL TO ENSURE THAT ALL AMERICANS HAVE ACCESS TO PUBLICLY REPORTED HEALTH CARE PERFORMANCE INFORMATION:

(1) IS DEEMED TO BE A RATINGS EXAMINER UNDER THIS PART; AND

(2) IS DEEMED TO MEET THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION.

19–144. RESERVED.

19–145. RESERVED.

19–706.

(TTT) THE PROVISIONS OF TITLE 15, SUBTITLE 17 OF THE INSURANCE ARTICLE APPLY TO HEALTH MAINTENANCE ORGANIZATIONS.

Article – Insurance

SUBTITLE 17. REGULATION OF PHYSICIAN RATING SYSTEMS.

15–1701.

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

(B) "CARRIER" HAS THE MEANING STATED IN § 15–1301 OF THIS TITLE.

(C) "ENROLLEE" MEANS ~~A PERSON~~ AN INDIVIDUAL ENTITLED TO HEALTH CARE BENEFITS FROM A CARRIER.

(D) "PHYSICIAN RATING SYSTEM" MEANS ANY PROGRAM THAT:

(1) MEASURES, ~~REPORTS~~ RATES, OR TIERS THE PERFORMANCE OF ~~A PHYSICIAN~~ PHYSICIANS UNDER CONTRACT WITH THE CARRIER; AND

(2) DISCLOSES THE MEASURES, RATES, OR TIERS TO ENROLLEES OR THE PUBLIC.

(E) "RATINGS EXAMINER" MEANS AN INDEPENDENT ENTITY THAT IS APPROVED BY THE ~~OFFICE OF THE ATTORNEY GENERAL~~ MARYLAND HEALTH CARE COMMISSION TO REVIEW PHYSICIAN RATING SYSTEMS.

15–1702.

(A) A CARRIER MAY NOT USE A PHYSICIAN RATING SYSTEM UNLESS THE PHYSICIAN RATING SYSTEM IS APPROVED BY A RATINGS EXAMINER.

(B) A CARRIER SHALL CONTRACT WITH AND PAY FOR A RATINGS EXAMINER TO REVIEW ANY PHYSICIAN RATING SYSTEM OF THE CARRIER.

(C) A PHYSICIAN RATING SYSTEM OF A CARRIER IS DEEMED TO MEET THE REQUIREMENTS OF THIS SECTION IF THE PHYSICIAN RATING SYSTEM:

(1) IS APPROVED BY A RATINGS EXAMINER AS OF JANUARY 1, 2010; AND

(2) NOTWITHSTANDING ANY REVISIONS TO THE PHYSICIAN RATING SYSTEM, MAINTAINS ITS APPROVAL BY THE RATINGS EXAMINER.

15–1703.

(A) A CARRIER THAT USES A PHYSICIAN RATING SYSTEM SHALL:

(1) ESTABLISH AN APPEALS PROCESS FOR PHYSICIANS TO USE TO CONTEST THEIR RATING; AND

(2) AT LEAST 45 DAYS BEFORE MAKING AVAILABLE TO ENROLLEES ANY NEW OR REVISED QUALITY OF PERFORMANCE OR COST–EFFICIENCY EVALUATIONS OR ANY NEW OR REVISED INCLUSIONS OR EXCLUSIONS FROM A PHYSICIAN RATING SYSTEM, PROVIDE EACH PHYSICIAN INCLUDED IN THE PHYSICIAN RATING SYSTEM WITH:

(I) A NOTICE OF THE PROPOSED CHANGE;

(II) AN EXPLANATION OF THE DATA USED TO ASSESS THE PHYSICIAN AND HOW THE PHYSICIAN MAY ACCESS THE DATA;

(III) THE METHODOLOGY AND MEASURES USED TO ASSESS THE PHYSICIAN;

(IV) AN EXPLANATION OF THE RIGHT TO CONTEST THE RATING OF THE PHYSICIAN THROUGH THE APPEALS PROCESS OF THE CARRIER; AND

(V) INSTRUCTIONS ON HOW TO FILE A TIMELY APPEAL WITH THE CARRIER.

(B) IF A PHYSICIAN FILES A TIMELY APPEAL, AS DEFINED BY THE CARRIER, REGARDING THE RATING OF THE PHYSICIAN UNDER A PHYSICIAN RATING SYSTEM, THE CARRIER MAY NOT DISCLOSE THE RATING OF THE PHYSICIAN OR MAKE A CHANGE IN THE QUALITY OF PERFORMANCE OR COST–EFFICIENCY RATINGS OF THE PHYSICIAN UNTIL THE CARRIER COMPLETES ITS INVESTIGATION AND RENDERS A DECISION ON THE APPEAL.

(C) A CARRIER SHALL POST THE FOLLOWING INFORMATION PROMINENTLY ON THE SECTION OF THE CARRIER'S WEBSITE THAT DISCLOSES THE RATING OF A PHYSICIAN TO ENROLLEES OR TO THE PUBLIC:

(1) WHERE AN ENROLLEE CAN FIND THE PHYSICIAN PERFORMANCE RATINGS OF THE CARRIER;

(2) A DISCLOSURE THAT PHYSICIAN PERFORMANCE RATINGS ARE ONLY A GUIDE TO CHOOSING A PHYSICIAN BECAUSE THE RATINGS HAVE A RISK OF ERROR AND SHOULD NOT BE THE SOLE BASIS FOR SELECTING A PHYSICIAN;

(3) AN EXPLANATION OF THE PHYSICIAN RATING SYSTEM, INCLUDING THE BASIS ON WHICH PHYSICIAN PERFORMANCE IS MEASURED AND

THE BASIS FOR DETERMINING THAT A PHYSICIAN IS NOT CURRENTLY RATED DUE TO INSUFFICIENT DATA OR A PENDING APPEAL;

(4) ANY LIMITATIONS OF THE DATA THAT THE CARRIER USES TO MEASURE PHYSICIAN PERFORMANCE;

(5) THE FACTORS AND CRITERIA USED IN THE CARRIER'S PHYSICIAN RATING SYSTEM, INCLUDING QUALITY OF PERFORMANCE MEASURES AND COST EFFICIENCY MEASURES; AND

(6) HOW A PHYSICIAN MAY APPEAL A PHYSICIAN RATING.

15–1704.

(A) A CARRIER SHALL NOTIFY THE COMMISSIONER OF THE RESULTS OF ANY FINAL REVIEW CONDUCTED BY A RATINGS EXAMINER OF A PHYSICIAN RATING SYSTEM OF THE CARRIER WITHIN 45 CALENDAR DAYS AFTER RECEIPT OF THE RESULTS BY THE CARRIER.

(B) IF THE REVIEW CONDUCTED BY A RATINGS EXAMINER OF A PHYSICIAN RATING SYSTEM OF A CARRIER INDICATES THAT THE PHYSICIAN RATING SYSTEM DOES NOT COMPLY WITH THE REQUIREMENTS OF TITLE 19, SUBTITLE 1, PART IV OF THE HEALTH – GENERAL ARTICLE, THE COMMISSIONER MAY ORDER THE CARRIER TO:

(1) CORRECT THE DEFICIENCY; OR

(2) CEASE THE USE OF THE PHYSICIAN RATING SYSTEM.

(C) A CARRIER USING A PHYSICIAN RATING SYSTEM SHALL REPORT ANNUALLY TO THE COMMISSIONER:

(1) THE NUMBER OF APPEALS FILED BY PHYSICIANS UNDER THIS SUBTITLE; AND

(2) THE OUTCOME OF THE APPEALS.

15–1705.

ON OR BEFORE DECEMBER 1 OF EACH YEAR, THE COMMISSIONER AND THE COMMISSION SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY, ON:

(1) THE NUMBER AND TYPES OF APPEALS THAT HAVE BEEN FILED BY PHYSICIANS UNDER THIS SUBTITLE AND THE OUTCOME OF THE APPEALS; AND

(2) THE NUMBER OF ENTITIES THAT HAVE BEEN APPROVED BY THE COMMISSION AS RATINGS EXAMINERS UNDER TITLE 19, SUBTITLE 1, PART IV OF THE HEALTH – GENERAL ARTICLE.

~~(A) A CARRIER MAY USE A PHYSICIAN RATING SYSTEM FOR HEALTH BENEFIT PLANS THAT ARE DELIVERED, ISSUED, OR RENEWED IN THE STATE ONLY IF THE PHYSICIAN RATING SYSTEM MEETS THE REQUIREMENTS OF THIS SUBTITLE.~~

~~(B) A CARRIER MAY USE ONLY THE FOLLOWING CATEGORIES OF MEASUREMENTS IN A PHYSICIAN RATING SYSTEM:~~

~~(1) QUALITY OF PERFORMANCE; AND~~

~~(2) COST EFFICIENCY.~~

~~(C) A CARRIER MAY NOT RATE A PHYSICIAN IN A PHYSICIAN RATING SYSTEM BASED SOLELY ON COST EFFICIENCY.~~

~~(D) (1) A CARRIER SHALL CALCULATE AND DISCLOSE SEPARATELY MEASURES OF THE COST EFFICIENCY AND QUALITY OF PERFORMANCE OF A PHYSICIAN.~~

~~(2) IF A CARRIER COMBINES INDIVIDUAL SCORES FOR QUALITY OF PERFORMANCE AND COST EFFICIENCY FOR ONE TOTAL COMBINED SCORE FOR A PHYSICIAN, THE CARRIER SHALL DISCLOSE CLEARLY TO PHYSICIANS UNDER CONTRACT WITH THE CARRIER AND ENROLLEES THE INDIVIDUAL COMPONENT SCORES OF THE PHYSICIAN AND THE PROPORTION OF EACH COMPONENT SCORE OF THE TOTAL COMBINED SCORE.~~

~~(E) AT LEAST 45 DAYS PRIOR TO IMPLEMENTATION OF A MATERIAL CHANGE IN THE PHYSICIAN RATING SYSTEM, A CARRIER SHALL DISCLOSE THE CHANGE TO PHYSICIANS UNDER CONTRACT WITH THE CARRIER.~~

~~(F) IN DETERMINING THE QUALITY OF PERFORMANCE AND THE COST EFFICIENCY OF A PHYSICIAN, A CARRIER SHALL USE APPROPRIATE RISK ADJUSTMENT TO ACCOUNT FOR THE CHARACTERISTICS OF THE PATIENT POPULATION SEEN BY THE PHYSICIAN.~~

~~(G) IN DESCRIBING THE CARRIER'S PHYSICIAN RATING SYSTEM TO PHYSICIANS, THE CARRIER SHALL CLEARLY INDICATE THE MEASUREMENTS FOR EACH CRITERION AND THE RELATIVE WEIGHT OF EACH CRITERION AND MEASUREMENT IN THE OVERALL RATING OF THE PHYSICIAN.~~

~~(H) A CARRIER SHALL DISCLOSE TO PHYSICIANS AND ENROLLEES HOW THE PERSPECTIVES OF ENROLLEES, CONSUMER ADVOCATES, EMPLOYERS, LABOR UNIONS, AND PHYSICIANS WERE INCORPORATED INTO THE DEVELOPMENT OF THE PHYSICIAN RATING SYSTEM.~~

~~(I) A CARRIER SHALL ENSURE THAT THE DATA RELIED ON TO DETERMINE THE RATING OF A PHYSICIAN IN A PHYSICIAN RATING SYSTEM IS ACCURATE.~~

~~(J) A CARRIER SHALL USE ACCURATE MEASUREMENTS TO DETERMINE THE QUALITY OF PERFORMANCE AND COST EFFICIENCY OF A PHYSICIAN.~~

~~15–1703.~~

~~(A) (1) TO DETERMINE QUALITY OF PERFORMANCE IN A PHYSICIAN RATING SYSTEM, A CARRIER SHALL USE MEASURES THAT ARE BASED ON NATIONALLY RECOGNIZED, EVIDENCE–BASED OR CONSENSUS–BASED CLINICAL RECOMMENDATIONS OR GUIDELINES.~~

~~(2) WHEN AVAILABLE, A CARRIER SHALL USE MEASURES TO DETERMINE QUALITY OF PERFORMANCE IN A PHYSICIAN RATING SYSTEM THAT ARE ENDORSED BY ENTITIES WHOSE WORK IN PHYSICIAN QUALITY OF PERFORMANCE IS GENERALLY ACCEPTED IN THE HEALTH CARE INDUSTRY.~~

~~(B) A CARRIER SHALL DISCLOSE TO PHYSICIANS UNDER CONTRACT WITH THE CARRIER THE BASIS OF THE CARRIER'S QUALITY OF PERFORMANCE RATINGS, THE DATA USED TO DETERMINE THE RATINGS, AND THE RELATIVE WEIGHT OR RELEVANCE OF QUALITY OF PERFORMANCE TO THE OVERALL RATING OF A PHYSICIAN IN THE PHYSICIAN RATING SYSTEM.~~

~~(C) A CARRIER SHALL DESCRIBE TO PHYSICIANS UNDER CONTRACT WITH THE CARRIER AND TO A RATINGS EXAMINER THE STATISTICAL BASIS FOR THE NUMBER OF PATIENTS FOR EACH DISEASE STATE OR SPECIALTY.~~

~~(D) IN DETERMINING THE DATA TO BE USED TO MEASURE THE QUALITY OF PERFORMANCE OF A PHYSICIAN, A CARRIER SHALL DETERMINE WHICH PHYSICIANS SHOULD BE HELD REASONABLY ACCOUNTABLE FOR THE CARE OF A PATIENT AND SHALL FULLY DISCLOSE TO PHYSICIANS UNDER CONTRACT WITH~~

~~THE CARRIER THE METHODOLOGY USED TO DETERMINE HOW DATA WILL BE ATTRIBUTED TO A PHYSICIAN.~~

~~(E) A CARRIER SHALL USE THE MOST CURRENT CLAIMS AND DATA TO MEASURE PHYSICIAN QUALITY OF PERFORMANCE.~~

~~15–1704.~~

~~(A) IN MEASURING THE COST EFFICIENCY OF THE PERFORMANCE OF A PHYSICIAN, A CARRIER SHALL COMPARE PHYSICIANS WITHIN THE SAME SPECIALTY WITHIN THE APPROPRIATE GEOGRAPHICAL MARKET.~~

~~(B) A CARRIER SHALL USE APPROPRIATE AND COMPREHENSIVE EPISODE OF CARE COMPUTER SOFTWARE TO EVALUATE THE COST EFFICIENCY OF THE PERFORMANCE OF A PHYSICIAN.~~

~~(C) A CARRIER SHALL DISCLOSE TO PHYSICIANS UNDER CONTRACT WITH THE CARRIER THE BASIS OF THE CARRIER'S COST–EFFICIENCY RATINGS, THE DATA USED TO DETERMINE THE RATINGS, AND THE RELATIVE WEIGHT OR RELEVANCE OF COST EFFICIENCY TO THE OVERALL RATING OF A PHYSICIAN.~~

~~(D) A CARRIER SHALL DESCRIBE TO PHYSICIANS UNDER CONTRACT WITH THE CARRIER AND TO A RATINGS EXAMINER THE STATISTICAL BASIS FOR THE NUMBER OF PATIENT EPISODES OF CARE AND USE ACCURATE MEASUREMENTS OF THE COST EFFICIENCY OF THE PERFORMANCE OF A PHYSICIAN.~~

~~15–1705.~~

~~(A) A CARRIER THAT USES A PHYSICIAN RATING SYSTEM SHALL ESTABLISH A PROCESS FOR ENROLLEES TO SUBMIT COMPLAINTS ABOUT THE PHYSICIAN RATING SYSTEM.~~

~~(B) A CARRIER THAT USES A PHYSICIAN RATING SYSTEM SHALL POST THE FOLLOWING INFORMATION PROMINENTLY ON ITS WEBSITE:~~

~~(1) WHERE AN ENROLLEE CAN FIND THE PHYSICIAN PERFORMANCE RATINGS OF THE CARRIER;~~

~~(2) A DISCLOSURE THAT PHYSICIAN PERFORMANCE RATINGS ARE ONLY A GUIDE TO CHOOSING A PHYSICIAN BECAUSE THESE RATINGS HAVE A RISK OF ERROR AND SHOULD NOT BE THE SOLE BASIS FOR SELECTING A PHYSICIAN;~~

~~(3) AN EXPLANATION OF THE PHYSICIAN RATING SYSTEM, INCLUDING THE BASIS ON WHICH PHYSICIAN PERFORMANCE IS MEASURED AND THE BASIS FOR DETERMINING THAT A PHYSICIAN IS NOT CURRENTLY RATED DUE TO INSUFFICIENT DATA OR A PENDING APPEAL;~~

~~(4) ANY LIMITATIONS OF THE DATA THAT THE CARRIER USES TO MEASURE PHYSICIAN PERFORMANCE;~~

~~(5) DETAILS ON THE FACTORS AND CRITERIA USED IN THE CARRIER'S PHYSICIAN RATING SYSTEM, INCLUDING QUALITY OF PERFORMANCE MEASURES AND COST–EFFICIENCY MEASURES; AND~~

~~(6) HOW AN ENROLLEE MAY SUBMIT A COMPLAINT WITH THE CARRIER ABOUT THE PHYSICIAN RATING SYSTEM.~~

~~15–1706.~~

~~(A) AT LEAST 45 DAYS BEFORE MAKING AVAILABLE TO ENROLLEES ANY NEW OR REVISED QUALITY OF PERFORMANCE OR COST–EFFICIENCY EVALUATIONS OR ANY NEW OR REVISED INCLUSIONS OR EXCLUSIONS FROM A PHYSICIAN RATING SYSTEM, A CARRIER SHALL PROVIDE EACH PHYSICIAN UNDER CONTRACT WITH THE CARRIER:~~

~~(1) A NOTICE OF THE PROPOSED CHANGE;~~

~~(2) AN EXPLANATION OF THE DATA USED FOR THE PHYSICIAN AND HOW THE PHYSICIAN MAY ACCESS THE DATA;~~

~~(3) THE METHODOLOGY AND MEASURES USED TO ASSESS THE PHYSICIAN; AND~~

~~(4) AN EXPLANATION OF THE RIGHT OF THE PHYSICIAN TO MAKE CORRECTIONS TO THE DATA AND THE RATING AND TO APPEAL.~~

~~(B) A CARRIER SHALL ESTABLISH A PROCESS WHERE A PHYSICIAN UNDER CONTRACT WITH THE CARRIER MAY APPEAL THE RATING RECEIVED UNDER A PHYSICIAN RATING SYSTEM AND MAKE CORRECTIONS TO THE DATA USED TO RATE THE PHYSICIAN IN A PHYSICIAN RATING SYSTEM.~~

~~(C) A RATINGS EXAMINER SHALL HAVE OVERSIGHT AND REVIEW OF THE PHYSICIAN APPEALS PROCESS REQUIRED UNDER SUBSECTION (B) OF THIS SECTION.~~

~~(D) IF A PHYSICIAN FILES A TIMELY APPEAL WITH THE CARRIER, A CARRIER MAY NOT MAKE A CHANGE IN THE QUALITY OF PERFORMANCE OR COST–EFFICIENCY RATINGS OF THE PHYSICIAN UNTIL THE APPEAL IS COMPLETED.~~

~~15–1707.~~

~~(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, A CARRIER SHALL:~~

~~(1) CONTRACT WITH AND PAY FOR A RATINGS EXAMINER TO REVIEW ANY PHYSICIAN RATING SYSTEM OF THE CARRIER;~~

~~(2) COMPLETE AND MAINTAIN IN GOOD STANDING A REVIEW OF THE CARRIER'S PHYSICIAN RATING SYSTEM BY A RATINGS EXAMINER;~~

~~(3) FULLY DISCLOSE TO A RATINGS EXAMINER ITS PROCEDURES FOR ENROLLEE AND PHYSICIAN APPEALS AND GRIEVANCES RELATED TO THE CARRIER'S PHYSICIAN RATING SYSTEM.~~

~~(4) OBTAIN REVIEW BY A RATINGS EXAMINER OF ANY NATIONAL STANDARDIZED REVIEW PROCESSES THAT MAY BE NECESSARY TO ASSURE COMPLIANCE WITH THIS SUBTITLE;~~

~~(5) DISCLOSE THE RESULTS OF ANY REVIEWS CONDUCTED BY A RATINGS EXAMINER OF A PHYSICIAN RATING SYSTEM IN ALL LOCATIONS AND DOCUMENTS THAT DESCRIBE THE PHYSICIAN RATING SYSTEM; AND~~

~~(6) PROVIDE A PLAN TO A RATINGS EXAMINER TO USE AGGREGATED DATA, VALIDATED AS APPROPRIATE, AS A SUPPLEMENT TO TEST THE CARRIER'S CLAIMS DATA.~~

~~(B) A CARRIER MAY NOT IMPLEMENT A PHYSICIAN RATING SYSTEM UNTIL THE CARRIER SUBMITS THE SYSTEM TO THE RATINGS EXAMINER FOR REVIEW.~~

~~15–1708.~~

~~A RATINGS EXAMINER SHALL REPORT ANNUALLY TO THE OFFICE OF THE ATTORNEY GENERAL AND THE MARYLAND INSURANCE ADMINISTRATION REGARDING METHODOLOGIES USED IN A PHYSICIAN RATING SYSTEM UNDER REVIEW BY THE RATINGS EXAMINER AND THE EXTENT TO WHICH THE PHYSICIAN RATING SYSTEM COMPLIES WITH THE PROVISIONS OF THIS SUBTITLE.~~

~~**15–1709.**~~

~~**THE COMMISSIONER, IN CONSULTATION WITH THE OFFICE OF THE ATTORNEY GENERAL, MAY ADOPT REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS SUBTITLE.**~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October 1, 2009~~ January 1, 2010.

Approved by the Governor, May 19, 2009.

Chapter 587

(Senate Bill 667)

AN ACT concerning

Attorney General – State Legal Business – Hiring Counsel

FOR the purpose of making more uniform certain exceptions to certain roles of the Attorney General or a designee of the Attorney General; authorizing an officer or unit of State government to employ or be represented by certain individuals under certain circumstances; and generally relating to State legal business.

BY repealing and reenacting, without amendments,
Article – State Finance and Procurement
Section 13–107
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,
Article – State Government
Section 6–105
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 6–106
Annotated Code of Maryland
(2004 Replacement Volume and 2008 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

13–107.

(a) (1) Whenever a procurement officer determines that there is only 1 available source for the subject of a procurement contract, the procurement officer may award the procurement contract without competition to that source.

(2) Before awarding a procurement contract to a sole source, the procurement officer shall obtain:

(i) the approval of the head of the unit; and

(ii) any other approval required by law.

(b) (1) Subject to paragraphs (2) and (3) of this subsection, with the prior written approval of the Attorney General, a unit may enter into a sole source contract to obtain the services of a contractor in connection with:

(i) threatened or pending litigation;

(ii) appraisal of real property for acquisition by the State; or

(iii) collective bargaining.

(2) This subsection applies only to a procurement in which:

(i) a unit obtains the services of a contractor to represent the State; and

(ii) the nature of the services to be performed requires confidentiality.

(3) This subsection does not apply if the unit reasonably can anticipate a continuing need for a contractor described in paragraph (1)(ii) or (iii) of this subsection.

(c) Not more than 30 days after the execution and approval of a procurement contract awarded under this section, a unit shall publish in eMaryland Marketplace notice of the award.

Article – State Government

6–105.

(a) (1) The Attorney General may employ a staff in accordance with the State budget.

(2) Staff members appointed under this subsection:

(i) are deemed special appointments within the meaning of § 6–405 of the State Personnel and Pensions Article; and

(ii) serve at the pleasure of the Attorney General.

(3) (i) Staff appointed under this subsection is entitled to compensation as provided in the State budget.

(ii) Unless the State budget provides otherwise, the salary of a Deputy Attorney General, assistant Attorney General, or special attorney appointed under this subsection is payable from the funds of the Office.

(4) Staff is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(b) (1) In addition to any other staff appointed under this section, the Attorney General, with the written approval of the Governor, may employ any assistant counsel that the Attorney General considers necessary to carry out any duty of the Office in an extraordinary or unforeseen case or in special county work.

(2) The Attorney General shall submit to the Governor a written request that:

(i) states the necessity of and each reason for the special employment; and

(ii) states the proposed compensation and its source or certifies that the Attorney General cannot ascertain in advance the proper compensation.

(3) Compensation that cannot be ascertained in advance may be agreed on or adjusted later.

(c) (1) In addition to any other staff appointed under this section, the Attorney General may employ special counsel to defend a State officer or State employee under Title 12, Subtitle 3 of this article if the Attorney General determines that representation by the Attorney General or an assistant is impracticable or uneconomical.

(2) The special counsel is entitled to compensation, as set by the Attorney General and approved by the Board of Public Works, under Title 12, Subtitle 5 of this article.

(d) Each Deputy Attorney General, assistant Attorney General, or special attorney appointed under subsection (a) of this section shall be a practicing lawyer of the State in good standing.

(e) (1) The Attorney General may assign any duty that the law imposes on the Attorney General to a Deputy Attorney General, assistant Attorney General, or special attorney appointed under subsection (a) of this section or, to the extent permitted by law, a law clerk.

(2) The Deputy Attorney General, assistant Attorney General, special attorney, or law clerk shall perform the assigned duty, subject to the control of the Attorney General.

6–106.

(a) Except as otherwise provided [by law] **IN THIS SECTION**, the Attorney General has general charge of the legal business of the State.

(b) [Except as otherwise provided by law] **UNLESS A LAW EXPRESSLY PROVIDES FOR A GENERAL COUNSEL AS THE LEGAL ADVISER AND REPRESENTATIVE OF THE OFFICER OR UNIT**, the Attorney General is the legal adviser of and shall represent and otherwise perform all of the legal work for each officer and unit of the State government.

(c) [Except as provided in subsection (d) of this section or in any other law] **NOTWITHSTANDING ANY OTHER SECTION OF LAW**, an officer or unit of the State government may not employ or be represented by a legal adviser or counsel other than the Attorney General or a designee of the Attorney General[.]**, EXCEPT THAT:**

(1) (I) AN OFFICER OR UNIT OF THE STATE GOVERNMENT MAY EMPLOY OR BE REPRESENTED BY A LEGAL ADVISER OR COUNSEL OTHER THAN THE ATTORNEY GENERAL OR THE ATTORNEY GENERAL'S DESIGNEE WITH PRIOR APPROVAL OF THE ATTORNEY GENERAL; AND

(II) THE APPROVAL MAY BE PROVIDED UNDER § 6–105(B) OR (C) OF THIS SUBTITLE, § 13–107 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, OR OTHER AUTHORITY SPECIFIED BY THE ATTORNEY GENERAL;

[(d) (1)] **(2)** [A] **A** State institution may employ counsel to represent the institution in a habeas corpus proceeding[.]**;**

[(2)] **(3)** [A] **A** unit of the State government may employ counsel if:

(i) an investigation by an investigating committee of the General Assembly affects the unit;

(ii) the Attorney General represents both the investigating committee and the unit;

(iii) the Attorney General gives the Board of Public Works and the unit written notice that representation by the Attorney General involves or reasonably may involve a conflict of interest; and

(iv) the Board of Public Works approves the employment of counsel by the unit**[.]; ~~AND~~**

(4) THE OFFICE OF THE PUBLIC DEFENDER MAY EMPLOY OR BE REPRESENTED BY A LEGAL ADVISER OR COUNSEL OTHER THAN THE ATTORNEY GENERAL OR THE ATTORNEY GENERAL'S DESIGNEE; AND

[(3)**] ~~(4)~~ (5) [**Unless**] UNLESS** otherwise agreed to by the Attorney General and the County Attorney for Montgomery County, the County Attorney for Montgomery County may represent the Montgomery County Department of Health and Human Services in a contested case under Title 10, Subtitle 2 of this article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 588

(House Bill 289)

AN ACT concerning

Attorney General – State Legal Business – Hiring Counsel

FOR the purpose of making more uniform certain exceptions to certain roles of the Attorney General or a designee of the Attorney General; authorizing an officer or unit of State government to employ or be represented by certain individuals under certain circumstances; and generally relating to State legal business.

BY repealing and reenacting, without amendments,
Article – State Finance and Procurement
Section 13–107
Annotated Code of Maryland

(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,
Article – State Government
Section 6–105
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 6–106
Annotated Code of Maryland
(2004 Replacement Volume and 2008 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

13–107.

(a) (1) Whenever a procurement officer determines that there is only 1 available source for the subject of a procurement contract, the procurement officer may award the procurement contract without competition to that source.

(2) Before awarding a procurement contract to a sole source, the procurement officer shall obtain:

(i) the approval of the head of the unit; and

(ii) any other approval required by law.

(b) (1) Subject to paragraphs (2) and (3) of this subsection, with the prior written approval of the Attorney General, a unit may enter into a sole source contract to obtain the services of a contractor in connection with:

(i) threatened or pending litigation;

(ii) appraisal of real property for acquisition by the State; or

(iii) collective bargaining.

(2) This subsection applies only to a procurement in which:

(i) a unit obtains the services of a contractor to represent the State; and

(ii) the nature of the services to be performed requires confidentiality.

(3) This subsection does not apply if the unit reasonably can anticipate a continuing need for a contractor described in paragraph (1)(ii) or (iii) of this subsection.

(c) Not more than 30 days after the execution and approval of a procurement contract awarded under this section, a unit shall publish in eMaryland Marketplace notice of the award.

Article – State Government

6–105.

(a) (1) The Attorney General may employ a staff in accordance with the State budget.

(2) Staff members appointed under this subsection:

(i) are deemed special appointments within the meaning of § 6–405 of the State Personnel and Pensions Article; and

(ii) serve at the pleasure of the Attorney General.

(3) (i) Staff appointed under this subsection is entitled to compensation as provided in the State budget.

(ii) Unless the State budget provides otherwise, the salary of a Deputy Attorney General, assistant Attorney General, or special attorney appointed under this subsection is payable from the funds of the Office.

(4) Staff is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(b) (1) In addition to any other staff appointed under this section, the Attorney General, with the written approval of the Governor, may employ any assistant counsel that the Attorney General considers necessary to carry out any duty of the Office in an extraordinary or unforeseen case or in special county work.

(2) The Attorney General shall submit to the Governor a written request that:

(i) states the necessity of and each reason for the special employment; and

(ii) states the proposed compensation and its source or certifies that the Attorney General cannot ascertain in advance the proper compensation.

(3) Compensation that cannot be ascertained in advance may be agreed on or adjusted later.

(c) (1) In addition to any other staff appointed under this section, the Attorney General may employ special counsel to defend a State officer or State employee under Title 12, Subtitle 3 of this article if the Attorney General determines that representation by the Attorney General or an assistant is impracticable or uneconomical.

(2) The special counsel is entitled to compensation, as set by the Attorney General and approved by the Board of Public Works, under Title 12, Subtitle 5 of this article.

(d) Each Deputy Attorney General, assistant Attorney General, or special attorney appointed under subsection (a) of this section shall be a practicing lawyer of the State in good standing.

(e) (1) The Attorney General may assign any duty that the law imposes on the Attorney General to a Deputy Attorney General, assistant Attorney General, or special attorney appointed under subsection (a) of this section or, to the extent permitted by law, a law clerk.

(2) The Deputy Attorney General, assistant Attorney General, special attorney, or law clerk shall perform the assigned duty, subject to the control of the Attorney General.

6–106.

(a) Except as otherwise provided **[**by law**] IN THIS SECTION**, the Attorney General has general charge of the legal business of the State.

(b) **[**Except as otherwise provided by law**] UNLESS A LAW EXPRESSLY PROVIDES FOR A GENERAL COUNSEL AS THE LEGAL ADVISER AND REPRESENTATIVE OF THE OFFICER OR UNIT**, the Attorney General is the legal adviser of and shall represent and otherwise perform all of the legal work for each officer and unit of the State government.

(c) **[**Except as provided in subsection (d) of this section or in any other law**] NOTWITHSTANDING ANY OTHER SECTION OF LAW**, an officer or unit of the State government may not employ or be represented by a legal adviser or counsel other than the Attorney General or a designee of the Attorney General**[**.**], EXCEPT THAT:**

(1) (I) AN OFFICER OR UNIT OF THE STATE GOVERNMENT MAY EMPLOY OR BE REPRESENTED BY A LEGAL ADVISER OR COUNSEL OTHER THAN THE ATTORNEY GENERAL OR THE ATTORNEY GENERAL'S DESIGNEE WITH PRIOR APPROVAL OF THE ATTORNEY GENERAL; AND

(II) THE APPROVAL MAY BE PROVIDED UNDER § 6–105(B) OR (C) OF THIS SUBTITLE, § 13–107 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, OR OTHER AUTHORITY SPECIFIED BY THE ATTORNEY GENERAL;

[(d) (1)**] (2) [**A**] A** State institution may employ counsel to represent the institution in a habeas corpus proceeding**[**.**];**

[(2)**] (3) [**A**] A** unit of the State government may employ counsel if:

(i) an investigation by an investigating committee of the General Assembly affects the unit;

(ii) the Attorney General represents both the investigating committee and the unit;

(iii) the Attorney General gives the Board of Public Works and the unit written notice that representation by the Attorney General involves or reasonably may involve a conflict of interest; and

(iv) the Board of Public Works approves the employment of counsel by the unit**[**.**]; ~~AND~~**

(4) THE OFFICE OF THE PUBLIC DEFENDER MAY EMPLOY OR BE REPRESENTED BY A LEGAL ADVISER OR COUNSEL OTHER THAN THE ATTORNEY GENERAL OR THE ATTORNEY GENERAL'S DESIGNEE; AND

[(3)**] ~~(4)~~ *(5)* [**Unless**] UNLESS** otherwise agreed to by the Attorney General and the County Attorney for Montgomery County, the County Attorney for Montgomery County may represent the Montgomery County Department of Health and Human Services in a contested case under Title 10, Subtitle 2 of this article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 589

(Senate Bill 688)

AN ACT concerning

Public Service Companies – Passenger–For–Hire Services – Limousines

FOR the purpose of repealing a certain provision exempting a certain limousine services permit from a certain annual assessment; authorizing the use of the For–Hire Driving Services Enforcement Fund for certain enforcement activities relating to limousine services; altering the definition of "limousine" for purposes of certain vehicle laws; prohibiting an individual from operating for hire a limousine designed to carry no more than a certain number of passengers unless the individual holds a certain for–hire driver's license ~~and the limousine displays certain registration plates~~; prohibiting a person from permitting an individual to operate for hire a limousine designed to carry no more than a certain number of passengers unless the individual operating the limousine holds a certain for–hire driver's license and the limousine displays certain registration plates; providing for a certain penalty for a violation of certain provisions of this Act; requiring that a certain number of points be assessed against an individual under a certain point system maintained by the Motor Vehicle Administration for a violation of ~~certain provisions~~ a certain provision of this Act; and generally relating to limousines and limousine services.

BY renumbering
Article – Transportation
Section 16–402(a)(10) through (37), respectively
to be Section 16–402(a)(11) through (38), respectively
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,
Article – Public Utility Companies
Section 10–101(a), (e), (f), (g), (h), (i), and (j), 10–102(b), and 10–103(a)
Annotated Code of Maryland
(2008 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Public Utility Companies
Section 10–112
Annotated Code of Maryland
(2008 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Transportation
Section 11–129.1 and 27–101(z)

Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,
Article – Transportation
Section 13–939
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

BY adding to
Article – Transportation
Section 16–402(a)(10) and 21–1127
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 16–402(a)(10) through (37), respectively, of Article – Transportation of the Annotated Code of Maryland be renumbered to be Section(s) 16–402(a)(11) through (38), respectively.

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

Article – Public Utility Companies

10–101.

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

(e) (1) "Limousine service" means operating a motor vehicle for hire using a motor vehicle classified as a Class Q (limousine) vehicle under § 13–939 of the Transportation Article.

(2) "Limousine service" does not include providing taxicab services or sedan services.

(f) (1) "Operate a motor vehicle for hire" means to transport or offer to transport a person in a motor vehicle in exchange for remuneration.

(2) "Operate a motor vehicle for hire" includes:

(i) providing passenger–for–hire services; and

(ii) providing taxicab services.

(g) "Provide passenger–for–hire services" includes:

(1) providing limousine services; and

(2) providing sedan services.

(h) "Provide taxicab services" means to operate a motor vehicle for hire that, in addition to other services:

(1) is advertised or held out to the public as a taxicab or as providing taxicab services;

(2) regardless of how or when engaged, provides for–hire service between points chosen by the passenger and for a fare that is based on the distance traveled, the time elapsed, or both; or

(3) is engaged by the passenger for service between points chosen by the passenger that is provided through:

(i) hail from the street or other location; or

(ii) request made at a taxi stand or other location where the motor vehicle is standing and waiting for a request for service.

(i) "Remuneration" includes:

(1) a fare;

(2) a fee;

(3) a toll;

(4) a gratuity; and

(5) personal services.

(j) (1) "Sedan service" means operating a motor vehicle for hire using a motor vehicle designed to carry 15 or fewer individuals, including the driver.

(2) "Sedan service" does not include providing taxicab services or limousine services.

10–102.

(b) This title applies to any motor vehicle used in the transportation of persons in exchange for remuneration except:

(1) motor vehicles designed to transport more than 15 persons; and

(2) transportation solely provided by or on behalf of a unit of federal, State, or local government, or a not–for–profit organization as identified in § 501(c)(3) and (4) of the Internal Revenue Code, that requires a criminal history records check and driving record check for its drivers, for clients of services including:

(i) aging support;

(ii) developmental and other disabilities;

(iii) kidney dialysis;

(iv) Medical Assistance Program;

(v) Head Start;

(vi) Welfare–to–Work;

(vii) mental health; and

(viii) job training.

10–103.

(a) Except as provided in subsection (b) of this section, a person may not operate a motor vehicle for hire in the State under a permit or authorization to transport passengers issued by the Commission or the appropriate local authority unless the person holds a for–hire driver's license issued by the Commission.

10–112.

(a) There is a For–Hire Driving Services Enforcement Fund.

(b) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(c) The purpose of the Fund is to provide adequate resources for the Commission to enforce the requirements of this title concerning for–hire driving services.

(d) (1) The Fund consists of assessments made on permits for vehicles regulated by the Commission to provide for–hire driving services in the State.

(2) The Commission shall establish an assessment not exceeding $40 to be paid annually with respect to each vehicle permit to provide for–hire driving services, except for a vehicle permit to be used exclusively for**[**:

(i) limousine service; or

(ii)**]** employee van transportation to or from a designated work site.

(e) The Fund is to be used solely for statewide enforcement activities of the Commission relating to taxicab services**, LIMOUSINE SERVICES,** and sedan services.

Article – Transportation

11–129.1.

"Limousine" means a vehicle that:

(1) Has been modified or stretched for transportation of passengers; **[**and**]**

(2) **IS DRIVEN AS PART OF A SERVICE PROVIDED BY A PERSON THAT ADVERTISES ITSELF AS A PROVIDER OF LIMOUSINE SERVICES OR REGISTERS WITH THE PUBLIC SERVICE COMMISSION AS A PROVIDER OF LIMOUSINE SERVICES; OR**

(3) Is equipped with amenities not normally provided in passenger cars, including a custom interior, television, video cassette recorder, musical sound system, telephone, ice storage area, additional interior lighting, and driver–passenger communication such as an intercom or power–operated driver partition.

13–939.

(a) When registered with the Administration, every limousine operated for hire is a Class Q (limousine) vehicle.

(b) For each Class Q (limousine) vehicle, the annual registration fee is $185.00.

(c) On registration of a vehicle under this section, the Administration shall issue special limousine vehicle registration plates of the size and design that the Administration determines.

16–402.

(a) After the conviction of an individual for a violation of Title 2, Subtitle 5, § 2–209, or § 3–211 of the Criminal Law Article, or of the vehicle laws or regulations of this State or of any local authority, points shall be assessed against the individual as of the date of violation and as follows:

(10) OPERATING A LIMOUSINE ~~OR ALLOWING AN INDIVIDUAL TO OPERATE A LIMOUSINE~~ IN VIOLATION OF ~~§ 21–1127~~ § 21–1127(A) OF THIS ARTICLE ..... 2 POINTS

21–1127.

(A) AN INDIVIDUAL MAY NOT OPERATE FOR HIRE A LIMOUSINE DESIGNED TO CARRY 15 OR FEWER INDIVIDUALS, INCLUDING THE DRIVER, UNLESS~~:~~

~~(1)~~ ~~THE~~ THE INDIVIDUAL HOLDS A VALID FOR–HIRE DRIVER'S LICENSE ISSUED BY THE PUBLIC SERVICE COMMISSION~~; AND~~

~~(2) THE LIMOUSINE DISPLAYS SPECIAL LIMOUSINE VEHICLE REGISTRATION PLATES ISSUED UNDER § 13–939 OF THIS ARTICLE~~.

(B) A PERSON MAY NOT ALLOW AN INDIVIDUAL TO OPERATE FOR HIRE A LIMOUSINE DESIGNED TO CARRY 15 OR FEWER INDIVIDUALS, INCLUDING THE DRIVER, UNLESS:

(1) THE INDIVIDUAL OPERATING THE LIMOUSINE HOLDS A VALID FOR–HIRE DRIVER'S LICENSE ISSUED BY THE PUBLIC SERVICE COMMISSION; AND

(2) THE LIMOUSINE DISPLAYS SPECIAL LIMOUSINE VEHICLE REGISTRATION PLATES ISSUED UNDER § 13–939 OF THIS ARTICLE.

27–101.

(z) Any person who is convicted of a violation of § 21–1126 **OR § 21–1127** of this article is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding $1,000 or both.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 590

(House Bill 1088)

AN ACT concerning

Public Service Companies – Passenger–For–Hire Services – Limousines

FOR the purpose of repealing a certain provision exempting a certain limousine services permit from a certain annual assessment; authorizing the use of the For–Hire Driving Services Enforcement Fund for certain enforcement activities relating to limousine services; altering the definition of "limousine" for purposes of certain vehicle laws; prohibiting an individual from operating for hire a limousine designed to carry no more than a certain number of passengers unless the individual holds a certain for–hire driver's license ~~and the limousine displays certain registration plates~~; prohibiting a person from permitting an individual to operate for hire a limousine designed to carry no more than a certain number of passengers unless the individual operating the limousine holds a certain for–hire driver's license and the limousine displays certain registration plates; providing for a certain penalty for a violation of certain provisions of this Act; requiring that a certain number of points be assessed against an individual under a certain point system maintained by the Motor Vehicle Administration for a violation of ~~certain provisions~~ a certain provision of this Act; and generally relating to limousines and limousine services.

BY renumbering
Article – Transportation
Section 16–402(a)(10) through (37), respectively
to be Section 16–402(a)(11) through (38), respectively
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,
Article – Public Utility Companies
Section 10–101(a), (e), (f), (g), (h), (i), and (j), 10–102(b), and 10–103(a)
Annotated Code of Maryland
(2008 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Public Utility Companies
Section 10–112
Annotated Code of Maryland
(2008 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Transportation
Section 11–129.1 and 27–101(z)
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,
Article – Transportation

Section 13–939
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

BY adding to
Article – Transportation
Section 16–402(a)(10) and 21–1127
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 16–402(a)(10) through (37), respectively, of Article – Transportation of the Annotated Code of Maryland be renumbered to be Section(s) 16–402(a)(11) through (38), respectively.

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

Article – Public Utility Companies

10–101.

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

(e) (1) "Limousine service" means operating a motor vehicle for hire using a motor vehicle classified as a Class Q (limousine) vehicle under § 13–939 of the Transportation Article.

(2) "Limousine service" does not include providing taxicab services or sedan services.

(f) (1) "Operate a motor vehicle for hire" means to transport or offer to transport a person in a motor vehicle in exchange for remuneration.

(2) "Operate a motor vehicle for hire" includes:

(i) providing passenger–for–hire services; and

(ii) providing taxicab services.

(g) "Provide passenger–for–hire services" includes:

(1) providing limousine services; and

(2) providing sedan services.

(h) "Provide taxicab services" means to operate a motor vehicle for hire that, in addition to other services:

(1) is advertised or held out to the public as a taxicab or as providing taxicab services;

(2) regardless of how or when engaged, provides for–hire service between points chosen by the passenger and for a fare that is based on the distance traveled, the time elapsed, or both; or

(3) is engaged by the passenger for service between points chosen by the passenger that is provided through:

(i) hail from the street or other location; or

(ii) request made at a taxi stand or other location where the motor vehicle is standing and waiting for a request for service.

(i) "Remuneration" includes:

(1) a fare;

(2) a fee;

(3) a toll;

(4) a gratuity; and

(5) personal services.

(j) (1) "Sedan service" means operating a motor vehicle for hire using a motor vehicle designed to carry 15 or fewer individuals, including the driver.

(2) "Sedan service" does not include providing taxicab services or limousine services.

10–102.

(b) This title applies to any motor vehicle used in the transportation of persons in exchange for remuneration except:

(1) motor vehicles designed to transport more than 15 persons; and

(2) transportation solely provided by or on behalf of a unit of federal, State, or local government, or a not–for–profit organization as identified in § 501(c)(3) and (4) of the Internal Revenue Code, that requires a criminal history records check and driving record check for its drivers, for clients of services including:

(i) aging support;

(ii) developmental and other disabilities;

(iii) kidney dialysis;

(iv) Medical Assistance Program;

(v) Head Start;

(vi) Welfare–to–Work;

(vii) mental health; and

(viii) job training.

10–103.

(a) Except as provided in subsection (b) of this section, a person may not operate a motor vehicle for hire in the State under a permit or authorization to transport passengers issued by the Commission or the appropriate local authority unless the person holds a for–hire driver's license issued by the Commission.

10–112.

(a) There is a For–Hire Driving Services Enforcement Fund.

(b) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(c) The purpose of the Fund is to provide adequate resources for the Commission to enforce the requirements of this title concerning for–hire driving services.

(d) (1) The Fund consists of assessments made on permits for vehicles regulated by the Commission to provide for–hire driving services in the State.

(2) The Commission shall establish an assessment not exceeding $40 to be paid annually with respect to each vehicle permit to provide for–hire driving services, except for a vehicle permit to be used exclusively for**[**:

(i) limousine service; or

(ii)**]** employee van transportation to or from a designated work site.

(e) The Fund is to be used solely for statewide enforcement activities of the Commission relating to taxicab services**, LIMOUSINE SERVICES,** and sedan services.

Article – Transportation

11–129.1.

"Limousine" means a vehicle that:

(1) Has been modified or stretched for transportation of passengers; **[**and**]**

(2) **IS DRIVEN AS PART OF A SERVICE PROVIDED BY A PERSON THAT ADVERTISES ITSELF AS A PROVIDER OF LIMOUSINE SERVICES OR REGISTERS WITH THE PUBLIC SERVICE COMMISSION AS A PROVIDER OF LIMOUSINE SERVICES; OR**

(3) Is equipped with amenities not normally provided in passenger cars, including a custom interior, television, video cassette recorder, musical sound system, telephone, ice storage area, additional interior lighting, and driver–passenger communication such as an intercom or power–operated driver partition.

13–939.

(a) When registered with the Administration, every limousine operated for hire is a Class Q (limousine) vehicle.

(b) For each Class Q (limousine) vehicle, the annual registration fee is $185.00.

(c) On registration of a vehicle under this section, the Administration shall issue special limousine vehicle registration plates of the size and design that the Administration determines.

16–402.

(a) After the conviction of an individual for a violation of Title 2, Subtitle 5, § 2–209, or § 3–211 of the Criminal Law Article, or of the vehicle laws or regulations of this State or of any local authority, points shall be assessed against the individual as of the date of violation and as follows:

(10) OPERATING A LIMOUSINE ~~OR ALLOWING AN INDIVIDUAL TO OPERATE A LIMOUSINE~~ IN VIOLATION OF ~~§ 21–1127~~ *§ 21–1127(A)* OF THIS ARTICLE ..... 2 POINTS

21–1127.

(A) AN INDIVIDUAL MAY NOT OPERATE FOR HIRE A LIMOUSINE DESIGNED TO CARRY 15 OR FEWER INDIVIDUALS, INCLUDING THE DRIVER, UNLESS:

~~(1)~~ ~~THE~~ *THE* INDIVIDUAL HOLDS A VALID FOR–HIRE DRIVER'S LICENSE ISSUED BY THE PUBLIC SERVICE COMMISSION~~; AND~~

~~(2) THE LIMOUSINE DISPLAYS SPECIAL LIMOUSINE VEHICLE REGISTRATION PLATES ISSUED UNDER § 13–939 OF THIS ARTICLE~~.

(B) A PERSON MAY NOT ALLOW AN INDIVIDUAL TO OPERATE FOR HIRE A LIMOUSINE DESIGNED TO CARRY 15 OR FEWER INDIVIDUALS, INCLUDING THE DRIVER, UNLESS:

(1) THE INDIVIDUAL OPERATING THE LIMOUSINE HOLDS A VALID FOR–HIRE DRIVER'S LICENSE ISSUED BY THE PUBLIC SERVICE COMMISSION; AND

(2) THE LIMOUSINE DISPLAYS SPECIAL LIMOUSINE VEHICLE REGISTRATION PLATES ISSUED UNDER § 13–939 OF THIS ARTICLE.

27–101.

(z) Any person who is convicted of a violation of § 21–1126 **OR § 21–1127** of this article is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding $1,000 or both.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 591

(Senate Bill 690)

AN ACT concerning

Programs for Children in Out–of–Home Placement – System for Outcomes Evaluation

FOR the purpose of expanding the programs to which certain provisions relating to a certain system for outcomes evaluation for certain programs for children in

out–of–home placement apply; exempting certain facilities and programs from certain provisions relating to a certain system for outcomes evaluation; altering certain definitions to include certain programs for purposes of certain provisions relating to a certain system for outcomes evaluation; providing for ~~the effective dates~~ *a delayed effective date for certain provisions* of this Act; and generally relating to children in out–of–home placement and a certain system for outcomes evaluation.

BY repealing and reenacting, without amendments,
Article – Human Services
Section 8–101(a) and (m)
Annotated Code of Maryland
(2007 Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Human Services
Section 8–1001 through 8–1003 to be under the amended subtitle "Subtitle 10. Programs for Children in Out–of–Home Placement – Standards for Staff and System for Outcomes Evaluation"
Annotated Code of Maryland
(2007 Volume and 2008 Supplement)

BY adding to
Article – Human Services
Section 8–1002
Annotated Code of Maryland
(2007 Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,
Article – Human Services
Section 8–1001(a) and (e)
Annotated Code of Maryland
(2007 Volume and 2008 Supplement)
(As enacted by Section 1 of this Act)

BY repealing and reenacting, with amendments,
Article – Human Services
Section 8–1001(d)
Annotated Code of Maryland
(2007 Volume and 2008 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 – Human Services

8–101.

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

(m) (1) "Residential child care program" means an entity that provides 24–hour per day care for children within a structured set of services and activities that are designed to achieve specific objectives relative to the needs of the children served and that include the provision of food, clothing, shelter, education, social services, health, mental health, recreation, or any combination of these services and activities.

(2) "Residential child care program" includes a program:

(i) licensed by:

1. the Department of Health and Mental Hygiene;

2. the Department of Human Resources; or

3. the Department of Juvenile Services; and

(ii) that is subject to the licensing regulations of the members of the Children's Cabinet governing the operations of residential child care programs.

Subtitle 10. [Residential Child Care] Programs **FOR CHILDREN IN OUT–OF–HOME PLACEMENT** – Standards for Staff and System for Outcomes Evaluation.

8–1001.

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

(b) (1) "Cooperating department" means a unit of the State government responsible for out–of–home placement of children.

(2) "Cooperating department" includes:

(i) the Department of Juvenile Services; and

(ii) the Department of Human Resources.

(c) "Direct care staff" means staff assigned to perform direct responsibilities related to activities of daily living, self–help, and socialization skills of children in a residential child care program.

(d) "Out–of–home placement" means:

(1) the removal of a child from the child's family; and

(2) the placement of the child by a cooperating department or court in a public or private residential child care program **OR TREATMENT FOSTER CARE HOME** for more than 30 days.

(e) "System for outcomes evaluation" means an objective and standardized method of measuring the effectiveness of [residential child care programs] **THE PROGRAMS DESCRIBED IN SUBSECTION (D)(2) OF THIS SECTION**.

8–1002.

EXCEPT FOR PROVISIONS RELATING TO DIRECT CARE STAFF UNDER § 8–1003 OF THIS SUBTITLE, THIS SUBTITLE DOES NOT APPLY TO:

(1) A SHELTER CARE FACILITY OR RESIDENTIAL RESPITE PROGRAM LICENSED BY THE DEPARTMENT OF HUMAN RESOURCES; OR

(2) A DETENTION CENTER OR SHELTER CARE FACILITY OPERATED BY OR UNDER CONTRACT WITH THE DEPARTMENT OF JUVENILE SERVICES.

[8–1002.] **8–1003.**

The Department of Juvenile Services, the Department of Human Resources, the Department of Health and Mental Hygiene, and the Governor's Office for Children shall jointly adopt regulations requiring each member of a direct care staff to:

(1) be at least 21 years old; and

(2) complete a training program that is approved by the agency that licensed the residential child care program.

[8–1003.] **8–1004.**

(a) On or before July 1, 2008, the Office and the cooperating departments shall develop, coordinate, and implement a system for outcomes evaluation.

(b) The system for outcomes evaluation shall be used to:

(1) monitor the care, supervision, education, and treatment provided by State–operated and State–supported [residential child care programs] **PROGRAMS DESCRIBED IN § 8–1001(D)(2) OF THIS SUBTITLE** so that successful services can be expanded and services that do not produce positive results can be identified;

(2) establish an evaluation system for program performance, including measures of safety, quality, and effectiveness; and

(3) complete an assessment of the [State's residential child care program] capacity **OF THE PROGRAMS DESCRIBED IN § 8–1001(D)(2) OF THIS SUBTITLE IN THE STATE** that identifies [residential child care] programs in each community to serve the needs of a family that resides in the community.

(c) The system for outcomes evaluation shall use standardized measures of function to evaluate the child's:

(1) protection from harm while in out–of–home placement;

(2) stability of living environment;

(3) family situation and efforts to treat and counsel the family unit;

(4) educational and vocational development;

(5) job skills and employment readiness;

(6) legal and appropriate use of drugs and alcohol;

(7) progress in learning positive, nonaggressive behavioral habits; and

(8) delinquency status.

(d) The system for outcomes evaluation shall ensure that collection and use of data in the system maintains confidentiality of information on the children from the cooperating departments.

(e) The system for outcomes evaluation shall ensure that a cooperating department shall:

(1) facilitate the participation of [residential child care] programs **DESCRIBED IN § 8–1001(D)(2) OF THIS SUBTITLE** operated by the cooperating department or private agencies with which the cooperating department has a contract for the placement of children in out–of–home care; and

(2) include in the cooperating department's contract with a private [residential child care] program provisions requiring the program to collect and report to the cooperating department:

(i) child–specific demographic information; and

(ii) data necessary to evaluate changes in functioning of the child as provided in subsection (c) of this section.

(f) When reporting demographic information and data under subsection (e) of this section, a cooperating department:

(1) may not disclose personal identifiers; and

(2) shall ensure the confidentiality of the information about the children under its responsibility.

(g) On or before October 1 of each year, the Office, in coordination with the cooperating departments, shall submit a report to the Governor and, in accordance with § 2–1246 of the State Government Article, to the General Assembly on the progress of implementing the system for outcomes evaluation.

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

Article – Human Services

8–1001.

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

(d) "Out–of–home placement" means:

(1) the removal of a child from the child's family; and

(2) the placement of the child by a cooperating department or court in a public or private residential child care program **[**or**], A RESIDENTIAL PROGRAM OPERATED BY OR UNDER CONTRACT WITH THE DEPARTMENT OF JUVENILE SERVICES, A FOSTER CARE HOME APPROVED BY A LOCAL DEPARTMENT OF SOCIAL SERVICES, OR A** treatment foster care home for more than 30 days.

(e) "System for outcomes evaluation" means an objective and standardized method of measuring the effectiveness of the programs described in subsection (d)(2) of this section.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect July 1, ~~2010~~ 2011.

SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in Section 3 of this Act, this Act shall take effect July 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 592

(House Bill 713)

AN ACT concerning

Programs for Children in Out–of–Home Placement – System for Outcomes Evaluation

FOR the purpose of expanding the programs to which certain provisions relating to a certain system for outcomes evaluation for certain programs for children in out–of–home placement apply; exempting certain facilities and programs from certain provisions relating to a certain system for outcomes evaluation; altering certain definitions to include certain programs for purposes of certain provisions relating to a certain system for outcomes evaluation; providing for ~~the effective dates~~ a delayed effective date for certain provisions of this Act; and generally relating to children in out–of–home placement and a certain system for outcomes evaluation.

BY repealing and reenacting, without amendments,
Article – Human Services
Section 8–101(a) and (m)
Annotated Code of Maryland
(2007 Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Human Services
Section 8–1001 through 8–1003 to be under the amended subtitle "Subtitle 10. Programs for Children in Out–of–Home Placement – Standards for Staff and System for Outcomes Evaluation"
Annotated Code of Maryland
(2007 Volume and 2008 Supplement)

BY adding to
Article – Human Services
Section 8–1002
Annotated Code of Maryland
(2007 Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,
Article – Human Services
Section 8–1001(a) and (e)
Annotated Code of Maryland
(2007 Volume and 2008 Supplement)
(As enacted by Section 1 of this Act)

BY repealing and reenacting, with amendments,

Article – Human Services
Section 8–1001(d)
Annotated Code of Maryland
(2007 Volume and 2008 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 – Human Services

8–101.

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

(m) (1) "Residential child care program" means an entity that provides 24–hour per day care for children within a structured set of services and activities that are designed to achieve specific objectives relative to the needs of the children served and that include the provision of food, clothing, shelter, education, social services, health, mental health, recreation, or any combination of these services and activities.

(2) "Residential child care program" includes a program:

(i) licensed by:

1. the Department of Health and Mental Hygiene;

2. the Department of Human Resources; or

3. the Department of Juvenile Services; and

(ii) that is subject to the licensing regulations of the members of the Children's Cabinet governing the operations of residential child care programs.

Subtitle 10. **[**Residential Child Care**]** Programs **FOR CHILDREN IN OUT–OF–HOME PLACEMENT** – Standards for Staff and System for Outcomes Evaluation.

8–1001.

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

(b) (1) "Cooperating department" means a unit of the State government responsible for out–of–home placement of children.

(2) "Cooperating department" includes:

(i) the Department of Juvenile Services; and

(ii) the Department of Human Resources.

(c) "Direct care staff" means staff assigned to perform direct responsibilities related to activities of daily living, self–help, and socialization skills of children in a residential child care program.

(d) "Out–of–home placement" means:

(1) the removal of a child from the child's family; and

(2) the placement of the child by a cooperating department or court in a public or private residential child care program **OR TREATMENT FOSTER CARE HOME** for more than 30 days.

(e) "System for outcomes evaluation" means an objective and standardized method of measuring the effectiveness of **[**residential child care programs**]** **THE PROGRAMS DESCRIBED IN SUBSECTION (D)(2) OF THIS SECTION**.

8–1002.

EXCEPT FOR PROVISIONS RELATING TO DIRECT CARE STAFF UNDER § 8–1003 OF THIS SUBTITLE, THIS SUBTITLE DOES NOT APPLY TO:

(1) A SHELTER CARE FACILITY OR RESIDENTIAL RESPITE PROGRAM LICENSED BY THE DEPARTMENT OF HUMAN RESOURCES; OR

(2) A DETENTION CENTER OR SHELTER CARE FACILITY OPERATED BY OR UNDER CONTRACT WITH THE DEPARTMENT OF JUVENILE SERVICES.

[8–1002.**]** **8–1003.**

The Department of Juvenile Services, the Department of Human Resources, the Department of Health and Mental Hygiene, and the Governor's Office for Children shall jointly adopt regulations requiring each member of a direct care staff to:

(1) be at least 21 years old; and

(2) complete a training program that is approved by the agency that licensed the residential child care program.

[8–1003.**]** **8–1004.**

(a) On or before July 1, 2008, the Office and the cooperating departments shall develop, coordinate, and implement a system for outcomes evaluation.

(b) The system for outcomes evaluation shall be used to:

(1) monitor the care, supervision, education, and treatment provided by State–operated and State–supported [residential child care programs] **PROGRAMS DESCRIBED IN § 8–1001(D)(2) OF THIS SUBTITLE** so that successful services can be expanded and services that do not produce positive results can be identified;

(2) establish an evaluation system for program performance, including measures of safety, quality, and effectiveness; and

(3) complete an assessment of the [State's residential child care program] capacity **OF THE PROGRAMS DESCRIBED IN § 8–1001(D)(2) OF THIS SUBTITLE IN THE STATE** that identifies [residential child care] programs in each community to serve the needs of a family that resides in the community.

(c) The system for outcomes evaluation shall use standardized measures of function to evaluate the child's:

(1) protection from harm while in out–of–home placement;

(2) stability of living environment;

(3) family situation and efforts to treat and counsel the family unit;

(4) educational and vocational development;

(5) job skills and employment readiness;

(6) legal and appropriate use of drugs and alcohol;

(7) progress in learning positive, nonaggressive behavioral habits; and

(8) delinquency status.

(d) The system for outcomes evaluation shall ensure that collection and use of data in the system maintains confidentiality of information on the children from the cooperating departments.

(e) The system for outcomes evaluation shall ensure that a cooperating department shall:

(1) facilitate the participation of [residential child care] programs **DESCRIBED IN § 8–1001(D)(2) OF THIS SUBTITLE** operated by the cooperating

department or private agencies with which the cooperating department has a contract for the placement of children in out–of–home care; and

(2) include in the cooperating department's contract with a private [residential child care] program provisions requiring the program to collect and report to the cooperating department:

(i) child–specific demographic information; and

(ii) data necessary to evaluate changes in functioning of the child as provided in subsection (c) of this section.

(f) When reporting demographic information and data under subsection (e) of this section, a cooperating department:

(1) may not disclose personal identifiers; and

(2) shall ensure the confidentiality of the information about the children under its responsibility.

(g) On or before October 1 of each year, the Office, in coordination with the cooperating departments, shall submit a report to the Governor and, in accordance with § 2–1246 of the State Government Article, to the General Assembly on the progress of implementing the system for outcomes evaluation.

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

Article – Human Services

8–1001.

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

(d) "Out–of–home placement" means:

(1) the removal of a child from the child's family; and

(2) the placement of the child by a cooperating department or court in a public or private residential child care program [or]**, A RESIDENTIAL PROGRAM OPERATED BY OR UNDER CONTRACT WITH THE DEPARTMENT OF JUVENILE SERVICES, A FOSTER CARE HOME APPROVED BY A LOCAL DEPARTMENT OF SOCIAL SERVICES, OR A** treatment foster care home for more than 30 days.

(e) "System for outcomes evaluation" means an objective and standardized method of measuring the effectiveness of the programs described in subsection (d)(2) of this section.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect July 1, ~~2010~~ 2011.

SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in Section 3 of this Act, this Act shall take effect July 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 593

(Senate Bill 698)

AN ACT concerning

Income Tax Refund – Direct Deposit – Multiple Accounts

FOR the purpose of requiring the Comptroller, if a certain request is made, to directly deposit an income tax refund into multiple accounts; providing for a delayed effective date; and generally relating to the direct deposit of an income tax refund.

BY adding to
Article – Tax – General
Section 13–905(f)
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

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

Article – Tax – General

13–905.

(F) IF REQUESTED BY A CLAIMANT ON A FORM PROVIDED BY THE COMPTROLLER, THE COMPTROLLER SHALL DIRECTLY DEPOSIT PORTIONS OF AN INCOME TAX REFUND INTO ~~MORE THAN ONE ACCOUNT~~ AT LEAST TWO ACCOUNTS AT ONE OR MORE FINANCIAL INSTITUTIONS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October 1, 2009~~ January 1, 2011.

Approved by the Governor, May 19, 2009.

Chapter 594

(House Bill 883)

AN ACT concerning

Income Tax Refund – Direct Deposit – Multiple Accounts

FOR the purpose of requiring the Comptroller, if a certain request is made, to directly deposit an income tax refund into multiple accounts; providing for a delayed effective date; and generally relating to the direct deposit of an income tax refund.

BY adding to
Article – Tax – General
Section 13–905(f)
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

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

Article – Tax – General

13–905.

(F) IF REQUESTED BY A CLAIMANT ON A FORM PROVIDED BY THE COMPTROLLER, THE COMPTROLLER SHALL DIRECTLY DEPOSIT PORTIONS OF AN INCOME TAX REFUND INTO AT LEAST TWO ACCOUNTS AT ONE OR MORE FINANCIAL INSTITUTIONS~~, BEGINNING IN TAX YEAR 2010~~.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October 1, 2009~~ January 1, 2011.

Approved by the Governor, May 19, 2009.

Chapter 595

(Senate Bill 714)

AN ACT concerning

Domestic Violence – ~~Interim and Temporary~~ Protective Orders – Custody of Minor Child

FOR the purpose of authorizing a District Court Commissioner to order a law enforcement officer to use all reasonable and necessary force to enforce a temporary custody provision of an interim protective order; authorizing a judge to order a law enforcement officer to use all reasonable and necessary force to enforce a temporary custody provision of ~~an interim or~~ a temporary protective order; requiring that enforcement of a temporary custody provision of an interim, temporary, or final protective order occur after service of the protective order; and generally relating to domestic violence protective orders.

BY repealing and reenacting, with amendments,
Article – Family Law
Section 4–504.1 ~~and~~, 4–505(a), and 4–506(e)
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – Family Law

4–504.1.

(a) A petition under this subtitle may be filed with a commissioner when neither the office of the clerk of the circuit court nor the Office of the District Court Clerk is open for business.

(b) If a petition is filed with a commissioner and the commissioner finds that there are reasonable grounds to believe that the respondent has abused a person eligible for relief, the commissioner may issue an interim protective order to protect a person eligible for relief.

(c) An interim protective order may:

(1) order the respondent to refrain from further abuse or threats of abuse of a person eligible for relief;

(2) order the respondent to refrain from contacting, attempting to contact, or harassing a person eligible for relief;

(3) order the respondent to refrain from entering the residence of a person eligible for relief;

(4) if a person eligible for relief and the respondent are residing together at the time of the alleged abuse:

(i) order the respondent to vacate the home immediately;

(ii) award to a person eligible for relief custody of any child of the person eligible for relief and respondent then residing in the home; and

(iii) subject to the limits as to a nonspouse specified in § 4–505(a)(2)(iv) of this subtitle, award temporary use and possession of the home to the person eligible for relief;

(5) in a case alleging abuse of a child, award temporary custody of a minor child of the respondent and a person eligible for relief;

(6) in a case alleging abuse of a vulnerable adult, subject to the limits as to a nonspouse specified in § 4–505(a)(2)(iv) of this subtitle, award temporary use and possession of the home to an adult living in the home;

(7) order the respondent to remain away from the place of employment, school, or temporary residence of a person eligible for relief; or

(8) order the respondent to remain away from the residence of any family member of a person eligible for relief.

(D) IF THE ~~JUDGE~~ COMMISSIONER AWARDS TEMPORARY CUSTODY OF A MINOR CHILD UNDER SUBSECTION (C)(4)(II) OR (5) OF THIS SECTION, THE ~~JUDGE~~ COMMISSIONER MAY ORDER A LAW ENFORCEMENT OFFICER TO USE ALL REASONABLE AND NECESSARY FORCE TO RETURN THE MINOR CHILD TO THE CUSTODIAL PARENT ~~AT THE TIME OF SERVICE OR AS SOON AS POSSIBLE~~ AFTER ~~ENTRY~~ SERVICE OF THE INTERIM PROTECTIVE ORDER.

[(d)**] (E)** (1) (i) An interim protective order shall state the date, time, and location for the temporary protective order hearing and a tentative date, time, and location for a final protective order hearing.

(ii) A temporary protective order hearing shall be held on the first or second day on which a District Court judge is sitting after issuance of the interim protective order, unless the judge continues the hearing for good cause.

(2) An interim protective order shall include in at least 10–point bold type:

(i) notice to the respondent that:

1. the respondent must give the court written notice of each change of address;

2. if the respondent fails to appear at the temporary protective order hearing or any later hearing, the respondent may be served with any orders or notices in the case by first–class mail at the respondent's last known address;

3. the date, time, and location of the final protective order hearing is tentative only, and subject to change; and

4. if the respondent does not attend the temporary protective order hearing, the respondent may call the Office of the Clerk of the District Court at the number provided in the order to find out the actual date, time, and location of any final protective order hearing;

(ii) a statement of all possible forms and duration of relief that a temporary protective order or final protective order may contain;

(iii) notice to the petitioner and respondent that, at the hearing, a judge may issue a temporary protective order that grants any or all of the relief requested in the petition or may deny the petition, whether or not the respondent is in court;

(iv) a warning to the respondent that violation of an interim protective order is a crime and that a law enforcement officer shall arrest the respondent, with or without a warrant, and take the respondent into custody if the officer has probable cause to believe that the respondent has violated any provision of the interim protective order; and

(v) the phone number of the Office of the District Court Clerk.

[(e)**] (F)** Whenever a commissioner issues an interim protective order, the commissioner shall:

(1) immediately forward a copy of the petition and interim protective order to the appropriate law enforcement agency for service on the respondent; and

(2) before the hearing scheduled in the interim protective order, transfer the case file and the return of service, if any, to the Office of the District Court Clerk.

[(f)**] (G)** A law enforcement officer shall:

(1) immediately on receipt of a petition and interim protective order, serve them on the respondent named in the order; and

(2) immediately after service, make a return of service to the commissioner's office or, if the Office of the District Court Clerk is open for business, to the Clerk.

[(g)**] (H)** An interim protective order shall be effective until the earlier of:

(1) the temporary protective order hearing under § 4–505 of this subtitle; or

(2) the end of the second business day the Office of the Clerk of the District Court is open following the issuance of an interim protective order.

[(h)**] (I)** A decision of a commissioner to grant or deny relief under this section is not binding on, and does not affect any power granted to or duty imposed on, a judge of a circuit court or the District Court under any law, including any power to grant or deny a petition for a temporary protective order or final protective order.

4–505.

(a) (1) If, after a hearing on a petition, whether ex parte or otherwise, a judge finds that there are reasonable grounds to believe that a person eligible for relief has been abused, the judge may enter a temporary protective order to protect any person eligible for relief from abuse.

(2) The temporary protective order may order any or all of the following relief:

(i) order the respondent to refrain from further abuse or threats of abuse of a person eligible for relief;

(ii) order the respondent to refrain from contacting, attempting to contact, or harassing any person eligible for relief;

(iii) order the respondent to refrain from entering the residence of a person eligible for relief;

(iv) where the person eligible for relief and the respondent are residing together at the time of the alleged abuse, order the respondent to vacate the home immediately and award temporary use and possession of the home to the person eligible for relief or in the case of alleged abuse of a child or alleged abuse of a vulnerable adult, award temporary use and possession of the home to an adult living in the home, provided that the court may not grant an order to vacate and award temporary use and possession of the home to a nonspouse person eligible for relief unless the name of the person eligible for relief appears on the lease or deed to the home or the person eligible for relief has resided in the home with the respondent for a period of at least 90 days within 1 year before the filing of the petition;

(v) order the respondent to remain away from the place of employment, school, or temporary residence of a person eligible for relief or home of other family members;

(vi) order the respondent to remain away from a child care provider of a person eligible for relief while a child of the person is in the care of the child care provider; and

(vii) award temporary custody of a minor child of the person eligible for relief and the respondent.

(3) IF THE JUDGE AWARDS TEMPORARY CUSTODY OF A MINOR CHILD UNDER PARAGRAPH (2)(VII) OF THIS SUBSECTION, THE JUDGE MAY ORDER A LAW ENFORCEMENT OFFICER TO USE ALL REASONABLE AND NECESSARY FORCE TO RETURN THE MINOR CHILD TO THE CUSTODIAL PARENT ~~AT THE TIME OF SERVICE OR AS SOON AS POSSIBLE~~ AFTER ~~ENTRY~~ SERVICE OF THE TEMPORARY PROTECTIVE ORDER.

4–506.

(e) If the judge awards temporary custody of a minor child under subsection (d)(7) of this section, the judge may order a law enforcement officer to use all reasonable and necessary force to return the minor child to the custodial parent [at the time of service or as soon as possible] after [entry] **SERVICE** of the final protective order.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 596

(House Bill 464)

AN ACT concerning

Domestic Violence – ~~Interim and Temporary~~ Protective Orders – Custody of Minor Child

FOR the purpose of authorizing a District Court Commissioner to order a law enforcement officer to use all reasonable and necessary force to enforce a temporary custody provision of an interim protective order; authorizing a judge to order a law enforcement officer to use all reasonable and necessary force to

enforce a temporary custody provision of ~~an interim or~~ a temporary protective order; requiring that enforcement of a temporary custody provision of an interim, temporary, or final protective order occur after service of the protective order; and generally relating to domestic violence protective orders.

BY repealing and reenacting, with amendments,
Article – Family Law
Section 4–504.1 ~~and~~ , 4–505(a), and 4–506(e)
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – Family Law

4–504.1.

(a) A petition under this subtitle may be filed with a commissioner when neither the office of the clerk of the circuit court nor the Office of the District Court Clerk is open for business.

(b) If a petition is filed with a commissioner and the commissioner finds that there are reasonable grounds to believe that the respondent has abused a person eligible for relief, the commissioner may issue an interim protective order to protect a person eligible for relief.

(c) An interim protective order may:

(1) order the respondent to refrain from further abuse or threats of abuse of a person eligible for relief;

(2) order the respondent to refrain from contacting, attempting to contact, or harassing a person eligible for relief;

(3) order the respondent to refrain from entering the residence of a person eligible for relief;

(4) if a person eligible for relief and the respondent are residing together at the time of the alleged abuse:

(i) order the respondent to vacate the home immediately;

(ii) award to a person eligible for relief custody of any child of the person eligible for relief and respondent then residing in the home; and

(iii) subject to the limits as to a nonspouse specified in § 4–505(a)(2)(iv) of this subtitle, award temporary use and possession of the home to the person eligible for relief;

(5) in a case alleging abuse of a child, award temporary custody of a minor child of the respondent and a person eligible for relief;

(6) in a case alleging abuse of a vulnerable adult, subject to the limits as to a nonspouse specified in § 4–505(a)(2)(iv) of this subtitle, award temporary use and possession of the home to an adult living in the home;

(7) order the respondent to remain away from the place of employment, school, or temporary residence of a person eligible for relief; or

(8) order the respondent to remain away from the residence of any family member of a person eligible for relief.

(D) IF THE ~~JUDGE~~ COMMISSIONER AWARDS TEMPORARY CUSTODY OF A MINOR CHILD UNDER SUBSECTION (C)(4)(II) OR (5) OF THIS SECTION, THE ~~JUDGE~~ COMMISSIONER MAY ORDER A LAW ENFORCEMENT OFFICER TO USE ALL REASONABLE AND NECESSARY FORCE TO RETURN THE MINOR CHILD TO THE CUSTODIAL PARENT ~~AT THE TIME OF SERVICE OR AS SOON AS POSSIBLE~~ AFTER ~~ENTRY~~ SERVICE OF THE INTERIM PROTECTIVE ORDER.

[(d)**] (E)** (1) (i) An interim protective order shall state the date, time, and location for the temporary protective order hearing and a tentative date, time, and location for a final protective order hearing.

(ii) A temporary protective order hearing shall be held on the first or second day on which a District Court judge is sitting after issuance of the interim protective order, unless the judge continues the hearing for good cause.

(2) An interim protective order shall include in at least 10–point bold type:

(i) notice to the respondent that:

1. the respondent must give the court written notice of each change of address;

2. if the respondent fails to appear at the temporary protective order hearing or any later hearing, the respondent may be served with any orders or notices in the case by first–class mail at the respondent's last known address;

3. the date, time, and location of the final protective order hearing is tentative only, and subject to change; and

4. if the respondent does not attend the temporary protective order hearing, the respondent may call the Office of the Clerk of the District Court at the number provided in the order to find out the actual date, time, and location of any final protective order hearing;

(ii) a statement of all possible forms and duration of relief that a temporary protective order or final protective order may contain;

(iii) notice to the petitioner and respondent that, at the hearing, a judge may issue a temporary protective order that grants any or all of the relief requested in the petition or may deny the petition, whether or not the respondent is in court;

(iv) a warning to the respondent that violation of an interim protective order is a crime and that a law enforcement officer shall arrest the respondent, with or without a warrant, and take the respondent into custody if the officer has probable cause to believe that the respondent has violated any provision of the interim protective order; and

(v) the phone number of the Office of the District Court Clerk.

[(e)**] (F)** Whenever a commissioner issues an interim protective order, the commissioner shall:

(1) immediately forward a copy of the petition and interim protective order to the appropriate law enforcement agency for service on the respondent; and

(2) before the hearing scheduled in the interim protective order, transfer the case file and the return of service, if any, to the Office of the District Court Clerk.

[(f)**] (G)** A law enforcement officer shall:

(1) immediately on receipt of a petition and interim protective order, serve them on the respondent named in the order; and

(2) immediately after service, make a return of service to the commissioner's office or, if the Office of the District Court Clerk is open for business, to the Clerk.

[(g)**] (H)** An interim protective order shall be effective until the earlier of:

(1) the temporary protective order hearing under § 4–505 of this subtitle; or

(2) the end of the second business day the Office of the Clerk of the District Court is open following the issuance of an interim protective order.

[(h)**] (I)** A decision of a commissioner to grant or deny relief under this section is not binding on, and does not affect any power granted to or duty imposed on, a judge of a circuit court or the District Court under any law, including any power to grant or deny a petition for a temporary protective order or final protective order.

4–505.

(a) (1) If, after a hearing on a petition, whether ex parte or otherwise, a judge finds that there are reasonable grounds to believe that a person eligible for relief has been abused, the judge may enter a temporary protective order to protect any person eligible for relief from abuse.

(2) The temporary protective order may order any or all of the following relief:

(i) order the respondent to refrain from further abuse or threats of abuse of a person eligible for relief;

(ii) order the respondent to refrain from contacting, attempting to contact, or harassing any person eligible for relief;

(iii) order the respondent to refrain from entering the residence of a person eligible for relief;

(iv) where the person eligible for relief and the respondent are residing together at the time of the alleged abuse, order the respondent to vacate the home immediately and award temporary use and possession of the home to the person eligible for relief or in the case of alleged abuse of a child or alleged abuse of a vulnerable adult, award temporary use and possession of the home to an adult living in the home, provided that the court may not grant an order to vacate and award temporary use and possession of the home to a nonspouse person eligible for relief unless the name of the person eligible for relief appears on the lease or deed to the home or the person eligible for relief has resided in the home with the respondent for a period of at least 90 days within 1 year before the filing of the petition;

(v) order the respondent to remain away from the place of employment, school, or temporary residence of a person eligible for relief or home of other family members;

(vi) order the respondent to remain away from a child care provider of a person eligible for relief while a child of the person is in the care of the child care provider; and

(vii) award temporary custody of a minor child of the person eligible for relief and the respondent.

(3) IF THE JUDGE AWARDS TEMPORARY CUSTODY OF A MINOR CHILD UNDER PARAGRAPH (2)(VII) OF THIS SUBSECTION, THE JUDGE MAY ORDER A LAW ENFORCEMENT OFFICER TO USE ALL REASONABLE AND NECESSARY FORCE TO RETURN THE MINOR CHILD TO THE CUSTODIAL PARENT ~~AT THE TIME OF SERVICE OR AS SOON AS POSSIBLE~~ AFTER ~~ENTRY~~ SERVICE OF THE TEMPORARY PROTECTIVE ORDER.

4–506.

(e) If the judge awards temporary custody of a minor child under subsection (d)(7) of this section, the judge may order a law enforcement officer to use all reasonable and necessary force to return the minor child to the custodial parent [at the time of service or as soon as possible] after [entry] **SERVICE** of the final protective order.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 597

(Senate Bill 716)

AN ACT concerning

Long–Term Care Insurance – Annuity Contracts and Qualified State Long–Term Care Insurance Partnership ~~– Revisions~~

FOR the purpose of authorizing an annuity contract to include a rider or supplemental contract provision that offers a contract holder reimbursement or payment for certain long–term care, under certain circumstances; repealing the requirement that a certain outline of coverage for long–term care insurance contain a certain statement about a policy or contract of long–term care insurance; altering a certain statement about a policy or contract of long–term care insurance that must be included in a certificate that is issued under group long–term care insurance; altering a certain definition; and generally relating to long–term care ~~insurance~~ insurance, annuity contracts, and the Qualified State Long–Term Care Insurance Partnership.

BY repealing and reenacting, without amendments,

Article – Insurance
Section 1–101(a)
Annotated Code of Maryland
(2003 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Insurance
Section 1–101(d)
Annotated Code of Maryland
(2003 Replacement Volume and 2008 Supplement)

BY adding to
Article – Insurance
Section 16–409
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Insurance
Section 18–106 and 18–107
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)
(As enacted by Chapter 70 of the Acts of the General Assembly of 1997)

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

Article – Insurance

1–101.

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

(d) (1) "Annuity" means an agreement to make periodic payments for which the making or continuance of all or some of a series of the payments, or the amount of a payment, depends on the continuance of a human life.

(2) "Annuity" includes**:**

(I) an additional benefit that operates to safeguard the contract from lapse or to provide a special surrender value, special benefit, or annuity in the event of the total and permanent disability of the holder**; AND**

(II) BENEFITS THAT PROVIDE PAYMENT OR REIMBURSEMENT FOR LONG–TERM HOME HEALTH CARE OR LONG–TERM CARE IN A NURSING HOME OR OTHER RELATED INSTITUTION.

(3) "Annuity" does not include life insurance.

16–409.

AN ANNUITY CONTRACT MAY INCLUDE A RIDER OR SUPPLEMENTAL CONTRACT PROVISION THAT OFFERS A CONTRACT HOLDER REIMBURSEMENT OR PAYMENT FOR LONG–TERM HOME HEALTH CARE OR LONG–TERM CARE IN A NURSING HOME OR OTHER RELATED INSTITUTION:

(1) INSTEAD OF OR IN ADDITION TO THE ANNUITY BENEFITS PAYABLE UNDER THE CONTRACT; OR

(2) INSTEAD OF ALL OR PART OF THE CASH SURRENDER OR OTHER NONFORFEITURE VALUE OF THE CONTRACT.

18–106.

(a) (1) A carrier shall provide to each applicant an outline of coverage and buyer's guide.

(2) The carrier shall deliver the outline of coverage and buyer's guide:

(i) in the case of solicitation by the carrier or insurance producer of the carrier, before the presentation of an application or enrollment form; and

(ii) in the case of direct response solicitation, with the application or enrollment form.

(b) The outline of coverage shall include:

(1) a description of the principal benefits and coverage provided in the policy or contract;

(2) a statement of the principal exclusions, reductions, and limitations in the policy or contract;

(3) a statement of the renewal provisions, including any reservation in the policy or contract of a right to change the schedule of premiums;

(4) [a statement as to whether the policy or contract is approved under the Qualified Long–Term Care Insurance Partnership under Title 15, Subtitle 4 of the Health – General Article;

(5)] a statement that the outline of coverage is a summary of the policy or contract issued or applied for and the policy or contract should be consulted to determine the governing contractual provisions; and

[(6)] **(5)** any expected premium increases or additional premiums to pay for automatic or optional benefit increases, including a reasonable hypothetical or graphic demonstration of the potential premiums that the applicant will need to pay at age 75 for benefit increases.

(c) The buyer's guide shall include information about buying a policy of long–term care insurance, including a reference to the right of the buyer to cancel a policy during the first 30 days after the policy is delivered.

(d) A carrier shall provide an applicant with a graphic comparison, over a period of at least 20 years, of the benefit levels of a policy that increases benefits over the policy or certificate period compared to the benefit levels of a policy that does not increase benefits.

18–107.

A certificate that is issued under group long–term care insurance shall include:

(1) a description of the principal benefits and coverage provided in the policy or contract;

(2) a statement of the principal exclusions, reductions, and limitations of coverage in the policy or contract;

(3) a statement that the group master policy or contract determines the governing contractual provisions; and

(4) a statement as to whether the policy or contract is [approved] **INTENDED TO QUALIFY AS A PARTNERSHIP POLICY** under the Qualified State Long–Term Care Insurance Partnership under Title 15, Subtitle 4 of the Health – General Article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 598

(House Bill 590)

AN ACT concerning

Long–Term Care Insurance – Annuity Contracts and Qualified State Long–Term Care Insurance Partnership ~~– Revisions~~

FOR the purpose of authorizing an annuity contract to include a rider or supplemental contract provision that offers a contract holder reimbursement or payment for certain long–term care, under certain circumstances; repealing the requirement that a certain outline of coverage for long–term care insurance contain a certain statement about a policy or contract of long–term care insurance; altering a certain statement about a policy or contract of long–term care insurance that must be included in a certificate that is issued under group long–term care insurance; altering a certain definition; and generally relating to long–term care ~~insurance~~ insurance, annuity contracts, and the Qualified State Long–Term Care Insurance Partnership.

BY repealing and reenacting, without amendments,
Article – Insurance
Section 1–101(a)
Annotated Code of Maryland
(2003 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Insurance
Section 1–101(d)
Annotated Code of Maryland
(2003 Replacement Volume and 2008 Supplement)

BY adding to
Article – Insurance
Section 16–409
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Insurance
Section 18–106 and 18–107
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)
(As enacted by Chapter 70 of the Acts of the General Assembly of 1997)

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

Article – Insurance

1–101.

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

(d) (1) "Annuity" means an agreement to make periodic payments for which the making or continuance of all or some of a series of the payments, or the amount of a payment, depends on the continuance of a human life.

(2) "Annuity" includes**:**

(I) an additional benefit that operates to safeguard the contract from lapse or to provide a special surrender value, special benefit, or annuity in the event of the total and permanent disability of the holder**; AND**

(II) BENEFITS THAT PROVIDE PAYMENT OR REIMBURSEMENT FOR LONG–TERM HOME HEALTH CARE OR LONG–TERM CARE IN A NURSING HOME OR OTHER RELATED INSTITUTION.

(3) "Annuity" does not include life insurance.

16–409.

AN ANNUITY CONTRACT MAY INCLUDE A RIDER OR SUPPLEMENTAL CONTRACT PROVISION THAT OFFERS A CONTRACT HOLDER REIMBURSEMENT OR PAYMENT FOR LONG–TERM HOME HEALTH CARE OR LONG–TERM CARE IN A NURSING HOME OR OTHER RELATED INSTITUTION:

(1) INSTEAD OF OR IN ADDITION TO THE ANNUITY BENEFITS PAYABLE UNDER THE CONTRACT; OR

(2) INSTEAD OF ALL OR PART OF THE CASH SURRENDER OR OTHER NONFORFEITURE VALUE OF THE CONTRACT.

18–106.

(a) (1) A carrier shall provide to each applicant an outline of coverage and buyer's guide.

(2) The carrier shall deliver the outline of coverage and buyer's guide:

(i) in the case of solicitation by the carrier or insurance producer of the carrier, before the presentation of an application or enrollment form; and

(ii) in the case of direct response solicitation, with the application or enrollment form.

(b) The outline of coverage shall include:

(1) a description of the principal benefits and coverage provided in the policy or contract;

(2) a statement of the principal exclusions, reductions, and limitations in the policy or contract;

(3) a statement of the renewal provisions, including any reservation in the policy or contract of a right to change the schedule of premiums;

(4) **[**a statement as to whether the policy or contract is approved under the Qualified Long–Term Care Insurance Partnership under Title 15, Subtitle 4 of the Health – General Article;

(5)**]** a statement that the outline of coverage is a summary of the policy or contract issued or applied for and the policy or contract should be consulted to determine the governing contractual provisions; and

[(6)**] (5)** any expected premium increases or additional premiums to pay for automatic or optional benefit increases, including a reasonable hypothetical or graphic demonstration of the potential premiums that the applicant will need to pay at age 75 for benefit increases.

(c) The buyer's guide shall include information about buying a policy of long–term care insurance, including a reference to the right of the buyer to cancel a policy during the first 30 days after the policy is delivered.

(d) A carrier shall provide an applicant with a graphic comparison, over a period of at least 20 years, of the benefit levels of a policy that increases benefits over the policy or certificate period compared to the benefit levels of a policy that does not increase benefits.

18–107.

A certificate that is issued under group long–term care insurance shall include:

(1) a description of the principal benefits and coverage provided in the policy or contract;

(2) a statement of the principal exclusions, reductions, and limitations of coverage in the policy or contract;

(3) a statement that the group master policy or contract determines the governing contractual provisions; and

(4) a statement as to whether the policy or contract is [approved] **INTENDED TO QUALIFY AS A PARTNERSHIP POLICY** under the Qualified State Long–Term Care Insurance Partnership under Title 15, Subtitle 4 of the Health – General Article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 599

(Senate Bill 759)

AN ACT concerning

Public Health – ~~Authority to Certify Incapacity or~~ Certificates of Death – Nurse Practitioners

FOR the purpose of authorizing certain nurse practitioners to ~~make a certain determination of incapacity or debilitation under certain circumstances; authorizing certain nurse practitioners to~~ fill out and sign a certain certificate of death under certain circumstances; ~~authorizing certain nurse practitioners to certify that certain patients are incapable of making a certain decision under certain circumstances; authorizing certain nurse practitioners to certify that certain patients are in a certain health condition;~~ and generally relating to nurse practitioners and ~~authority to certify incapacity or death~~ death certificates.

~~BY repealing and reenacting, with amendments,~~
~~Article – Estates and Trusts~~
~~Section 13–906~~
~~Annotated Code of Maryland~~
~~(2001 Replacement Volume and 2008 Supplement)~~

BY repealing and reenacting, with amendments,
Article – Health – General
Section ~~4–212, 5–602(c), 5–606, and 5–608(a)~~ 4–212
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

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

~~**Article – Estates and Trusts**~~

~~13–906.~~

~~(a) (1) A determination of incapacity or debilitation under this subtitle shall:~~

~~(i) Be made by the attending physician **OR NURSE PRACTITIONER** to a reasonable degree of medical certainty;~~

~~(ii) Be in writing; and~~

~~(iii) Contain the attending physician's **OR NURSE PRACTITIONER'S** opinion regarding the cause and nature of the parent's incapacity or debilitation, and the extent and probable duration of the incapacity or debilitation.~~

~~(2) If a standby guardian's identity is known to an attending physician **OR NURSE PRACTITIONER**, the attending physician **OR NURSE PRACTITIONER** shall provide a copy of a determination of incapacity or debilitation to the standby guardian.~~

~~(b) If requested by a standby guardian, an attending physician **OR NURSE PRACTITIONER** shall make a determination regarding the parent's incapacity or debilitation for purposes of this subtitle.~~

~~(c) If the parent is able to comprehend the information, a standby guardian shall inform the parent of:~~

~~(1) The beginning of the standby guardian's authority as a result of a determination of incapacity; and~~

~~(2) The parent's right to revoke the authority promptly after receipt of the determination of incapacity.~~

Article – Health – General

4–212.

(a) This section does not apply to a fetal death.

(b) (1) A certificate of death regardless of age of decedent shall be filled out and signed by:

(i) The medical examiner, if the medical examiner takes charge of the body; or

(ii) If the medical examiner does not take charge of the body, the physician or [physician's collaborating] nurse practitioner who last attended the deceased.

(2) The medical examiner, physician, or [physician's collaborating] nurse practitioner shall fill in only the following information on the certificate of death:

(i) The name of the deceased.

(ii) The cause of death and medical certification.

(iii) The date and hour of death.

(iv) The place where death occurred.

(3) Any other information that is required on the certificate of death regardless of age of decedent shall be filled in:

(i) By the person who has charge of the body; or

(ii) If the State Anatomy Board has charge of the body, by the person who last had charge of the body before it was sent to the State Anatomy Board.

(4) The medical certification shall be completed within 24 hours after receipt of the death certificate by the physician or [physician's collaborating] nurse practitioner in charge of the patient's care for the illness or condition which resulted in death, except when inquiry is required by the medical examiner.

(5) In the absence or inability of the attending physician or [physician's collaborating] nurse practitioner or with the attending physician's or [physician's collaborating] nurse practitioner's approval, the certificate may be completed by:

(i) The attending physician's associate;

(ii) The chief medical officer or designee of the institution in which death occurred; or

(iii) The physician who performed an autopsy upon the decedent, provided the individual has access to the medical history of the case and death is due to natural causes.

(6) The person completing the cause of death and medical certification shall attest to the accuracy by signature or by an approved electronic process.

(7) The funeral director or person acting as the funeral director shall in all cases obtain the medical certification from the person responsible for its completion or obtain assurance that the medical certification has been provided to the Secretary by an approved electronic process.

(c) Each individual concerned with carrying out this subtitle promptly shall notify the medical examiner if:

(1) The deceased was not under treatment by a physician **OR NURSE PRACTITIONER** during the terminal illness;

(2) The cause of death is unknown; or

(3) The individual considers any of the following conditions to be the cause of death or to have contributed to the death:

(i) An accident, including a fall with a fracture or other injury.

(ii) Homicide.

(iii) Suicide.

(iv) Other external manner of death.

(v) Alcoholism.

(vi) Criminal or suspected criminal abortion.

(d) (1) If, within 24 hours after taking charge of a body, the medical examiner has not determined the cause of death, the medical examiner shall enter "investigation pending" in the cause of death section of the death certificate.

(2) As soon as the medical examiner determines the cause of death, the medical examiner shall send to the Secretary a report of the cause of death, for entry on the certificate.

(e) (1) A physician or **[**physician's collaborating**]** nurse practitioner who fills out a certificate of death shall give it or transmit it by approved electronic media, including facsimile, to the mortician within 24 hours after the death occurred.

(2) A medical examiner who fills out a certificate of death shall give it or transmit it by approved electronic media, including facsimile, to the mortician within 24 hours after the medical examiner took charge of the body.

(f) (1) If a death occurs on a common carrier in the United States and the body is removed from the carrier in this State, the death shall be registered in this State, and the place where it is first removed shall be considered the place of death.

When a death occurs on a common carrier while in international waters or air space or in a foreign country or its air space and the body is first removed from the carrier in this State, the death shall be registered in this State, but the certificate shall show the actual place of death insofar as can be determined.

(2) The individual in charge or the owner of the common carrier or a designee shall file a certificate of death within 24 hours after the body is removed from the carrier.

(3) If the death occurred under any of the conditions or circumstances set forth in subsection (c) of this section, the medical examiner shall be notified.

(g) A mortician who obtains a certificate of death under this section shall file the certificate within 72 hours after the death.

(h) (1) Except as authorized under this subtitle, an individual who has a duty to fill out and sign a certificate of death may not execute more than one certificate for a death.

(2) The attending physician, the **[**physician's collaborating**]** nurse practitioner, or a medical examiner who takes charge of a body may file a replacement death certificate if a correction that the physician, the **[**physician's collaborating**]** nurse practitioner, or medical examiner authorizes cannot be entered legibly on the original certificate.

~~5–602.~~

~~(c) (1) Unless otherwise provided in the document, an advance directive shall become effective when the declarant's attending physician and a second physician **OR A NURSE PRACTITIONER** certify in writing that the patient is incapable of making an informed decision.~~

~~(2) If a patient is unconscious, or unable to communicate by any means, the certification of a second physician **OR A NURSE PRACTITIONER** is not required under paragraph (1) of this subsection.~~

~~5–606.~~

~~(a) (1) Prior to providing, withholding, or withdrawing treatment for which authorization has been obtained or will be sought under this subtitle, the attending physician and a second physician **OR A NURSE PRACTITIONER**, one of whom shall have examined the patient within 2 hours before making the certification, shall certify in writing that the patient is incapable of making an informed decision regarding the treatment. The certification shall be based on a personal examination of the patient.~~

~~(2) If a patient is unconscious, or unable to communicate by any means, the certification of a second physician **OR NURSE PRACTITIONER** is not required under paragraph (1) of this subsection.~~

~~(3) When authorization is sought for treatment of a mental illness, the second physician **OR NURSE PRACTITIONER** may not be otherwise currently involved in the treatment of the person assessed.~~

~~(4) The cost of an assessment to certify incapacity under this subsection shall be considered for all purposes a cost of the patient's treatment.~~

~~(b) A health care provider may not withhold or withdraw life-sustaining procedures on the basis of an advance directive where no agent has been appointed or on the basis of the authorization of a surrogate, unless:~~

~~(1) The patient's attending physician and a second physician **OR A NURSE PRACTITIONER** have certified that the patient is in a terminal condition or has an end-stage condition; or~~

~~(2) Two physicians, one of whom is a neurologist, neurosurgeon, or other physician who has special expertise in the evaluation of cognitive functioning, certify that the patient is in a persistent vegetative state.~~

~~5–608.~~

~~(a) (1) Certified or licensed emergency medical services personnel shall be directed by protocol to follow emergency medical services "do not resuscitate orders" pertaining to adult patients in the outpatient setting in accordance with protocols established by the Maryland Institute for Emergency Medical Services Systems in conjunction with the State Board of Physicians.~~

~~(2) Emergency medical services "do not resuscitate orders" may not authorize the withholding of medical interventions, or therapies deemed necessary to provide comfort care or to alleviate pain.~~

~~(3) A health care provider, other than certified or licensed emergency medical services personnel, who sees, in a valid form, an emergency medical services "do not resuscitate order" described in paragraph (1) of this subsection that is not superseded by a subsequent physician's order **OR NURSE PRACTITIONER'S ORDER**:~~

~~(i) May, before a patient's cardiac or respiratory arrest, provide, withhold, or withdraw treatment in accordance with the emergency medical services "do not resuscitate order"; and~~

~~(ii) Shall, after a patient's cardiac or respiratory arrest, withhold or withdraw treatment in accordance with the emergency medical services "do not resuscitate order".~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 600

(House Bill 250)

AN ACT concerning

Public Health – ~~Authority to Certify Incapacity or~~ Certificates of Death – Nurse Practitioners

FOR the purpose of authorizing certain nurse practitioners to ~~make a certain determination of incapacity or debilitation under certain circumstances; authorizing certain nurse practitioners to~~ fill out and sign a certain certificate of death under certain circumstances; ~~authorizing certain nurse practitioners to certify that certain patients are incapable of making a certain decision under certain circumstances; authorizing certain nurse practitioners to certify that certain patients are in a certain health condition;~~ and generally relating to nurse practitioners and ~~authority to certify incapacity or death~~ death certificates.

~~BY repealing and reenacting, with amendments,~~
~~Article – Estates and Trusts~~
~~Section 13–906~~
~~Annotated Code of Maryland~~
~~(2001 Replacement Volume and 2008 Supplement)~~

BY repealing and reenacting, with amendments,
Article – Health – General
Section ~~4–212, 5–602(e), 5–606, and 5–608(a)~~ 4–212
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

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

~~**Article – Estates and Trusts**~~

~~13–906.~~

~~(a) (1) A determination of incapacity or debilitation under this subtitle shall:~~

~~(i) Be made by the attending physician **OR NURSE PRACTITIONER** to a reasonable degree of medical certainty;~~

~~(ii) Be in writing; and~~

~~(iii) Contain the attending physician's **OR NURSE PRACTITIONER'S** opinion regarding the cause and nature of the parent's incapacity or debilitation, and the extent and probable duration of the incapacity or debilitation.~~

~~(2) If a standby guardian's identity is known to an attending physician **OR NURSE PRACTITIONER**, the attending physician **OR NURSE PRACTITIONER** shall provide a copy of a determination of incapacity or debilitation to the standby guardian.~~

~~(b) If requested by a standby guardian, an attending physician **OR NURSE PRACTITIONER** shall make a determination regarding the parent's incapacity or debilitation for purposes of this subtitle.~~

~~(c) If the parent is able to comprehend the information, a standby guardian shall inform the parent of:~~

~~(1) The beginning of the standby guardian's authority as a result of a determination of incapacity; and~~

~~(2) The parent's right to revoke the authority promptly after receipt of the determination of incapacity.~~

Article – Health – General

4–212.

(a) This section does not apply to a fetal death.

(b) (1) A certificate of death regardless of age of decedent shall be filled out and signed by:

(i) The medical examiner, if the medical examiner takes charge of the body; or

(ii) If the medical examiner does not take charge of the body, the physician or [physician's collaborating] nurse practitioner who last attended the deceased.

(2) The medical examiner, physician, or [physician's collaborating] nurse practitioner shall fill in only the following information on the certificate of death:

(i) The name of the deceased.

(ii) The cause of death and medical certification.

(iii) The date and hour of death.

(iv) The place where death occurred.

(3) Any other information that is required on the certificate of death regardless of age of decedent shall be filled in:

(i) By the person who has charge of the body; or

(ii) If the State Anatomy Board has charge of the body, by the person who last had charge of the body before it was sent to the State Anatomy Board.

(4) The medical certification shall be completed within 24 hours after receipt of the death certificate by the physician or [physician's collaborating] nurse practitioner in charge of the patient's care for the illness or condition which resulted in death, except when inquiry is required by the medical examiner.

(5) In the absence or inability of the attending physician or [physician's collaborating] nurse practitioner or with the attending physician's or [physician's collaborating] nurse practitioner's approval, the certificate may be completed by:

(i) The attending physician's associate;

(ii) The chief medical officer or designee of the institution in which death occurred; or

(iii) The physician who performed an autopsy upon the decedent, provided the individual has access to the medical history of the case and death is due to natural causes.

(6) The person completing the cause of death and medical certification shall attest to the accuracy by signature or by an approved electronic process.

(7) The funeral director or person acting as the funeral director shall in all cases obtain the medical certification from the person responsible for its completion or obtain assurance that the medical certification has been provided to the Secretary by an approved electronic process.

(c) Each individual concerned with carrying out this subtitle promptly shall notify the medical examiner if:

(1) The deceased was not under treatment by a physician **OR NURSE PRACTITIONER** during the terminal illness;

(2) The cause of death is unknown; or

(3) The individual considers any of the following conditions to be the cause of death or to have contributed to the death:

(i) An accident, including a fall with a fracture or other injury.

(ii) Homicide.

(iii) Suicide.

(iv) Other external manner of death.

(v) Alcoholism.

(vi) Criminal or suspected criminal abortion.

(d) (1) If, within 24 hours after taking charge of a body, the medical examiner has not determined the cause of death, the medical examiner shall enter "investigation pending" in the cause of death section of the death certificate.

(2) As soon as the medical examiner determines the cause of death, the medical examiner shall send to the Secretary a report of the cause of death, for entry on the certificate.

(e) (1) A physician or **[**physician's collaborating**]** nurse practitioner who fills out a certificate of death shall give it or transmit it by approved electronic media, including facsimile, to the mortician within 24 hours after the death occurred.

(2) A medical examiner who fills out a certificate of death shall give it or transmit it by approved electronic media, including facsimile, to the mortician within 24 hours after the medical examiner took charge of the body.

(f) (1) If a death occurs on a common carrier in the United States and the body is removed from the carrier in this State, the death shall be registered in this State, and the place where it is first removed shall be considered the place of death.

When a death occurs on a common carrier while in international waters or air space or in a foreign country or its air space and the body is first removed from the carrier in this State, the death shall be registered in this State, but the certificate shall show the actual place of death insofar as can be determined.

(2) The individual in charge or the owner of the common carrier or a designee shall file a certificate of death within 24 hours after the body is removed from the carrier.

(3) If the death occurred under any of the conditions or circumstances set forth in subsection (c) of this section, the medical examiner shall be notified.

(g) A mortician who obtains a certificate of death under this section shall file the certificate within 72 hours after the death.

(h) (1) Except as authorized under this subtitle, an individual who has a duty to fill out and sign a certificate of death may not execute more than one certificate for a death.

(2) The attending physician, the **[**physician's collaborating**]** nurse practitioner, or a medical examiner who takes charge of a body may file a replacement death certificate if a correction that the physician, the **[**physician's collaborating**]** nurse practitioner, or medical examiner authorizes cannot be entered legibly on the original certificate.

~~5–602.~~

~~(c) (1) Unless otherwise provided in the document, an advance directive shall become effective when the declarant's attending physician and a second physician **OR A NURSE PRACTITIONER** certify in writing that the patient is incapable of making an informed decision.~~

~~(2) If a patient is unconscious, or unable to communicate by any means, the certification of a second physician **OR A NURSE PRACTITIONER** is not required under paragraph (1) of this subsection.~~

~~5–606.~~

~~(a) (1) Prior to providing, withholding, or withdrawing treatment for which authorization has been obtained or will be sought under this subtitle, the attending physician and a second physician **OR A NURSE PRACTITIONER**, one of whom shall have examined the patient within 2 hours before making the certification, shall certify in writing that the patient is incapable of making an informed decision regarding the treatment. The certification shall be based on a personal examination of the patient.~~

~~(2) If a patient is unconscious, or unable to communicate by any means, the certification of a second physician **OR NURSE PRACTITIONER** is not required under paragraph (1) of this subsection.~~

~~(3) When authorization is sought for treatment of a mental illness, the second physician **OR NURSE PRACTITIONER** may not be otherwise currently involved in the treatment of the person assessed.~~

~~(4) The cost of an assessment to certify incapacity under this subsection shall be considered for all purposes a cost of the patient's treatment.~~

~~(b) A health care provider may not withhold or withdraw life-sustaining procedures on the basis of an advance directive where no agent has been appointed or on the basis of the authorization of a surrogate, unless:~~

~~(1) The patient's attending physician and a second physician **OR A NURSE PRACTITIONER** have certified that the patient is in a terminal condition or has an end-stage condition; or~~

~~(2) Two physicians, one of whom is a neurologist, neurosurgeon, or other physician who has special expertise in the evaluation of cognitive functioning, certify that the patient is in a persistent vegetative state.~~

~~5–608.~~

~~(a) (1) Certified or licensed emergency medical services personnel shall be directed by protocol to follow emergency medical services "do not resuscitate orders" pertaining to adult patients in the outpatient setting in accordance with protocols established by the Maryland Institute for Emergency Medical Services Systems in conjunction with the State Board of Physicians.~~

~~(2) Emergency medical services "do not resuscitate orders" may not authorize the withholding of medical interventions, or therapies deemed necessary to provide comfort care or to alleviate pain.~~

~~(3) A health care provider, other than certified or licensed emergency medical services personnel, who sees, in a valid form, an emergency medical services "do not resuscitate order" described in paragraph (1) of this subsection that is not superseded by a subsequent physician's order **OR NURSE PRACTITIONER'S ORDER**:~~

~~(i) May, before a patient's cardiac or respiratory arrest, provide, withhold, or withdraw treatment in accordance with the emergency medical services "do not resuscitate order"; and~~

~~(ii) Shall, after a patient's cardiac or respiratory arrest, withhold or withdraw treatment in accordance with the emergency medical services "do not resuscitate order".~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 601

(Senate Bill 779)

AN ACT concerning

Carroll County – Public Facilities Bonds

FOR the purpose of authorizing and empowering the County Commissioners of Carroll County, from time to time, to borrow not more than $42,000,000 in order to finance the construction, improvement, or development of certain public facilities in Carroll County, including water and sewer projects, to finance loans for fire or emergency–related equipment, buildings, and other facilities of volunteer fire departments in the County, and to effect such borrowing by the issuance and sale at public or private sale of its general obligation bonds in like par amount; empowering the County to fix and determine, by resolution, the form, tenor, interest rate or rates or method of determining the same, terms, conditions, maturities, and all other details incident to the issuance and sale of the bonds; empowering the County to issue refunding bonds for the purchase or redemption of bonds in advance of maturity; providing that such borrowing may be undertaken by the County in the form of installment purchase obligations executed and delivered by the County for the purpose of acquiring agricultural land and woodland preservation easements; empowering and directing the County to levy, impose, and collect, annually, ad valorem taxes in rate and amount sufficient to provide funds for the payment of the maturing principal of and interest on the bonds; exempting the bonds and refunding bonds and the interest thereon and any income derived therefrom from all State, County, municipal, and other taxation in the State of Maryland; providing that nothing in this Act shall prevent the County from authorizing the issuance and sale of bonds the interest on which is not excludable from gross income for federal income tax purposes; and relating generally to the issuance and sale of such bonds.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That, as used herein, the term "County" means the body politic and corporate of the State of Maryland known as the County Commissioners of Carroll

County, and the term "construction, improvement, or development of public facilities" means the acquisition, alteration, construction, reconstruction, enlargement, equipping, expansion, extension, improvement, rehabilitation, renovation, upgrading, and repair of public buildings and facilities and public works projects, including, but not limited to, public works projects such as roads, bridges and storm drains, public school buildings and facilities, landfills, Carroll Community College buildings and facilities, public operational buildings and facilities such as buildings and facilities for County administrative use, public safety, health and social services, libraries, refuse disposal buildings and facilities, water and sewer infrastructure facilities, easements or similar or related rights in land that restrict the use of agricultural land or woodland to maintain the character of the land as agricultural land or woodland, and parks and recreation buildings and facilities, together with the costs of acquiring land or interests in land as well as any related architectural, financial, legal, planning, or engineering services.

SECTION 2. AND BE IT FURTHER ENACTED, That the County is hereby authorized to finance any part or all of the costs of the construction, improvements or development of public facilities described in Section 1 of this Act, to make loans to each and every volunteer fire department in the County upon such terms and conditions as may be determined by the County for the purpose of financing certain fire or emergency–related equipment, buildings, or other facilities of volunteer fire departments, and to borrow money and incur indebtedness for those purposes, at one time or from time to time, in an amount not exceeding, in the aggregate, $42,000,000 and to evidence such borrowing by the issuance and sale upon its full faith and credit of general obligation bonds in like par amount, which may be issued at one time or from time to time, in one or more groups or series, as the County may determine.

SECTION 3. AND BE IT FURTHER ENACTED, That the bonds shall be issued in accordance with a resolution of the County, which shall describe generally the construction, improvement, or development of public facilities, including water and sewer projects, the fire or emergency–related equipment, buildings, or other facilities of volunteer fire departments in the County for which the proceeds of the bond sale are intended and the amount needed for those purposes. The County shall have and is hereby granted full and complete authority and discretion in the resolution to fix and determine with respect to the bonds of any issue: the designation, date of issue, denomination or denominations, form or forms, and tenor of the bonds which, without limitation, may be issued in registered form within the meaning of Section 30 of Article 31 of the Annotated Code of Maryland, as amended; the rate or rates of interest payable thereon, or the method of determining the same, which may include a variable rate; the date or dates and amount or amounts of maturity, which need not be in equal par amounts or in consecutive annual installments, provided only that no bond of any issue shall mature later than 30 years from the date of its issue; the manner of selling the bonds, which may be at either public or private sale, for such price or prices as may be determined to be for the best interests of Carroll County; the manner of executing and sealing the bonds, which may be by facsimile; the terms and conditions of any loans made to volunteer fire departments; the terms and conditions, if any, under which bonds may be tendered for payment or purchase prior to their stated

maturity; the terms or conditions, if any, under which bonds may or shall be redeemed prior to their stated maturity; the place or places of payment of the principal of and the interest on the bonds, which may be at any bank or trust company within or without the State of Maryland; covenants relating to compliance with applicable requirements of federal income tax law, including (without limitation) covenants regarding the payment of rebate or penalties in lieu of rebate; covenants relating to compliance with applicable requirements of federal or state securities laws; and generally all matters incident to the terms, conditions, issuance, sale, and delivery thereof.

The bonds may be made redeemable before maturity, at the option of the County, at such price or prices and under such terms and conditions as may be fixed by the County prior to the issuance of the bonds, either in the resolution or in subsequent resolutions. The bonds may be issued in registered form, and provision may be made for the registration of the principal only. In case any officer whose signature appears on any bond ceases to be such officer before the delivery thereof, such signature shall nevertheless be valid and sufficient for all purposes as if the officer had remained in office until such delivery. The bonds and the issuance and sale thereof shall be exempt from the provisions of Sections 9, 10, and 11 of Article 31 of the Annotated Code of Maryland, as amended.

The borrowing authorized by this Act may also be undertaken by the County in the form of installment purchase obligations executed and delivered by the County for the purpose of acquiring easements or similar or related rights in land that restrict the use of agricultural land or woodland to maintain the character of the land as agricultural or woodland. The form of installment purchase obligations, the manner of accomplishing the acquisition of easements, which may be the direct exchange of installment purchase obligations for easement, and all matters incident to the execution and delivery of the installment purchase obligations and acquisition of the easements by the County shall be determined in the resolution. Except where the provisions of this Act would be inapplicable to installment purchase obligations, the term "bonds" used in this Act shall include installment purchase obligations and matters pertaining to the bonds under this Act, such as the security for the payment of the bonds, the exemption of the bonds from State, County, municipal, or other taxation, and authorization to issue refunding bonds and the limitation on the aggregate principal amount of bonds authorized for issuance, shall be applicable to installment purchase obligations.

The County may enter into agreements with agents, banks, fiduciaries, insurers, or others for the purpose of enhancing the marketability of any security for the bonds and for the purpose of securing any tender option that may be granted to holders of the bonds, all as may be determined and presented in the aforesaid resolution, which may (but need not) state as security for the performance by the County of any monetary obligations under such agreements the same security given by the County to bondholders for the performance by the County of its monetary obligations under the bonds.

If the County determines in the resolution to offer any of the bonds by solicitation of competitive bids at public sale, the resolution shall fix the terms and conditions of the public sale and shall adopt a form of notice of sale, which shall outline the terms and conditions, and a form of advertisement, which shall be published in one or more daily or weekly newspapers having a general circulation in the County and which may also be published in one or more journals having a circulation primarily among banks and investment bankers. At least one publication of the advertisement shall be made not less than 10 days before the sale of the bonds.

Upon delivery of any bonds to the purchaser or purchasers, payment therefor shall be made to the Comptroller of Carroll County or such other official of Carroll County as may be designated to receive such payment in a resolution passed by the County before such delivery.

SECTION 4. AND BE IT FURTHER ENACTED, That the net proceeds of the sale of bonds shall be used and applied exclusively and solely for the acquisition, construction, improvement, or development of public facilities, including water and sewer projects, to make loans to volunteer fire departments for the financing of fire or emergency–related equipment, buildings, or other facilities of volunteer fire departments in the County for which the bonds are sold. If the amounts borrowed shall prove inadequate to finance the projects described in the resolution, the County may issue additional bonds with the limitations hereof for the purpose of evidencing the borrowing of additional funds for such financing, provided the resolution authorizing the sale of additional bonds shall so recite, but if the net proceeds of the sale of any issue of bonds exceed the amount needed to finance the projects described in the resolution, the excess funds so borrowed and not expended shall be applied to the payment of the next principal maturity of the bonds or to the redemption of any part of the bonds which have been made redeemable or to the purchase and cancellation of bonds, unless the County shall adopt a resolution allocating the excess funds to the acquisition, construction, improvement, or development of other public facilities, including water and sewer projects, or to the making of loans for fire or emergency–related equipment, buildings, or other facilities of volunteer fire departments in the County, as defined and within the limits set forth in this Act.

SECTION 5. AND BE IT FURTHER ENACTED, That the bonds hereby authorized shall constitute, and they shall so recite, an irrevocable pledge of the full faith and credit and unlimited taxing power of the County to the payment of the maturing principal of and interest on the bonds as and when they become payable. In each and every fiscal year that any of the bonds are outstanding, the County shall levy or cause to be levied ad valorem taxes upon all the assessable property within the corporate limits of the County in rate and amount sufficient to provide for or assure the payment, when due, of the principal of and interest on all the bonds maturing in each such fiscal year and, in the event the proceeds from the taxes so levied in any such fiscal year shall prove inadequate for such payment, additional taxes shall be levied in the succeeding fiscal year to make up any such deficiency. The County may apply to the payment of the principal of and interest on any bonds issued hereunder any funds received by it as loan repayments from volunteer fire departments and any

funds received by it from the State of Maryland, the United States of America, any agency or instrumentality thereof, or from any other source, if such funds are granted for the purpose of assisting the County in financing the acquisition, construction, improvement, or development of the public facilities defined in this Act, including the water and sewer projects or the making of loans for the aforementioned fire or emergency–related equipment, buildings, or other facilities for volunteer fire departments in the County and, to the extent of any such funds received or receivable in any fiscal year, the taxes that are required to be levied may be reduced accordingly.

SECTION 6. AND BE IT FURTHER ENACTED, That the County is further authorized and empowered, at any time and from time to time, to issue its bonds in the manner herein above described for the purpose of refunding, by payment at maturity or upon purchase or redemption, any bonds issued hereunder. The validity of any such refunding bonds shall in no way be dependent upon or related to the validity or invalidity of the obligations so refunded. The powers herein granted with respect to the issuance of bonds shall be applicable to the issuance of refunding bonds. Such refunding bonds may be issued by the County for the purpose of providing it with funds to pay any of its outstanding bonds issued hereunder at maturity, for the purpose of providing it with funds to purchase in the open market any of its outstanding bonds issued hereunder, prior to the maturity thereof, or for the purpose of providing it with funds for the redemption prior to maturity of any outstanding bonds issued hereunder which are, by their terms, redeemable, for the purpose of providing it with funds to pay interest on any outstanding bonds issued hereunder prior to their payment at maturity of purchase or redemption in advance of maturity, or for the purpose of providing it with funds to pay any redemption or purchase premium in connection with the refunding of any of its outstanding bonds issued hereunder. The proceeds of the sale of any such refunding bonds shall be segregated and set apart by the County as a separate trust fund to be used solely for the purpose of paying the purchase or redemption prices of the bonds to be refunded.

SECTION 7. AND BE IT FURTHER ENACTED, That the County may, prior to the preparation of definitive bonds, issue interim certificates or temporary bonds, exchangeable for definitive bonds when such bonds have been executed and are available for such delivery, provided, however, that any such interim certificates or temporary bonds shall be issued in all respects subject to the restrictions and requirements set forth in this Act. The County may, by appropriate resolution, provide for the replacement of any bonds issued hereunder which shall have become mutilated or lost or destroyed upon such conditions and after receiving such indemnity as the County may require.

SECTION 8. AND BE IT FURTHER ENACTED, That any and all obligations issued pursuant to the authority of this Act, their transfer, the interest payable thereon, and any income derived therefrom in the hands of the holders thereof from time to time (including any profit made in the sale thereof) shall be and are hereby declared to be at all times exempt from State, County, municipal, or other taxation of every kind and nature whatsoever within the State of Maryland. Nothing in this Act

shall prevent the County from authorizing the issuance and sale of bonds the interest on which is not excludable from gross income for federal income tax purposes.

SECTION 9. AND BE IT FURTHER ENACTED, That the authority to borrow money and issue bonds conferred on the County by this Act shall be deemed to provide an additional and alternative authority for borrowing money and shall be regarded as supplemental and additional to powers conferred upon the County by other laws and shall not be regarded as in derogation of any power now existing; and all Acts of the General Assembly of Maryland heretofore passed authorizing the County to borrow money are hereby continued to the extent that the powers contained in such Acts have not been exercised, and nothing contained in this Act may be construed to impair, in any way, the validity of any bonds that may have been issued by the County under the authority of any said Acts, and the validity of the bonds is hereby ratified, confirmed, and approved. This Act, being necessary for the welfare of the inhabitants of Carroll County, shall be liberally construed to effect the purposes hereof. All Acts and parts of Acts inconsistent with the provisions of this Act are hereby repealed to the extent of such inconsistency.

SECTION 10. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 602

(Senate Bill 785)

AN ACT concerning

Inheritance Tax – Exemption – Domestic Partners

FOR the purpose of providing an exemption from the inheritance tax for certain property that passes from a decedent to or for the use of a domestic partner of a decedent under certain circumstances; defining certain terms; providing for the application of this Act; and generally relating to an exemption from the inheritance tax for certain property that passes from a decedent to or for the use of a domestic partner of a decedent.

BY adding to
Article – Tax – General
Section 7–203(l)
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

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

Article – Tax – General

7–203.

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

(II) "DOMESTIC PARTNER" MEANS AN INDIVIDUAL WITH WHOM ANOTHER INDIVIDUAL HAS ESTABLISHED A DOMESTIC PARTNERSHIP.

(III) "DOMESTIC PARTNERSHIP" MEANS A RELATIONSHIP BETWEEN TWO INDIVIDUALS ~~OF THE SAME SEX~~ THAT IS A DOMESTIC PARTNERSHIP WITHIN THE MEANING OF § 6–101 OF THE HEALTH – GENERAL ARTICLE.

(2) IF THE DOMESTIC PARTNER OF A DECEDENT PROVIDES EVIDENCE OF THE DOMESTIC PARTNERSHIP AS DESCRIBED IN § 6–101(B) OF THE HEALTH – GENERAL ARTICLE, THE INHERITANCE TAX DOES NOT APPLY TO THE RECEIPT OF AN INTEREST IN A JOINT PRIMARY RESIDENCE THAT:

(I) AT THE TIME OF DEATH WAS HELD IN JOINT TENANCY BY THE DECEDENT AND THE DOMESTIC PARTNER; AND

(II) PASSES FROM THE DECEDENT TO OR FOR THE USE OF THE DOMESTIC PARTNER.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009, and shall be applicable to all decedents dying on or after July 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 603

(Senate Bill 796)

AN ACT concerning

Office of the Treasurer – Community Services Trust Fund – ~~Restructuring~~ Workgroup

FOR the purpose of ~~altering the purpose of the Community Services Trust Fund in the Office of the Treasurer; repealing an account holding certain proceeds from the sale or long-term lease of property and equipment resulting from the sale or long-term lease of Mental Hygiene Administration facilities and certain provisions of law relating to the transfer of funds from the account; and generally relating to the repeal of the Mental Hygiene Administration account of the Community Services Trust Fund~~ requiring the Secretary of Health and Mental Hygiene, in collaboration with the Office of the Treasurer, to convene a workgroup to evaluate and make recommendations regarding the Community Services Trust Fund; requiring the Department of Health and Mental Hygiene to make a certain report on or before a certain date; requiring certain funds and proceeds to remain in or accrue to the Trust Fund until the Department makes a certain report; and generally relating to the Community Services Trust Fund.

~~BY repealing and reenacting, without amendments,~~
~~Article – Health – General~~
~~Section 24–1101~~
~~Annotated Code of Maryland~~
~~(2005 Replacement Volume and 2008 Supplement)~~

~~BY repealing and reenacting, with amendments,~~
~~Article – Health – General~~
~~Section 24–1102, 24–1103, 24–1104, and 24–1105~~
~~Annotated Code of Maryland~~
~~(2005 Replacement Volume and 2008 Supplement)~~

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

(a) The Secretary of Health and Mental Hygiene, in collaboration with the Office of the Treasurer, shall convene a workgroup of affected stakeholders to evaluate and make recommendations regarding:

(1) the structure of the Community Services Trust Fund;

(2) the transfer of funds to the Trust Fund;

(3) the use and protection of the funds that are transferred to the Trust Fund; and

(4) other issues relevant to maximizing the effectiveness of the Trust Fund.

(b) On or before December 1, 2009, the Department of Health and Mental Hygiene shall report the findings and recommendations of the workgroup to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding any other provision of law, funds in the Community Services Trust Fund and any future proceeds from the sale of State property that by law would accrue to the Community Services Trust Fund or to the Mental Hygiene Community–Based Services Fund as provided in § 10–208 of the Health – General Article shall remain in, or accrue to, the Community Services Trust Fund and shall not revert to the General Fund or be used for any other purpose until the Department of Health and Mental Hygiene reports on the findings and recommendations of the workgroup convened under Section 1 of this Act.

~~**Article – Health – General**~~

~~24–1101.~~

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

~~(b) "Trust Fund" means the Community Services Trust Fund.~~

~~(c) "Proceeds" means the gross proceeds minus the costs associated with the sale, lease, or disposition of property and equipment, as determined by the Department of General Services.~~

~~24–1102.~~

~~(a) There is a Community Services Trust Fund in the Office of the Treasurer.~~

~~(b) The purpose of the Trust Fund is to receive and hold the proceeds from the sale or long–term lease of property and equipment of a Developmental Disabilities Administration facility [or a Mental Hygiene Administration facility].~~

~~24–1103.~~

~~(a) The Trust Fund is a continuing, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.~~

~~(b) (1) The Treasurer shall hold the Trust Fund and the Comptroller shall account for the Trust Fund.~~

~~(2) (i) The Trust Fund shall be invested and reinvested in the same manner as other State funds.~~

~~(ii) Any investment earnings of the Trust Fund shall be paid into the Trust Fund.~~

~~(3) The Treasurer shall deposit funds into the [two accounts] **ACCOUNT** of the Trust Fund in accordance with § 24–1104 of this subtitle.~~

~~24–1104.~~

~~(a) The Trust Fund consists of [two accounts] ONE ACCOUNT.~~

~~(b) [(1) One] THE account holds the proceeds from the sale or long–term lease of property and equipment resulting from the sale or long–term lease of Developmental Disabilities Administration facilities.~~

~~[(2) One account holds the proceeds from the sale or long–term lease of property and equipment resulting from the sale or long–term lease of Mental Hygiene Administration facilities.]~~

~~24–1105.~~

~~(a) The Trust Fund may only be used in accordance with this section.~~

~~(b) In accordance with an appropriation approved by the General Assembly in the State budget, the Comptroller shall transfer the investment earnings of[:~~

~~(1) The] THE Developmental Disabilities Administration account of the Trust Fund into the Waiting List Equity Fund established under § 7–206 of this article[; and~~

~~(2) The Mental Hygiene Administration account of the Trust Fund into the Mental Hygiene Community–Based Services Fund established under § 10–208 of this article].~~

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 604

(House Bill 957)

AN ACT concerning

Office of the Treasurer – Community Services Trust Fund – ~~Restructuring~~ Workgroup

FOR the purpose of ~~altering the purpose of the Community Services Trust Fund in the Office of the Treasurer; repealing an account holding certain proceeds from the~~

~~sale or long–term lease of property and equipment resulting from the sale or long–term lease of Mental Hygiene Administration facilities and certain provisions of law relating to the transfer of funds from the account; and generally relating to the repeal of the Mental Hygiene Administration account of the Community Services Trust Fund~~ requiring the Secretary of Health and Mental Hygiene, in collaboration with the Office of the Treasurer, to convene a workgroup to evaluate and make recommendations regarding the Community Services Trust Fund; requiring the Department of Health and Mental Hygiene to make a certain report on or before a certain date; requiring certain funds and proceeds to remain in or accrue to the Trust Fund until the Department makes a certain report; and generally relating to the Community Services Trust Fund.

~~BY repealing and reenacting, without amendments,~~
~~Article – Health – General~~
~~Section 24–1101~~
~~Annotated Code of Maryland~~
~~(2005 Replacement Volume and 2008 Supplement)~~

~~BY repealing and reenacting, with amendments,~~
~~Article – Health – General~~
~~Section 24–1102, 24–1103, 24–1104, and 24–1105~~
~~Annotated Code of Maryland~~
~~(2005 Replacement Volume and 2008 Supplement)~~

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

(a) The Secretary of Health and Mental Hygiene, in collaboration with the Office of the Treasurer, shall convene a workgroup of affected stakeholders to evaluate and make recommendations regarding:

(1) the structure of the Community Services Trust Fund;

(2) the transfer of funds to the Trust Fund;

(3) the use and protection of the funds that are transferred to the Trust Fund; and

(4) other issues relevant to maximizing the effectiveness of the Trust Fund.

(b) On or before December 1, 2009, the Department of Health and Mental Hygiene shall report the findings and recommendations of the workgroup to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding any other provision of law, funds in the Community Services Trust Fund and any future proceeds from the sale of State property that by law would accrue to the Community Services Trust Fund or to the Mental Hygiene Community–Based Services Fund as provided in § 10–208 of the Health – General Article shall remain in, or accrue to, the Community Services Trust Fund and shall not revert to the General Fund or be used for any other purpose until the Department of Health and Mental Hygiene reports on the findings and recommendations of the workgroup convened under Section 1 of this Act.

~~**Article – Health – General**~~

~~24–1101.~~

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

~~(b) "Trust Fund" means the Community Services Trust Fund.~~

~~(c) "Proceeds" means the gross proceeds minus the costs associated with the sale, lease, or disposition of property and equipment, as determined by the Department of General Services.~~

~~24–1102.~~

~~(a) There is a Community Services Trust Fund in the Office of the Treasurer.~~

~~(b) The purpose of the Trust Fund is to receive and hold the proceeds from the sale or long–term lease of property and equipment of a Developmental Disabilities Administration facility [or a Mental Hygiene Administration facility].~~

~~24–1103.~~

~~(a) The Trust Fund is a continuing, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.~~

~~(b) (1) The Treasurer shall hold the Trust Fund and the Comptroller shall account for the Trust Fund.~~

~~(2) (i) The Trust Fund shall be invested and reinvested in the same manner as other State funds.~~

~~(ii) Any investment earnings of the Trust Fund shall be paid into the Trust Fund.~~

~~(3) The Treasurer shall deposit funds into the [two accounts] **ACCOUNT** of the Trust Fund in accordance with § 24–1104 of this subtitle.~~

~~24–1104.~~

~~(a) The Trust Fund consists of [two accounts] ONE ACCOUNT.~~

~~(b) [(1) One] THE account holds the proceeds from the sale or long–term lease of property and equipment resulting from the sale or long–term lease of Developmental Disabilities Administration facilities.~~

~~[(2) One account holds the proceeds from the sale or long–term lease of property and equipment resulting from the sale or long–term lease of Mental Hygiene Administration facilities.]~~

~~24–1105.~~

~~(a) The Trust Fund may only be used in accordance with this section.~~

~~(b) In accordance with an appropriation approved by the General Assembly in the State budget, the Comptroller shall transfer the investment earnings of[:~~

~~(1) The] THE Developmental Disabilities Administration account of the Trust Fund into the Waiting List Equity Fund established under § 7–206 of this article[; and~~

~~(2) The Mental Hygiene Administration account of the Trust Fund into the Mental Hygiene Community–Based Services Fund established under § 10–208 of this article].~~

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 605

(Senate Bill 800)

AN ACT concerning

Biotechnology Investment Incentive Tax Credit

FOR the purpose of altering the definition of "qualified investor" under a certain tax credit allowed for certain investments in certain biotechnology companies; clarifying the taxable year for which the credit may be claimed; repealing certain obsolete language; altering a certain applicability provision; clarifying

certain provisions requiring the recapture of the credit under certain circumstances; and generally relating to a certain tax credit allowed for certain investments in certain biotechnology companies.

BY repealing and reenacting, with amendments,
Article – Tax – General
Section 10–725(a)(6)(i), (b)(1), and (f)(1) and (2)
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

BY repealing
Article – Tax – General
Section 10–725(e)(3)(vii)
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Chapter 518 of the Acts of the General Assembly of 2008
Section 2

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

Article – Tax – General

10–725.

(a) (6) (i) "Qualified investor" means any **INDIVIDUAL OR** entity that invests at least $25,000 in a qualified Maryland biotechnology company and that is required to file an income tax return in any jurisdiction.

(b) (1) Subject to paragraphs (2) and (3) of this subsection and subsections (d) and (e) of this section, **FOR THE TAXABLE YEAR IN WHICH AN INVESTMENT IN A QUALIFIED MARYLAND BIOTECHNOLOGY COMPANY IS MADE,** a qualified investor may claim a credit against the State income tax in an amount equal to the amount of tax credit stated in the final credit certificate approved by the Secretary for **[**an**]** **THE** investment **[**in a qualified Maryland biotechnology company**]** as provided under this section.

(e) (3) **[**(vii) A qualified investor may redeem a final tax credit certificate for a taxable year beginning after December 31, 2006.**]**

(f) (1) The credit claimed under this section shall be recaptured as provided in paragraph (2) of this subsection if within 2 years from the close of the taxable year **[**in**]** **FOR** which the credit is **[**approved**]** **CLAIMED**:

(i) the qualified investor sells, transfers, or otherwise disposes of the ownership interest in the qualified Maryland biotechnology company that gave rise to the credit; or

(ii) the qualified Maryland biotechnology company that gave rise to the credit ceases operating as an active business with its headquarters and base of operations in the State.

(2) The amount required to be recaptured under this subsection is the product of multiplying:

(i) the total amount of the credit claimed or, in the case of an event described in paragraph (1)(i) of this subsection, the portion of the credit attributable to the ownership interest disposed of; and

(ii) 1. 100%, if the event requiring recapture of the credit occurs during the taxable year [in] **FOR** which the tax credit is [approved] **CLAIMED**;

2. 67%, if the event requiring recapture of the credit occurs during the first year after the close of the taxable year for which the tax credit is [approved] **CLAIMED**; or

3. 33%, if the event requiring recapture of the credit occurs more than 1 year but not more than 2 years after the close of the taxable year for which the tax credit is [approved] **CLAIMED**.

Chapter 518 of the Acts of 2008

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008[, and shall be applicable to all taxable years beginning after December 31, 2008]. **A TAX CREDIT FOR AN INVESTMENT IN A QUALIFIED MARYLAND BIOTECHNOLOGY COMPANY UNDER THE PROVISIONS OF § 10–725 OF THE TAX – GENERAL ARTICLE AS AMENDED BY SECTION 1 OF THIS ACT SHALL BE CLAIMED FOR THE TAXABLE YEAR IN WHICH THE INVESTMENT IS MADE.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 606

(House Bill 493)

AN ACT concerning

Biotechnology Investment Incentive Tax Credit

FOR the purpose of altering the definition of "qualified investor" under a certain tax credit allowed for certain investments in certain biotechnology companies; clarifying the taxable year for which the credit may be claimed; repealing certain obsolete language; altering a certain applicability provision; clarifying certain provisions requiring the recapture of the credit under certain circumstances; and generally relating to a certain tax credit allowed for certain investments in certain biotechnology companies.

BY repealing and reenacting, with amendments,
Article – Tax – General
Section 10–725(a)(6)(i), (b)(1), and (f)(1) and (2)
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

BY repealing
Article – Tax – General
Section 10–725(e)(3)(vii)
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Chapter 518 of the Acts of the General Assembly of 2008
Section 2

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

Article – Tax – General

10–725.

(a) (6) (i) "Qualified investor" means any **INDIVIDUAL OR** entity that invests at least $25,000 in a qualified Maryland biotechnology company and that is required to file an income tax return in any jurisdiction.

(b) (1) Subject to paragraphs (2) and (3) of this subsection and subsections (d) and (e) of this section, **FOR THE TAXABLE YEAR IN WHICH AN INVESTMENT IN A QUALIFIED MARYLAND BIOTECHNOLOGY COMPANY IS MADE,** a qualified investor may claim a credit against the State income tax in an amount equal to the amount of tax credit stated in the final credit certificate approved by the Secretary for **[**an**]** **THE** investment **[**in a qualified Maryland biotechnology company**]** as provided under this section.

(e) (3) [(vii) A qualified investor may redeem a final tax credit certificate for a taxable year beginning after December 31, 2006.]

(f) (1) The credit claimed under this section shall be recaptured as provided in paragraph (2) of this subsection if within 2 years from the close of the taxable year [in] **FOR** which the credit is [approved] **CLAIMED**:

(i) the qualified investor sells, transfers, or otherwise disposes of the ownership interest in the qualified Maryland biotechnology company that gave rise to the credit; or

(ii) the qualified Maryland biotechnology company that gave rise to the credit ceases operating as an active business with its headquarters and base of operations in the State.

(2) The amount required to be recaptured under this subsection is the product of multiplying:

(i) the total amount of the credit claimed or, in the case of an event described in paragraph (1)(i) of this subsection, the portion of the credit attributable to the ownership interest disposed of; and

(ii) 1. 100%, if the event requiring recapture of the credit occurs during the taxable year [in] **FOR** which the tax credit is [approved] **CLAIMED**;

2. 67%, if the event requiring recapture of the credit occurs during the first year after the close of the taxable year for which the tax credit is [approved] **CLAIMED**; or

3. 33%, if the event requiring recapture of the credit occurs more than 1 year but not more than 2 years after the close of the taxable year for which the tax credit is [approved] **CLAIMED**.

Chapter 518 of the Acts of 2008

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008[, and shall be applicable to all taxable years beginning after December 31, 2008]. **A TAX CREDIT FOR AN INVESTMENT IN A QUALIFIED MARYLAND BIOTECHNOLOGY COMPANY UNDER THE PROVISIONS OF § 10–725 OF THE TAX – GENERAL ARTICLE AS AMENDED BY SECTION 1 OF THIS ACT SHALL BE CLAIMED FOR THE TAXABLE YEAR IN WHICH THE INVESTMENT IS MADE.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 607

(Senate Bill 802)

AN ACT concerning

Higher Education – Edward T. Conroy ~~Tuition Waiver Program – Establishment~~ Memorial Scholarship Program – Alterations

FOR the purpose of ~~repealing the Edward T. Conroy Memorial Scholarship Program and establishing the Edward T. Conroy Tuition Waiver Program that provides a certain waiver of tuition and mandatory fees at public institutions of higher education in the State for certain members of the armed forces, prisoners of war, public safety employees, veterans, and certain spouses and children; providing a certain waiver of tuition and mandatory fees for certain survivors of Maryland residents killed in certain terrorist attacks; exempting a recipient from repaying certain amounts; providing for the duration of the waiver; defining certain terms; and generally relating to the establishment of the Edward T. Conroy Tuition Waiver Program.~~ authorizing certain persons to apply to certain postsecondary institutions for the Edward T. Conroy Memorial Scholarship Program rather than to the Office of Student Financial Assistance in the Maryland Higher Education Commission; authorizing certain postsecondary institutions to determine eligibility for the scholarships; requiring certain postsecondary institutions to report to the Commission by certain dates the number of eligible recipients for the scholarships; requiring the Commission to allocate funds to certain postsecondary institutions for eligible recipients; prohibiting the Office of Student Financial Assistance from awarding initial scholarships after a certain date; authorizing the Office to renew scholarships if the initial application occurred prior to a certain date; and generally relating to the Edward T. Conroy Memorial Scholarship Program.

BY repealing and reenacting, without amendments,
Article – Education
Section 18–601(a), (c), and (f)
Annotated Code of Maryland
(2008 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Education
Section 18–601(b), (d), (g), and (h)
Annotated Code of Maryland
(2008 Replacement Volume)

BY adding to
Article – Education
Section 18–601(g)
Annotated Code of Maryland
(2008 Replacement Volume)

~~BY repealing~~
~~Article – Education~~
~~Section 18–601~~
~~Annotated Code of Maryland~~
~~(2008 Replacement Volume)~~

~~BY adding to~~
~~Article – Education~~
~~Section 15–106.7~~
~~Annotated Code of Maryland~~
~~(2008 Replacement Volume)~~

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That ~~Section(s) 18–601 of Article – Education of the Annotated Code of Maryland be repealed.~~

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

Article – Education

18–601.

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

(2) "Disabled public safety employee" means a State or local public safety employee who sustains an injury in the line of duty that:

(i) Precludes the individual from continuing to serve or be employed as a State or local public safety employee; and

(ii) In the case of a volunteer member of a fire department or ambulance or rescue company or squad, precludes the member from continuing to be employed in the nonpublic safety occupation in which the member is engaged at the time of the injury.

(3) "Surviving spouse" means a person who has not remarried.

(4) "State or local public safety employee" means a person who is:

(i) A career or volunteer member of a:

1. Fire department;

2. Ambulance company or squad; or

3. Rescue company or squad;

(ii) A law enforcement officer;

(iii) A correctional officer; or

(iv) A member of the Maryland National Guard who was a resident of this State at the time of death.

(5) "Victim of the September 11, 2001 terrorist attacks" means a Maryland resident who was killed as a result of the attacks on the World Trade Center in New York City, the attack on the Pentagon in Virginia, or the crash of United Airlines Flight 93 in Pennsylvania.

(b) There is a program of scholarships that are awarded **BY ELIGIBLE POSTSECONDARY INSTITUTIONS** under this section.

(c) The Program is the Edward T. Conroy Memorial Scholarship Program.

(d) A person may apply to [the Office] **AN ELIGIBLE POSTSECONDARY INSTITUTION** for a scholarship under this section if the person:

(1) Except as provided in item (3)(iii) of this subsection and subsection (e) of this section, is a resident of Maryland;

(2) (i) Is accepted for admission or enrolled in the regular undergraduate, graduate or professional program at an eligible institution; or

(ii) Is enrolled in a 2–year terminal certificate program in which the course work is acceptable for transfer credit for an accredited baccalaureate program in an eligible institution; and

(3) (i) Is at least 16 years old and a son or daughter of a member of the armed forces who:

1. Died as a result of military service after December 7, 1941;

2. Suffered a service connected 100% permanent disability after December 7, 1941; or

3. Was declared to be a prisoner of war or missing in action, if that occurred on or after January 1, 1960 as a result of the Vietnam conflict, and if the child was born prior to or while the parent was a prisoner of war or missing in action;

(ii) Was a prisoner of war on or after January 1, 1960 as a result of the Vietnam conflict and was a resident of this State at the time the person was declared to be a prisoner of war or missing in action;

(iii) 1. A. Is at least 16 years old and a son or daughter of any State or local public safety employee killed in the line of duty; or

B. Is the surviving spouse of any State or local public safety employee killed in the line of duty; and

2. Is a resident of any state;

(iv) 1. Is a disabled public safety employee;

2. Is at least 16 years old and a son or daughter of a disabled public safety employee who sustains an injury in the line of duty that renders the public safety employee 100% disabled; or

3. Is the surviving spouse of a disabled public safety employee who sustains an injury in the line of duty that renders the public safety employee 100% disabled;

(v) Is a veteran, as defined under § 9–901 of the State Government Article, who:

1. Suffers a service connected disability of 25% or greater; and

2. Has exhausted or is no longer eligible for federal veterans' educational benefits; or

(vi) Is at least 16 years old and a son or daughter of or the surviving spouse of a victim of the September 11, 2001 terrorist attacks.

(f) A scholarship awarded under this section:

(1) May be used for the tuition and mandatory fees at any eligible institution; and

(2) May not:

(i) Exceed the equivalent annual tuition and mandatory fees of a resident undergraduate student at the 4–year public institution of higher education within the University System of Maryland, other than the University of Maryland University College and University of Maryland, Baltimore, with the highest annual expenses for a full–time resident undergraduate; and

(ii) Be less than the lesser of:

1. $3,000; or

2. The equivalent annual tuition and mandatory fees of a resident of the institution attended by the recipient of the scholarship.

(G) (1) EACH POSTSECONDARY INSTITUTION SHALL DETERMINE THE ELIGIBILITY OF PERSONS WHO APPLY TO THE INSTITUTION FOR THE EDWARD T. CONROY MEMORIAL SCHOLARSHIP PROGRAM.

(2) FUNDS FOR THE EDWARD T. CONROY MEMORIAL SCHOLARSHIP PROGRAM SHALL BE ALLOCATED BY THE COMMISSION TO EACH POSTSECONDARY INSTITUTION BASED ON THE NUMBER OF ELIGIBLE RECIPIENTS ATTENDING EACH INSTITUTION.

(3) IN OCTOBER AND FEBRUARY OF EACH YEAR, EACH POSTSECONDARY INSTITUTION SHALL REPORT TO THE COMMISSION THE NUMBER OF ELIGIBLE RECIPIENTS ATTENDING THE INSTITUTION.

(4) THE COMMISSION SHALL ALLOCATE FUNDS FOR AWARDS TO POSTSECONDARY INSTITUTIONS UPON VERIFICATION OF ELIGIBLE RECIPIENTS ATTENDING THE INSTITUTIONS.

(5) IF FUNDS CANNOT BE ALLOCATED IN THE FISCAL YEAR IN WHICH AWARDS ARE MADE, PRIORITY SHALL BE GIVEN TO ALLOCATING FUNDS FOR THOSE AWARDS IN THE FOLLOWING FISCAL YEAR.

[(g)**] (H)** (1) Each recipient of a scholarship under this section may hold the award for 5 years of full–time study or 8 years of part–time study.

(2) **[**The Office may not award more than 15 scholarships annually**] THE NUMBER OF ELIGIBLE RECIPIENTS** under subsection (d)(3)(v) of this section **SHALL BE LIMITED TO 15 EACH YEAR**.

(3) An award provided under subsection (d)(3)(vi) of this section may not exceed the amount specified in subsection (f)(2) of this section when combined with any other scholarship received by a student based on the student's status as a child or spouse of a victim of the September 11, 2001 terrorist attacks.

[(h)] **(I)** The Commission:

(1) May accept any gift or grant from any person for the Edward T. Conroy Scholarship Fund;

(2) Shall use any gift or grant that it receives for a scholarship from the Program; and

(3) Shall deposit any gift or grant that it receives for the Program with the State Treasurer in a nonbudgeted account.

~~**15–106.7.**~~

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

~~**(2) "DISABLED PUBLIC SAFETY EMPLOYEE" MEANS A STATE OR LOCAL PUBLIC SAFETY EMPLOYEE WHO SUSTAINS AN INJURY IN THE LINE OF DUTY THAT:**~~

~~**(I) PRECLUDES THE PERSON FROM CONTINUING TO SERVE OR BE EMPLOYED AS A STATE OR LOCAL PUBLIC SAFETY EMPLOYEE; AND**~~

~~**(II) IN THE CASE OF A VOLUNTEER MEMBER OF A FIRE DEPARTMENT OR AMBULANCE OR RESCUE COMPANY OR SQUAD, PRECLUDES THE MEMBER FROM CONTINUING TO BE EMPLOYED IN THE NONPUBLIC SAFETY OCCUPATION IN WHICH THE MEMBER IS ENGAGED AT THE TIME OF THE INJURY.**~~

~~**(3) "STATE OR LOCAL PUBLIC SAFETY EMPLOYEE" MEANS A PERSON WHO IS:**~~

~~**(I) A CAREER OR VOLUNTEER MEMBER OF:**~~

~~**1. A FIRE DEPARTMENT;**~~

~~**2. AN AMBULANCE COMPANY OR SQUAD; OR**~~

~~**3. A RESCUE COMPANY OR SQUAD;**~~

~~**(II) A LAW ENFORCEMENT OFFICER;**~~

~~**(III) A CORRECTIONAL OFFICER; OR**~~

~~(IV) A MEMBER OF THE MARYLAND NATIONAL GUARD WHO WAS A RESIDENT OF THIS STATE AT THE TIME OF DEATH.~~

~~(4) "SURVIVING SPOUSE" MEANS A PERSON WHO HAS NOT REMARRIED.~~

~~(5) (I) "TUITION" MEANS THE CHARGES IMPOSED BY A PUBLIC INSTITUTION OF HIGHER EDUCATION FOR ENROLLMENT AT THE INSTITUTION.~~

~~(II) "TUITION" INCLUDES CHARGES FOR REGISTRATION AND ALL FEES REQUIRED AS A CONDITION OF ENROLLMENT.~~

~~(6) "VICTIM OF THE SEPTEMBER 11, 2001, TERRORIST ATTACKS" MEANS A MARYLAND RESIDENT WHO WAS KILLED AS A RESULT OF THE ATTACKS ON THE WORLD TRADE CENTER IN NEW YORK CITY, THE ATTACK ON THE PENTAGON IN VIRGINIA, OR THE CRASH OF UNITED AIRLINES FLIGHT 93 IN PENNSYLVANIA.~~

~~(B) THERE IS AN EDWARD T. CONROY TUITION WAIVER PROGRAM UNDER THIS SECTION.~~

~~(C) EXCEPT AS PROVIDED IN SUBSECTION (D)(1) OF THIS SECTION, A PERSON IS EXEMPT FROM PAYING TUITION AT A PUBLIC INSTITUTION OF HIGHER EDUCATION IF THE PERSON:~~

~~(1) EXCEPT AS PROVIDED IN ITEM (3)(III) OF THIS SUBSECTION, IS A RESIDENT OF MARYLAND;~~

~~(2) (I) IS ACCEPTED FOR ADMISSION OR ENROLLED IN A REGULAR UNDERGRADUATE PROGRAM AT AN ELIGIBLE INSTITUTION; OR~~

~~(II) IS ENROLLED IN A 2-YEAR TERMINAL CERTIFICATE PROGRAM IN WHICH THE COURSE WORK IS ACCEPTABLE FOR TRANSFER CREDIT TO AN ACCREDITED BACCALAUREATE PROGRAM IN AN ELIGIBLE INSTITUTION; AND~~

~~(3) (I) IS AT LEAST 16 YEARS OLD AND A SON OR DAUGHTER OF A MEMBER OF THE ARMED FORCES WHO:~~

~~1. DIED AS A RESULT OF MILITARY SERVICE AFTER DECEMBER 7, 1941;~~

~~2. SUFFERED A SERVICE-CONNECTED, 100% PERMANENT DISABILITY AFTER DECEMBER 7, 1941; OR~~

~~3. WAS DECLARED TO BE A PRISONER OF WAR OR MISSING IN ACTION, IF THAT OCCURRED ON OR AFTER JANUARY 1, 1960, AS A RESULT OF THE VIETNAM CONFLICT, AND IF THE CHILD WAS BORN PRIOR TO OR WHILE THE PARENT WAS A PRISONER OF WAR OR MISSING IN ACTION;~~

~~(II) WAS A PRISONER OF WAR ON OR AFTER JANUARY 1, 1960, AS A RESULT OF THE VIETNAM CONFLICT AND WAS A RESIDENT OF THIS STATE AT THE TIME THE PERSON WAS DECLARED TO BE A PRISONER OF WAR OR MISSING IN ACTION;~~

~~(III) 1. A. IS AT LEAST 16 YEARS OLD AND A SON OR DAUGHTER OF ANY STATE OR LOCAL PUBLIC SAFETY EMPLOYEE KILLED IN THE LINE OF DUTY; OR~~

~~B. IS THE SURVIVING SPOUSE OF ANY STATE OR LOCAL PUBLIC SAFETY EMPLOYEE KILLED IN THE LINE OF DUTY; AND~~

~~2. IS A RESIDENT OF ANY STATE;~~

~~(IV) 1. IS A DISABLED PUBLIC SAFETY EMPLOYEE;~~

~~2. IS AT LEAST 16 YEARS OLD AND A SON OR DAUGHTER OF A DISABLED PUBLIC SAFETY EMPLOYEE WHO SUSTAINS AN INJURY IN THE LINE OF DUTY THAT RENDERS THE PUBLIC SAFETY EMPLOYEE 100% DISABLED; OR~~

~~3. IS THE SURVIVING SPOUSE OF A DISABLED PUBLIC SAFETY EMPLOYEE WHO SUSTAINS AN INJURY IN THE LINE OF DUTY THAT RENDERS THE PUBLIC SAFETY EMPLOYEE 100% DISABLED;~~

~~(V) IS A VETERAN, AS DEFINED UNDER § 9–901 OF THE STATE GOVERNMENT ARTICLE, WHO:~~

~~1. SUFFERS A SERVICE–CONNECTED DISABILITY OF 25% OR GREATER; AND~~

~~2. HAS EXHAUSTED OR IS NO LONGER ELIGIBLE FOR FEDERAL VETERANS' EDUCATIONAL BENEFITS; OR~~

~~(VI) IS AT LEAST 16 YEARS OLD AND A SON OR DAUGHTER OR THE SURVIVING SPOUSE OF A VICTIM OF THE SEPTEMBER 11, 2001, TERRORIST ATTACKS.~~

~~(D) (1) IF A RECIPIENT OF A TUITION WAIVER UNDER THIS SECTION RECEIVES A SCHOLARSHIP OR GRANT FOR POSTSECONDARY STUDY AND IS ENROLLED AS A CANDIDATE FOR AN ASSOCIATE'S DEGREE OR BACHELOR'S DEGREE AT A PUBLIC INSTITUTION OF HIGHER EDUCATION, THE RECIPIENT MAY NOT BE REQUIRED TO PAY THE DIFFERENCE BETWEEN THE AMOUNT OF THE SCHOLARSHIP OR GRANT AND THE AMOUNT OF THE TUITION.~~

~~(2) A RECIPIENT WHO IS EXEMPT FROM TUITION UNDER THIS SECTION CONTINUES TO BE EXEMPT UNTIL THE EARLIER OF:~~

~~(I) 5 YEARS AFTER FIRST ENROLLING AS A CANDIDATE FOR AN ASSOCIATE'S DEGREE OR A BACHELOR'S DEGREE AT A PUBLIC INSTITUTION OF HIGHER EDUCATION IN THE STATE; OR~~

~~(II) THE DATE THAT THE RECIPIENT IS AWARDED A BACHELOR'S DEGREE.~~

SECTION 2. AND BE IT FURTHER ENACTED, That the Office of Student Financial Assistance in the Maryland Higher Education Commission may not award an initial scholarship or grant under the student financial assistance programs specified in Section 1 of this Act after June 30, 2010. The office may renew a scholarship or grant after June 30, 2010, if the individual received an initial scholarship or grant before that date.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~July~~ October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 608

(House Bill 710)

AN ACT concerning

Higher Education – Edward T. Conroy ~~Tuition Waiver Program – Establishment~~ Memorial Scholarship Program – Alterations

FOR the purpose of ~~repealing the Edward T. Conroy Memorial Scholarship Program and establishing the Edward T. Conroy Tuition Waiver Program that provides a certain waiver of tuition and mandatory fees at public institutions of higher education in the State for certain members of the armed forces, prisoners of war, public safety employees, veterans, and certain spouses and children; providing a certain waiver of tuition and mandatory fees for certain survivors of~~

~~Maryland residents killed in certain terrorist attacks; exempting a recipient from repaying certain amounts; providing for the duration of the waiver; defining certain terms; and generally relating to the establishment of the Edward T. Conroy Tuition Waiver Program.~~ authorizing certain persons to apply to certain postsecondary institutions for the Edward T. Conroy Memorial Scholarship Program rather than to the Office of Student Financial Assistance in the Maryland Higher Education Commission; authorizing certain postsecondary institutions to determine eligibility for the scholarships; requiring certain postsecondary institutions to report to the Commission by certain dates the number of eligible recipients for the scholarships; requiring the Commission to allocate funds to certain postsecondary institutions for eligible recipients; prohibiting the Office of Student Financial Assistance from awarding initial scholarships after a certain date; authorizing the Office to renew scholarships if the initial application occurred prior to a certain date; and generally relating to the Edward T. Conroy Memorial Scholarship Program.

BY repealing and reenacting, without amendments,
Article – Education
Section 18–601(a), (c), and (f)
Annotated Code of Maryland
(2008 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Education
Section 18–601(b), (d), (g), and (h)
Annotated Code of Maryland
(2008 Replacement Volume)

BY adding to
Article – Education
Section 18–601(g)
Annotated Code of Maryland
(2008 Replacement Volume)

~~BY repealing~~
~~Article – Education~~
~~Section 18–601~~
~~Annotated Code of Maryland~~
~~(2008 Replacement Volume)~~

~~BY adding to~~
~~Article – Education~~
~~Section 15–106.7~~
~~Annotated Code of Maryland~~
~~(2008 Replacement Volume)~~

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That ~~Section(s) 18–601 of Article – Education of the Annotated Code of Maryland be repealed.~~

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

Article – Education

18–601.

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

(2) "Disabled public safety employee" means a State or local public safety employee who sustains an injury in the line of duty that:

(i) Precludes the individual from continuing to serve or be employed as a State or local public safety employee; and

(ii) In the case of a volunteer member of a fire department or ambulance or rescue company or squad, precludes the member from continuing to be employed in the nonpublic safety occupation in which the member is engaged at the time of the injury.

(3) "Surviving spouse" means a person who has not remarried.

(4) "State or local public safety employee" means a person who is:

(i) A career or volunteer member of a:

1. Fire department;

2. Ambulance company or squad; or

3. Rescue company or squad;

(ii) A law enforcement officer;

(iii) A correctional officer; or

(iv) A member of the Maryland National Guard who was a resident of this State at the time of death.

(5) "Victim of the September 11, 2001 terrorist attacks" means a Maryland resident who was killed as a result of the attacks on the World Trade Center in New York City, the attack on the Pentagon in Virginia, or the crash of United Airlines Flight 93 in Pennsylvania.

(b) There is a program of scholarships that are awarded **BY ELIGIBLE POSTSECONDARY INSTITUTIONS** under this section.

(c) The Program is the Edward T. Conroy Memorial Scholarship Program.

(d) A person may apply to [the Office] **AN ELIGIBLE POSTSECONDARY INSTITUTION** for a scholarship under this section if the person:

(1) Except as provided in item (3)(iii) of this subsection and subsection (e) of this section, is a resident of Maryland;

(2) (i) Is accepted for admission or enrolled in the regular undergraduate, graduate or professional program at an eligible institution; or

(ii) Is enrolled in a 2–year terminal certificate program in which the course work is acceptable for transfer credit for an accredited baccalaureate program in an eligible institution; and

(3) (i) Is at least 16 years old and a son or daughter of a member of the armed forces who:

1. Died as a result of military service after December 7, 1941;

2. Suffered a service connected 100% permanent disability after December 7, 1941; or

3. Was declared to be a prisoner of war or missing in action, if that occurred on or after January 1, 1960 as a result of the Vietnam conflict, and if the child was born prior to or while the parent was a prisoner of war or missing in action;

(ii) Was a prisoner of war on or after January 1, 1960 as a result of the Vietnam conflict and was a resident of this State at the time the person was declared to be a prisoner of war or missing in action;

(iii) 1. A. Is at least 16 years old and a son or daughter of any State or local public safety employee killed in the line of duty; or

B. Is the surviving spouse of any State or local public safety employee killed in the line of duty; and

2. Is a resident of any state;

(iv) 1. Is a disabled public safety employee;

2. Is at least 16 years old and a son or daughter of a disabled public safety employee who sustains an injury in the line of duty that renders the public safety employee 100% disabled; or

3. Is the surviving spouse of a disabled public safety employee who sustains an injury in the line of duty that renders the public safety employee 100% disabled;

(v) Is a veteran, as defined under § 9–901 of the State Government Article, who:

1. Suffers a service connected disability of 25% or greater; and

2. Has exhausted or is no longer eligible for federal veterans' educational benefits; or

(vi) Is at least 16 years old and a son or daughter of or the surviving spouse of a victim of the September 11, 2001 terrorist attacks.

(f) A scholarship awarded under this section:

(1) May be used for the tuition and mandatory fees at any eligible institution; and

(2) May not:

(i) Exceed the equivalent annual tuition and mandatory fees of a resident undergraduate student at the 4–year public institution of higher education within the University System of Maryland, other than the University of Maryland University College and University of Maryland, Baltimore, with the highest annual expenses for a full–time resident undergraduate; and

(ii) Be less than the lesser of:

1. $3,000; or

2. The equivalent annual tuition and mandatory fees of a resident of the institution attended by the recipient of the scholarship.

(G) (1) EACH POSTSECONDARY INSTITUTION SHALL DETERMINE THE ELIGIBILITY OF PERSONS WHO APPLY TO THE INSTITUTION FOR THE EDWARD T. CONROY MEMORIAL SCHOLARSHIP PROGRAM.

(2) FUNDS FOR THE EDWARD T. CONROY MEMORIAL SCHOLARSHIP PROGRAM SHALL BE ALLOCATED BY THE COMMISSION TO EACH

POSTSECONDARY INSTITUTION BASED ON THE NUMBER OF ELIGIBLE RECIPIENTS ATTENDING EACH INSTITUTION.

(3) IN OCTOBER AND FEBRUARY OF EACH YEAR, EACH POSTSECONDARY INSTITUTION SHALL REPORT TO THE COMMISSION THE NUMBER OF ELIGIBLE RECIPIENTS ATTENDING THE INSTITUTION.

(4) THE COMMISSION SHALL ALLOCATE FUNDS FOR AWARDS TO POSTSECONDARY INSTITUTIONS UPON VERIFICATION OF ELIGIBLE RECIPIENTS ATTENDING THE INSTITUTIONS.

(5) IF FUNDS CANNOT BE ALLOCATED IN THE FISCAL YEAR IN WHICH AWARDS ARE MADE, PRIORITY SHALL BE GIVEN TO ALLOCATING FUNDS FOR THOSE AWARDS IN THE FOLLOWING FISCAL YEAR.

[(g)] **(H)** (1) Each recipient of a scholarship under this section may hold the award for 5 years of full–time study or 8 years of part–time study.

(2) [The Office may not award more than 15 scholarships annually] **THE NUMBER OF ELIGIBLE RECIPIENTS** under subsection (d)(3)(v) of this section **SHALL BE LIMITED TO 15 EACH YEAR**.

(3) An award provided under subsection (d)(3)(vi) of this section may not exceed the amount specified in subsection (f)(2) of this section when combined with any other scholarship received by a student based on the student's status as a child or spouse of a victim of the September 11, 2001 terrorist attacks.

[(h)] **(I)** The Commission:

(1) May accept any gift or grant from any person for the Edward T. Conroy Scholarship Fund;

(2) Shall use any gift or grant that it receives for a scholarship from the Program; and

(3) Shall deposit any gift or grant that it receives for the Program with the State Treasurer in a nonbudgeted account.

~~**15–106.7.**~~

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

~~(2) "DISABLED PUBLIC SAFETY EMPLOYEE" MEANS A STATE OR LOCAL PUBLIC SAFETY EMPLOYEE WHO SUSTAINS AN INJURY IN THE LINE OF DUTY THAT:~~

~~(I) PRECLUDES THE PERSON FROM CONTINUING TO SERVE OR BE EMPLOYED AS A STATE OR LOCAL PUBLIC SAFETY EMPLOYEE; AND~~

~~(II) IN THE CASE OF A VOLUNTEER MEMBER OF A FIRE DEPARTMENT OR AMBULANCE OR RESCUE COMPANY OR SQUAD, PRECLUDES THE MEMBER FROM CONTINUING TO BE EMPLOYED IN THE NONPUBLIC SAFETY OCCUPATION IN WHICH THE MEMBER IS ENGAGED AT THE TIME OF THE INJURY.~~

~~(3) "STATE OR LOCAL PUBLIC SAFETY EMPLOYEE" MEANS A PERSON WHO IS:~~

~~(I) A CAREER OR VOLUNTEER MEMBER OF:~~

~~1. A FIRE DEPARTMENT;~~

~~2. AN AMBULANCE COMPANY OR SQUAD; OR~~

~~3. A RESCUE COMPANY OR SQUAD;~~

~~(II) A LAW ENFORCEMENT OFFICER;~~

~~(III) A CORRECTIONAL OFFICER; OR~~

~~(IV) A MEMBER OF THE MARYLAND NATIONAL GUARD WHO WAS A RESIDENT OF THIS STATE AT THE TIME OF DEATH.~~

~~(4) "SURVIVING SPOUSE" MEANS A PERSON WHO HAS NOT REMARRIED.~~

~~(5) (I) "TUITION" MEANS THE CHARGES IMPOSED BY A PUBLIC INSTITUTION OF HIGHER EDUCATION FOR ENROLLMENT AT THE INSTITUTION.~~

~~(II) "TUITION" INCLUDES CHARGES FOR REGISTRATION AND ALL FEES REQUIRED AS A CONDITION OF ENROLLMENT.~~

~~(6) "VICTIM OF THE SEPTEMBER 11, 2001, TERRORIST ATTACKS" MEANS A MARYLAND RESIDENT WHO WAS KILLED AS A RESULT OF THE ATTACKS ON THE WORLD TRADE CENTER IN NEW YORK CITY, THE ATTACK ON THE PENTAGON IN VIRGINIA, OR THE CRASH OF UNITED AIRLINES FLIGHT 93 IN PENNSYLVANIA.~~

~~(B) THERE IS AN EDWARD T. CONROY TUITION WAIVER PROGRAM UNDER THIS SECTION.~~

~~(C) EXCEPT AS PROVIDED IN SUBSECTION (D)(1) OF THIS SECTION, A PERSON IS EXEMPT FROM PAYING TUITION AT A PUBLIC INSTITUTION OF HIGHER EDUCATION IF THE PERSON:~~

~~(1) EXCEPT AS PROVIDED IN ITEM (3)(III) OF THIS SUBSECTION, IS A RESIDENT OF MARYLAND;~~

~~(2) (I) IS ACCEPTED FOR ADMISSION OR ENROLLED IN A REGULAR UNDERGRADUATE PROGRAM AT AN ELIGIBLE INSTITUTION; OR~~

~~(II) IS ENROLLED IN A 2-YEAR TERMINAL CERTIFICATE PROGRAM IN WHICH THE COURSE WORK IS ACCEPTABLE FOR TRANSFER CREDIT TO AN ACCREDITED BACCALAUREATE PROGRAM IN AN ELIGIBLE INSTITUTION; AND~~

~~(3) (I) IS AT LEAST 16 YEARS OLD AND A SON OR DAUGHTER OF A MEMBER OF THE ARMED FORCES WHO:~~

~~1. DIED AS A RESULT OF MILITARY SERVICE AFTER DECEMBER 7, 1941;~~

~~2. SUFFERED A SERVICE-CONNECTED, 100% PERMANENT DISABILITY AFTER DECEMBER 7, 1941; OR~~

~~3. WAS DECLARED TO BE A PRISONER OF WAR OR MISSING IN ACTION, IF THAT OCCURRED ON OR AFTER JANUARY 1, 1960, AS A RESULT OF THE VIETNAM CONFLICT, AND IF THE CHILD WAS BORN PRIOR TO OR WHILE THE PARENT WAS A PRISONER OF WAR OR MISSING IN ACTION;~~

~~(II) WAS A PRISONER OF WAR ON OR AFTER JANUARY 1, 1960, AS A RESULT OF THE VIETNAM CONFLICT AND WAS A RESIDENT OF THIS STATE AT THE TIME THE PERSON WAS DECLARED TO BE A PRISONER OF WAR OR MISSING IN ACTION;~~

~~(III) 1. A. IS AT LEAST 16 YEARS OLD AND A SON OR DAUGHTER OF ANY STATE OR LOCAL PUBLIC SAFETY EMPLOYEE KILLED IN THE LINE OF DUTY; OR~~

~~B. IS THE SURVIVING SPOUSE OF ANY STATE OR LOCAL PUBLIC SAFETY EMPLOYEE KILLED IN THE LINE OF DUTY; AND~~

~~2. IS A RESIDENT OF ANY STATE;~~

~~(IV) 1. IS A DISABLED PUBLIC SAFETY EMPLOYEE;~~

~~2. IS AT LEAST 16 YEARS OLD AND A SON OR DAUGHTER OF A DISABLED PUBLIC SAFETY EMPLOYEE WHO SUSTAINS AN INJURY IN THE LINE OF DUTY THAT RENDERS THE PUBLIC SAFETY EMPLOYEE 100% DISABLED; OR~~

~~3. IS THE SURVIVING SPOUSE OF A DISABLED PUBLIC SAFETY EMPLOYEE WHO SUSTAINS AN INJURY IN THE LINE OF DUTY THAT RENDERS THE PUBLIC SAFETY EMPLOYEE 100% DISABLED;~~

~~(V) IS A VETERAN, AS DEFINED UNDER § 9-901 OF THE STATE GOVERNMENT ARTICLE, WHO:~~

~~1. SUFFERS A SERVICE-CONNECTED DISABILITY OF 25% OR GREATER; AND~~

~~2. HAS EXHAUSTED OR IS NO LONGER ELIGIBLE FOR FEDERAL VETERANS' EDUCATIONAL BENEFITS; OR~~

~~(VI) IS AT LEAST 16 YEARS OLD AND A SON OR DAUGHTER OR THE SURVIVING SPOUSE OF A VICTIM OF THE SEPTEMBER 11, 2001, TERRORIST ATTACKS.~~

~~(D) (1) IF A RECIPIENT OF A TUITION WAIVER UNDER THIS SECTION RECEIVES A SCHOLARSHIP OR GRANT FOR POSTSECONDARY STUDY AND IS ENROLLED AS A CANDIDATE FOR AN ASSOCIATE'S DEGREE OR BACHELOR'S DEGREE AT A PUBLIC INSTITUTION OF HIGHER EDUCATION, THE RECIPIENT MAY NOT BE REQUIRED TO PAY THE DIFFERENCE BETWEEN THE AMOUNT OF THE SCHOLARSHIP OR GRANT AND THE AMOUNT OF THE TUITION.~~

~~(2) A RECIPIENT WHO IS EXEMPT FROM TUITION UNDER THIS SECTION CONTINUES TO BE EXEMPT UNTIL THE EARLIER OF:~~

~~(I) 5 YEARS AFTER FIRST ENROLLING AS A CANDIDATE FOR AN ASSOCIATE'S DEGREE OR A BACHELOR'S DEGREE AT A PUBLIC INSTITUTION OF HIGHER EDUCATION IN THE STATE; OR~~

~~(II) THE DATE THAT THE RECIPIENT IS AWARDED A BACHELOR'S DEGREE.~~

SECTION 2. AND BE IT FURTHER ENACTED, That the Office of Student Financial Assistance in the Maryland Higher Education Commission may not award an initial scholarship or grant under the student financial assistance programs specified in Section 1 of this Act after June 30, 2010. The office may renew a scholarship or grant after June 30, 2010, if the individual received an initial scholarship or grant before that date.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~July~~ October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 609

(Senate Bill 808)

AN ACT concerning

Milk Products – Pilot Farmstead Cheese Program – ~~Permits~~ *Repeal of Sunset*

FOR the purpose of ~~repealing a certain limitation on the number of milk processor – farmstead cheese producer permits that the Secretary of Health and Mental Hygiene may issue under a certain pilot program;~~ *repealing the termination of certain provisions of law relating to farmstead cheese production and to the pilot farmstead cheese program; requiring the Department of Health and Mental Hygiene to submit a certain report to the Governor and General Assembly on or before a certain date; making a technical change;* and generally relating to permits for the pilot farmstead cheese program.

BY repealing and reenacting, without amendments,
Article – Health – General
Section 21–401(a) and (g), 21–410(b)(5), 21–416(d), and 21–417(c)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Health – General
Section 21–416.1
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Chapter 437 of the Acts of the General Assembly of 2007, as amended by Chapter 332 of the Acts of the General Assembly of 2008
Section 2

BY repealing and reenacting, with amendments,
Chapter 332 of the Acts of the General Assembly of 2008
Section 2

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

Article – Health – General

21–401.

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

(g) "Farmstead cheese" means cheese made on a farm:

(1) Using only the raw milk produced by the herd on the farm; and

(2) That meets the definitions and standards of a hard cheese established in 21 C.F.R. 133.

21–410.

(b) A permit is required to:

(5) Be a milk processor – farmstead cheese producer;

21–416.

(d) (1) While it is effective, a milk processor permit authorizes the holder:

(i) To collect raw milk;

(ii) To handle raw milk;

(iii) To process raw milk;

(iv) To pasteurize raw milk;

(v) To store pasteurized milk;

(vi) To bottle or package pasteurized milk;

(vii) To prepare pasteurized milk for distribution; and

(viii) To distribute pasteurized milk.

(2) While it is effective, a milk processor – farmstead cheese producer permit authorizes the holder:

(i) To perform all the functions set forth in paragraph (1) of this subsection; and

(ii) To produce farmstead cheese.

21–416.1.

(a) The Secretary may establish a ~~5–year~~ pilot farmstead cheese program after the Secretary:

(1) Adopts regulations to implement the program; and

(2) Issues a milk processor – farmstead cheese producer permit to a selected participant.

(b) Subject to the availability of sufficient inspection and testing staff, equipment, and other resources, the Secretary may issue ~~[~~up to five~~]~~ milk processor – farmstead cheese producer permits under the pilot program.

(c) To qualify for a milk processor – farmstead cheese producer permit the applicant shall:

(1) Operate a dairy farm with no more than 120 cows or goats in the herd; and

(2) Meet any other requirements established by the Department by regulation.

21–417.

(c) (1) Except for a milk processor – farmstead cheese producer permit, the Secretary shall renew the permit of each applicant for renewal who meets the requirements of this section.

(2) Subject to the ongoing availability of sufficient inspection and testing staff, equipment, and other resources, the Secretary may renew a milk processor – farmstead cheese producer permit for up to four additional 1–year terms if the holder meets the requirements established by regulation.

Chapter 437 of the Acts of 2007, as amended by
Chapter 332 of the Acts of 2008

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007. [It shall remain effective for a period of 7 years and, at the end of

September 30, 2014, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.]

Chapter 332 of the Acts of 2008

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008. [It shall remain effective for a period of 6 years and, at the end of September 30, 2014, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.]

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before October 1, 2013, the Department of Health and Mental Hygiene shall submit a report on the status of the farmstead cheese program to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

SECTION ~~2.~~ *3.* AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 610

(House Bill 243)

AN ACT concerning

Milk Products – Pilot Farmstead Cheese Program – ~~Permits~~ Repeal of Sunset

FOR the purpose of ~~repealing a certain limitation on the number of milk processor – farmstead cheese producer permits that the Secretary of Health and Mental Hygiene may issue under a certain pilot program;~~ repealing the termination of certain provisions of law relating to farmstead cheese production and to the pilot farmstead cheese program; requiring the Department of Health and Mental Hygiene to submit a certain report to the Governor and General Assembly on or before a certain date; making a technical change; and generally relating to permits for the pilot farmstead cheese program.

BY repealing and reenacting, without amendments,
Article – Health – General
Section 21–401(a) and (g), 21–410(b)(5), 21–416(d), and 21–417(c)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Health – General

Section 21–416.1
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Chapter 437 of the Acts of the General Assembly of 2007, as amended by Chapter 332 of the Acts of the General Assembly of 2008
Section 2

BY repealing and reenacting, with amendments,
Chapter 332 of the Acts of the General Assembly of 2008
Section 2

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

Article – Health – General

21–401.

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

(g) "Farmstead cheese" means cheese made on a farm:

(1) Using only the raw milk produced by the herd on the farm; and

(2) That meets the definitions and standards of a hard cheese established in 21 C.F.R. 133.

21–410.

(b) A permit is required to:

(5) Be a milk processor – farmstead cheese producer;

21–416.

(d) (1) While it is effective, a milk processor permit authorizes the holder:

(i) To collect raw milk;

(ii) To handle raw milk;

(iii) To process raw milk;

(iv) To pasteurize raw milk;

(v) To store pasteurized milk;

(vi) To bottle or package pasteurized milk;

(vii) To prepare pasteurized milk for distribution; and

(viii) To distribute pasteurized milk.

(2) While it is effective, a milk processor – farmstead cheese producer permit authorizes the holder:

(i) To perform all the functions set forth in paragraph (1) of this subsection; and

(ii) To produce farmstead cheese.

21–416.1.

(a) The Secretary may establish a ~~5–year~~ pilot farmstead cheese program after the Secretary:

(1) Adopts regulations to implement the program; and

(2) Issues a milk processor – farmstead cheese producer permit to a selected participant.

(b) Subject to the availability of sufficient inspection and testing staff, equipment, and other resources, the Secretary may issue ~~[~~up to five~~]~~ milk processor – farmstead cheese producer permits under the pilot program.

(c) To qualify for a milk processor – farmstead cheese producer permit the applicant shall:

(1) Operate a dairy farm with no more than 120 cows or goats in the herd; and

(2) Meet any other requirements established by the Department by regulation.

21–417.

(c) (1) Except for a milk processor – farmstead cheese producer permit, the Secretary shall renew the permit of each applicant for renewal who meets the requirements of this section.

(2) Subject to the ongoing availability of sufficient inspection and testing staff, equipment, and other resources, the Secretary may renew a milk

processor – farmstead cheese producer permit for up to four additional 1–year terms if the holder meets the requirements established by regulation.

Chapter 437 of the Acts of 2007, as amended by Chapter 332 of the Acts of 2008

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007. **[**It shall remain effective for a period of 7 years and, at the end of September 30, 2014, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.**]**

Chapter 332 of the Acts of 2008

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008. **[**It shall remain effective for a period of 6 years and, at the end of September 30, 2014, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.**]**

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before October 1, 2013, the Department of Health and Mental Hygiene shall submit a report on the status of the farmstead cheese program to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 611

(Senate Bill 811)

AN ACT concerning

Domestic Violence – Duration of Protective Order – Subsequent Act of Abuse

FOR the purpose of extending the maximum duration of a final protective order under certain circumstances; and generally relating to domestic violence and the duration of a final protective order.

BY repealing and reenacting, with amendments,
Article – Family Law
Section ~~4–506(h)~~ 4–506(b) and (h)
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – Family Law

4–506.

(b) (1) (i) The temporary protective order shall state the date and time of the final protective order hearing.

(ii) Unless continued for good cause, the final protective order hearing shall be held no later than 7 days after the temporary protective order is served on the respondent.

(2) The temporary protective order shall include notice to the respondent:

(i) in at least 10–point bold type, that if the respondent fails to appear at the final protective order hearing, the respondent may be served by first–class mail at the respondent's last known address with the final protective order and all other notices concerning the final protective order;

(ii) specifying all the possible forms of relief under subsection (d) of this section that the final protective order may contain;

(iii) that the final protective order shall be effective for the period stated in the order, not to exceed **[**12 months**] 1 YEAR OR, UNDER THE CIRCUMSTANCES DESCRIBED IN SUBSECTION (H)(2) OF THIS SECTION, 2 YEARS**, unless the judge extends the term of the order**[**,**]** under § 4–507(a)(2) of this subtitle or the court issues a permanent order under subsection (i) of this section; and

(iv) in at least 10–point bold type, that the respondent must notify the court in writing of any change of address.

(h) (1) Except as provided in **[**paragraph (2)**] PARAGRAPHS (2) AND (3)** of this subsection, all relief granted in a final protective order shall be effective for the period stated in the order, not to exceed **[**12 months**] 1 YEAR**.

(2) ~~**IF THE COURT ISSUES A FINAL PROTECTIVE ORDER UNDER THIS SECTION AGAINST A RESPONDENT FOR AN ACT OF ABUSE COMMITTED WITHIN 1 YEAR AFTER THE DATE THAT A PRIOR PROTECTIVE ORDER ISSUED AGAINST THE SAME RESPONDENT EXPIRES, ALL RELIEF GRANTED IN THE**~~ **ALL RELIEF GRANTED IN A FINAL PROTECTIVE ORDER SHALL BE EFFECTIVE FOR THE PERIOD STATED IN THE ORDER, NOT TO EXCEED 2 YEARS IF:**

(I) THE COURT ISSUES A FINAL PROTECTIVE ORDER UNDER THIS SECTION AGAINST A RESPONDENT ON BEHALF OF A PERSON ELIGIBLE FOR RELIEF FOR AN ACT OF ABUSE COMMITTED WITHIN 1 YEAR AFTER THE DATE THAT A PRIOR FINAL PROTECTIVE ORDER ISSUED AGAINST THE SAME RESPONDENT ON BEHALF OF THE SAME PERSON ELIGIBLE FOR RELIEF EXPIRES; AND

(II) THE PRIOR FINAL PROTECTIVE ORDER WAS ISSUED FOR A PERIOD OF AT LEAST 6 MONTHS.

(3) A subsequent circuit court order pertaining to any of the provisions included in the final protective order shall supersede those provisions in the final protective order.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 612

(House Bill 971)

AN ACT concerning

Domestic Violence – Duration of Protective Order – Subsequent Act of Abuse

FOR the purpose of extending the maximum duration of a final protective order under certain circumstances; and generally relating to domestic violence and the duration of a final protective order.

BY repealing and reenacting, with amendments,
Article – Family Law
Section ~~4–506(h)~~ 4–506(b) and (h)
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – Family Law

4–506.

(b) (1) (i) The temporary protective order shall state the date and time of the final protective order hearing.

(ii) Unless continued for good cause, the final protective order hearing shall be held no later than 7 days after the temporary protective order is served on the respondent.

(2) The temporary protective order shall include notice to the respondent:

(i) in at least 10–point bold type, that if the respondent fails to appear at the final protective order hearing, the respondent may be served by first–class mail at the respondent's last known address with the final protective order and all other notices concerning the final protective order;

(ii) specifying all the possible forms of relief under subsection (d) of this section that the final protective order may contain;

(iii) that the final protective order shall be effective for the period stated in the order, not to exceed **[**12 months**]** **1 YEAR OR, UNDER THE CIRCUMSTANCES DESCRIBED IN SUBSECTION (H)(2) OF THIS SECTION, 2 YEARS**, unless the judge extends the term of the order**[**,**]** under § 4–507(a)(2) of this subtitle or the court issues a permanent order under subsection (i) of this section; and

(iv) in at least 10–point bold type, that the respondent must notify the court in writing of any change of address.

(h) (1) Except as provided in **[**paragraph (2)**]** **PARAGRAPHS (2) AND (3)** of this subsection, all relief granted in a final protective order shall be effective for the period stated in the order, not to exceed **[**12 months**]** **1 YEAR**.

(2) ~~**IF THE COURT ISSUES A FINAL PROTECTIVE ORDER UNDER THIS SECTION AGAINST A RESPONDENT FOR AN ACT OF ABUSE COMMITTED WITHIN 1 YEAR AFTER THE DATE THAT A PRIOR PROTECTIVE ORDER ISSUED AGAINST THE SAME RESPONDENT EXPIRES, ALL RELIEF GRANTED IN THE**~~ **ALL RELIEF GRANTED IN A FINAL PROTECTIVE ORDER SHALL BE EFFECTIVE FOR THE PERIOD STATED IN THE ORDER, NOT TO EXCEED 2 YEARS IF:**

(I) THE COURT ISSUES A FINAL PROTECTIVE ORDER UNDER THIS SECTION AGAINST A RESPONDENT ON BEHALF OF A PERSON ELIGIBLE FOR RELIEF FOR AN ACT OF ABUSE COMMITTED WITHIN 1 YEAR AFTER THE DATE THAT A PRIOR FINAL PROTECTIVE ORDER ISSUED AGAINST THE SAME RESPONDENT ON BEHALF OF THE SAME PERSON ELIGIBLE FOR RELIEF EXPIRES; AND

(II) THE PRIOR FINAL PROTECTIVE ORDER WAS ISSUED FOR A PERIOD OF AT LEAST 6 MONTHS.

(3) A subsequent circuit court order pertaining to any of the provisions included in the final protective order shall supersede those provisions in the final protective order.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 613

(Senate Bill 821)

AN ACT concerning

Harford County – Property Tax ~~Exemption~~ *Credit* – Continuing Care Facility for *the* Aged

FOR the purpose of ~~exempting certain property owned or operated by certain continuing care facilities for the aged or by a person exempt from federal income tax in Harford County from the payment of county or municipal corporation property tax~~ *authorizing the governing body of Harford County or of a municipal corporation in Harford County to grant, by law, a credit against the county or municipal corporation property tax imposed on certain property owned by certain continuing care facilities for the aged*; providing for the application of this Act; and generally relating to *a* property tax ~~exemptions~~ *credit* for certain property owned by certain continuing care facilities located in Harford County.

BY adding to
Article – Tax – Property
Section ~~7–206.1~~ ~~7–402~~ *9–314(d)*
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

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

Article – Tax – Property

~~**7–206.1.**~~

~~7–402.~~ *9–314.*

~~(A)~~ *(D)* *(1)* IN THIS ~~SUBSECTION~~ ~~SECTION~~ *SUBSECTION*, "FACILITY" MEANS A CONTINUING CARE FACILITY FOR THE AGED THAT:

~~(1)~~ *(I)* PROVIDES CONTINUING CARE AS DEFINED IN § 10–401 OF THE HUMAN SERVICES ARTICLE;

~~(2)~~ *(II)* IS LICENSED AS A RELATED INSTITUTION UNDER TITLE 19, SUBTITLE 3 OF THE HEALTH – GENERAL ARTICLE;

~~(3)~~ *(III)* IS CERTIFIED BY THE DEPARTMENT OF AGING; *AND*

~~(4)~~ *(IV)* IS EXEMPT FROM FEDERAL INCOME TAX UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE OR IS OWNED OR OPERATED BY A PERSON THAT IS EXEMPT FROM FEDERAL INCOME TAX UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE~~; AND~~

~~(5) IS LOCATED IN HARFORD COUNTY~~.

~~(B)~~ *(2)* ~~PROPERTY THAT IS NOT OTHERWISE EXEMPT FROM TAXATION UNDER § 7–202 OR § 7–206(B) OF THIS SUBTITLE TITLE IS NOT SUBJECT TO PROPERTY TAX IMPOSED BY THE~~ *THE* GOVERNING BODY OF HARFORD COUNTY OR OF A MUNICIPAL CORPORATION IN HARFORD COUNTY ~~IF THE~~ *MAY GRANT, BY LAW, A TAX CREDIT AGAINST THE COUNTY OR MUNICIPAL CORPORATION PROPERTY TAX IMPOSED ON* PROPERTY *THAT* IS:

~~(1)~~ *(I)* OWNED OR OPERATED BY A ~~FACILITY;~~ FACILITY OR BY A PERSON THAT IS EXEMPT FROM FEDERAL INCOME TAX UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE; AND

~~(2)~~ *(II)* AVAILABLE FOR USE IN CONNECTION WITH ~~THE~~ A FACILITY.

(3) THE GOVERNING BODY OF HARFORD COUNTY OR OF A MUNICIPAL CORPORATION IN HARFORD COUNTY MAY PROVIDE, BY LAW, FOR:

(I) THE AMOUNT AND DURATION OF THE TAX CREDIT UNDER THIS SUBSECTION;

(II) ADDITIONAL ELIGIBILITY CRITERIA FOR THE TAX CREDIT UNDER THIS SUBSECTION;

(III) REGULATIONS AND PROCEDURES FOR THE APPLICATION AND UNIFORM PROCESSING OF REQUESTS FOR THE TAX CREDIT; AND

(IV) ANY OTHER PROVISION NECESSARY TO CARRY OUT THE CREDIT UNDER THIS SUBSECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009, and shall be applicable to all taxable years beginning after June 30, 2009.

Approved by the Governor, May 19, 2009.

Chapter 614

(Senate Bill 842)

AN ACT concerning

Real Property – Foreclosure of Mortgages and Deeds of Trust on Residential Property – Notice to Occupants

FOR the purpose of requiring a certain notice to be sent to a certain address in a certain manner at the time of filing an action to foreclose a mortgage or deed of trust on certain residential property; requiring a certain notice of foreclosure sale to be sent to a certain address in a certain manner a certain period of time before a foreclosure sale of certain property; requiring a certain notice to be sent to a certain address in a certain manner within a certain time after the entry of a judgment awarding possession of certain property; requiring certain notices to be in a certain form and contain certain information; requiring certain envelopes to contain a certain statement; requiring a person who gives a certain notice to an occupant regarding a foreclosure to file an affidavit of compliance under certain circumstances; providing that a new or additional notice to an occupant regarding a foreclosure does not need to be given under certain circumstances; defining a certain term; providing for the application of this Act; making this Act an emergency measure; and generally relating to notices regarding foreclosure actions on residential property.

BY adding to
Article – Real Property
Section 7–105.9
Annotated Code of Maryland
(2003 Replacement Volume and 2008 Supplement)

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

Article – Real Property

7–105.9.

(A) IN THIS SECTION, "RESIDENTIAL PROPERTY" HAS THE MEANING STATED IN § 7–105.1 OF THIS SUBTITLE.

(B) (1) IN ADDITION TO ANY OTHER NOTICE REQUIRED TO BE GIVEN BY THIS CODE OR THE MARYLAND RULES, THE PERSON AUTHORIZED TO MAKE A SALE IN AN ACTION TO FORECLOSE A MORTGAGE OR DEED OF TRUST ON RESIDENTIAL PROPERTY SHALL SEND, AT THE SAME TIME AS THE NOTICE REQUIRED BY ~~§ 7–105(D)(2)(VII)~~ § 7–105.1(D)(2)(VII) OF THIS SUBTITLE, A WRITTEN NOTICE ADDRESSED TO "ALL OCCUPANTS" AT THE ADDRESS OF THE RESIDENTIAL PROPERTY IN SUBSTANTIALLY THE FOLLOWING FORM:

"IMPORTANT NOTICE

A FORECLOSURE ACTION HAS BEEN FILED AGAINST THE PROPERTY LOCATED AT (INSERT ADDRESS) IN THE CIRCUIT COURT FOR (INSERT NAME OF COUNTY). THIS NOTICE IS BEING SENT TO YOU AS A PERSON WHO LIVES IN THIS PROPERTY.

A FORECLOSURE SALE OF THE PROPERTY MAY OCCUR AT ANY TIME AFTER 45 DAYS FROM THE DATE OF THIS NOTICE. YOU MAY WANT TO CONSULT WITH AN ATTORNEY BECAUSE IF A FORECLOSURE SALE OF THE PROPERTY OCCURS, YOU COULD BE EVICTED, EVEN IF YOU ARE A TENANT AND EVEN IF YOU HAVE PAID THE RENT DUE AND COMPLIED WITH YOUR LEASE.

BELOW YOU WILL FIND THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE PERSON AUTHORIZED TO SELL THE PROPERTY. YOU MAY CONTACT THIS PERSON TO FIND OUT MORE ABOUT THE SALE. FOR FURTHER INFORMATION, YOU MAY REVIEW THE FILE IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT. YOU ALSO MAY CONTACT THE MARYLAND DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT, AT ~~1–877–462–7555~~ (INSERT TELEPHONE NUMBER), OR CONSULT THE DEPARTMENT'S WEBSITE, ~~HTTP://WWW.MDHOPE.ORG/~~ (INSERT WEBSITE ADDRESS), FOR ASSISTANCE.

PERSON AUTHORIZED TO SELL THE PROPERTY:

_____

NAME

_____

ADDRESS

_____

TELEPHONE

_____

DATE OF THIS NOTICE".

(2) THE WRITTEN NOTICE REQUIRED BY THIS SUBSECTION SHALL BE:

(I) A SEPARATE DOCUMENT;

(II) PRINTED IN AT LEAST 12 POINT TYPE; AND

(III) SENT BY FIRST–CLASS MAIL ~~WITH CERTIFICATE OF MAILING~~.

(3) THE OUTSIDE OF THE ENVELOPE CONTAINING THE WRITTEN NOTICE REQUIRED BY THIS SUBSECTION SHALL STATE, ON THE ADDRESS SIDE, IN BOLD, CAPITALIZED LETTERS IN AT LEAST 12 POINT TYPE, THE FOLLOWING: "IMPORTANT NOTICE TO ALL OCCUPANTS: FORECLOSURE INFORMATION ENCLOSED. OPEN IMMEDIATELY.".

(C) (1) IN ADDITION TO ANY OTHER NOTICE REQUIRED TO BE GIVEN BY THIS CODE OR THE MARYLAND RULES, THE PERSON AUTHORIZED TO MAKE A SALE IN AN ACTION TO FORECLOSE A MORTGAGE OR DEED OF TRUST ON RESIDENTIAL PROPERTY SHALL SEND A WRITTEN NOTICE OF THE SALE NOT EARLIER THAN 30 DAYS AND NOT LATER THAN 10 DAYS BEFORE THE DATE OF SALE ADDRESSED TO "ALL OCCUPANTS" AT THE ADDRESS OF THE RESIDENTIAL PROPERTY IN SUBSTANTIALLY THE FOLLOWING FORM:

"NOTICE OF IMPENDING FORECLOSURE SALE

A FORECLOSURE ACTION HAS BEEN FILED AGAINST THE PROPERTY LOCATED AT (INSERT ADDRESS) IN THE CIRCUIT COURT FOR (INSERT NAME OF COUNTY). THIS NOTICE IS BEING SENT TO YOU AS A PERSON WHO LIVES IN THIS PROPERTY.

A FORECLOSURE SALE OF THE PROPERTY IS SCHEDULED TO OCCUR AS FOLLOWS:

DATE: _____

TIME: _____

PLACE:_____

AFTER THIS SALE, YOU COULD BE EVICTED, EVEN IF YOU ARE A TENANT AND EVEN IF YOU HAVE PAID THE RENT DUE AND COMPLIED WITH YOUR LEASE.

BELOW YOU WILL FIND THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE PERSON AUTHORIZED TO SELL THE PROPERTY. YOU MAY CONTACT THIS PERSON TO FIND OUT MORE ABOUT THE SALE. FOR FURTHER INFORMATION, YOU MAY REVIEW THE FILE IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT. YOU MAY WANT TO CONSULT AN ATTORNEY TO DETERMINE YOUR RIGHTS. YOU ALSO MAY CONTACT THE MARYLAND DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT, AT ~~1-877-462-7555~~ (INSERT TELEPHONE NUMBER), OR CONSULT THE DEPARTMENT'S WEBSITE, ~~HTTP://WWW.MDHOPE.ORG/~~ (INSERT WEBSITE ADDRESS), FOR ASSISTANCE.

PERSON AUTHORIZED TO SELL THE PROPERTY:

_____
NAME

_____
ADDRESS

_____
TELEPHONE

_____
DATE OF THIS NOTICE".

(2) THE WRITTEN NOTICE REQUIRED BY THIS SUBSECTION SHALL BE:

(I) A SEPARATE DOCUMENT;

(II) PRINTED IN AT LEAST 12 POINT TYPE; AND

(III) SENT BY ~~CERTIFIED AND~~ FIRST–CLASS MAIL ~~WITH CERTIFICATE OF MAILING~~.

(3) THE OUTSIDE OF THE ENVELOPE CONTAINING THE WRITTEN NOTICE REQUIRED BY THIS SUBSECTION SHALL STATE, ON THE ADDRESS SIDE, IN BOLD, CAPITALIZED LETTERS IN AT LEAST 12 POINT TYPE, THE FOLLOWING:

"IMPORTANT NOTICE TO ALL OCCUPANTS: FORECLOSURE INFORMATION ENCLOSED. OPEN IMMEDIATELY.".

(D) (1) IN ADDITION TO ANY OTHER NOTICE REQUIRED TO BE GIVEN BY THIS CODE OR THE MARYLAND RULES, THE PERSON ~~AUTHORIZED TO MAKE A SALE IN AN ACTION TO FORECLOSE A MORTGAGE OR DEED OF TRUST ON RESIDENTIAL PROPERTY~~ WHO PURCHASES RESIDENTIAL PROPERTY IN A FORECLOSURE SALE SHALL SEND, AFTER THE ENTRY OF A JUDGMENT AWARDING POSSESSION AND BEFORE ANY ATTEMPT TO EXECUTE THE WRIT OF POSSESSION, A WRITTEN NOTICE ~~ADDRESS~~ ADDRESSED TO "ALL OCCUPANTS" AT THE ADDRESS OF THE RESIDENTIAL PROPERTY IN SUBSTANTIALLY THE FOLLOWING FORM:

"IMPORTANT EVICTION NOTICE

THE CIRCUIT COURT FOR (INSET NAME OF COUNTY) HAS ENTERED A JUDGMENT AWARDING POSSESSION OF THE PROPERTY LOCATED AT (INSET ADDRESS). YOU COULD BE EVICTED FROM THE PROPERTY ON ANY DAY AFTER (INSERT DATE).

BELOW YOU WILL FIND THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE PERSON ~~AUTHORIZED TO SELL~~ WHO PURCHASED THE PROPERTY OR THE PURCHASER'S AGENT. YOU MAY CONTACT THIS PERSON TO FIND OUT MORE ABOUT THE COURT ORDER. FOR FURTHER INFORMATION, YOU MAY REVIEW THE FILE IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT. YOU MAY WANT TO CONSULT AN ATTORNEY TO DETERMINE YOUR RIGHTS. YOU ALSO MAY CONTACT THE MARYLAND DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT, AT ~~1-877-462-7555~~ (INSERT TELEPHONE NUMBER), OR CONSULT THE DEPARTMENT'S WEBSITE, ~~HTTP://WWW.MDHOPE.ORG/~~ (INSERT WEBSITE ADDRESS), FOR ASSISTANCE.

~~PERSON AUTHORIZED TO SELL THE PROPERTY:~~ PURCHASER OF THE PROPERTY OR PURCHASER'S AGENT:

_____

NAME

_____

ADDRESS

_____

TELEPHONE

_____

DATE OF THIS NOTICE".

(2) THE WRITTEN NOTICE REQUIRED BY THIS SUBSECTION SHALL BE:

(I) A SEPARATE DOCUMENT;

(II) PRINTED IN AT LEAST 12 POINT TYPE; AND

(III) SENT BY ~~CERTIFIED AND~~ FIRST–CLASS MAIL ~~WITH CERTIFICATE OF MAILING~~.

(3) THE OUTSIDE OF THE ENVELOPE CONTAINING THE WRITTEN NOTICE REQUIRED BY THIS SUBSECTION SHALL STATE, ON THE ADDRESS SIDE, IN BOLD, CAPITALIZED LETTERS IN AT LEAST 12 POINT TYPE, THE FOLLOWING:

"IMPORTANT NOTICE TO ALL OCCUPANTS: EVICTION INFORMATION ENCLOSED. OPEN IMMEDIATELY.".

(E) THE PERSON GIVING A NOTICE REQUIRED BY THIS SECTION SHALL FILE IN THE FORECLOSURE PROCEEDING AFTER EACH NOTICE IS SENT AN AFFIDAVIT OF COMPLIANCE WITH THE PROVISIONS OF THIS SECTION.

(F) IN THE EVENT OF POSTPONEMENT OF THE SALE, WHICH MAY BE DONE IN THE DISCRETION OF THE PERSON AUTHORIZED TO MAKE THE SALE, NO NEW OR ADDITIONAL NOTICE NEED BE GIVEN PURSUANT TO THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any foreclosure action filed before the effective date 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, May 19, 2009.

Chapter 615

(House Bill 776)

AN ACT concerning

Real Property – Foreclosure of Mortgages and Deeds of Trust on Residential Property – Notice to Occupants

FOR the purpose of requiring a certain notice to be sent to a certain address in a certain manner at the time of filing an action to foreclose a mortgage or deed of trust on certain residential property; requiring a certain notice of foreclosure sale to be sent to a certain address in a certain manner a certain period of time before a foreclosure sale of certain property; requiring a certain notice to be sent to a certain address in a certain manner within a certain time after the entry of a judgment awarding possession of certain property; requiring certain notices to be in a certain form and contain certain information; requiring certain envelopes to contain a certain statement; requiring a person who gives a certain notice to an occupant regarding a foreclosure to file an affidavit of compliance under certain circumstances; providing that a new or additional notice to an occupant regarding a foreclosure does not need to be given under certain circumstances; defining a certain term; providing for the application of this Act; making this Act an emergency measure; and generally relating to notices regarding foreclosure actions on residential property.

BY adding to
Article – Real Property
Section 7–105.9
Annotated Code of Maryland
(2003 Replacement Volume and 2008 Supplement)

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

Article – Real Property

7–105.9.

(A) IN THIS SECTION, "RESIDENTIAL PROPERTY" HAS THE MEANING STATED IN § 7–105.1 OF THIS SUBTITLE.

(B) (1) IN ADDITION TO ANY OTHER NOTICE REQUIRED TO BE GIVEN BY THIS CODE OR THE MARYLAND RULES, THE PERSON AUTHORIZED TO MAKE A SALE IN AN ACTION TO FORECLOSE A MORTGAGE OR DEED OF TRUST ON RESIDENTIAL PROPERTY SHALL SEND, AT THE SAME TIME AS THE NOTICE REQUIRED BY ~~§ 7–105(D)(2)(VII)~~ § 7–105.1(D)(2)(VII) OF THIS SUBTITLE, A WRITTEN NOTICE ADDRESSED TO "ALL OCCUPANTS" AT THE ADDRESS OF THE RESIDENTIAL PROPERTY IN SUBSTANTIALLY THE FOLLOWING FORM:

"IMPORTANT NOTICE

A FORECLOSURE ACTION HAS BEEN FILED AGAINST THE PROPERTY LOCATED AT (INSERT ADDRESS) IN THE CIRCUIT COURT FOR (INSERT NAME OF COUNTY). THIS NOTICE IS BEING SENT TO YOU AS A PERSON WHO LIVES IN THIS PROPERTY.

A FORECLOSURE SALE OF THE PROPERTY MAY OCCUR AT ANY TIME AFTER 45 DAYS FROM THE DATE OF THIS NOTICE. YOU MAY WANT TO CONSULT WITH AN ATTORNEY BECAUSE IF A FORECLOSURE SALE OF THE PROPERTY OCCURS, YOU COULD BE EVICTED, EVEN IF YOU ARE A TENANT AND EVEN IF YOU HAVE PAID THE RENT DUE AND COMPLIED WITH YOUR LEASE.

BELOW YOU WILL FIND THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE PERSON AUTHORIZED TO SELL THE PROPERTY. YOU MAY CONTACT THIS PERSON TO FIND OUT MORE ABOUT THE SALE. FOR FURTHER INFORMATION, YOU MAY REVIEW THE FILE IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT. YOU ALSO MAY CONTACT THE MARYLAND DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT, AT ~~1-877-462-7555~~ (INSERT TELEPHONE NUMBER), OR CONSULT THE DEPARTMENT'S WEBSITE, ~~HTTP://WWW.MDHOPE.ORG/~~ (INSERT WEBSITE ADDRESS), FOR ASSISTANCE.

PERSON AUTHORIZED TO SELL THE PROPERTY:

_____

NAME

_____

ADDRESS

_____

TELEPHONE

_____

DATE OF THIS NOTICE".

(2) THE WRITTEN NOTICE REQUIRED BY THIS SUBSECTION SHALL BE:

(I) A SEPARATE DOCUMENT;

(II) PRINTED IN AT LEAST 12 POINT TYPE; AND

(III) SENT BY FIRST–CLASS MAIL ~~WITH CERTIFICATE OF MAILING~~.

(3) THE OUTSIDE OF THE ENVELOPE CONTAINING THE WRITTEN NOTICE REQUIRED BY THIS SUBSECTION SHALL STATE, ON THE ADDRESS SIDE, IN BOLD, CAPITALIZED LETTERS IN AT LEAST 12 POINT TYPE, THE FOLLOWING: "IMPORTANT NOTICE TO ALL OCCUPANTS: FORECLOSURE INFORMATION ENCLOSED. OPEN IMMEDIATELY.".

(C) (1) IN ADDITION TO ANY OTHER NOTICE REQUIRED TO BE GIVEN BY THIS CODE OR THE MARYLAND RULES, THE PERSON AUTHORIZED TO MAKE A SALE IN AN ACTION TO FORECLOSE A MORTGAGE OR DEED OF TRUST ON RESIDENTIAL PROPERTY SHALL SEND A WRITTEN NOTICE OF THE SALE NOT EARLIER THAN 30 DAYS AND NOT LATER THAN 10 DAYS BEFORE THE DATE OF SALE ADDRESSED TO "ALL OCCUPANTS" AT THE ADDRESS OF THE RESIDENTIAL PROPERTY IN SUBSTANTIALLY THE FOLLOWING FORM:

"NOTICE OF IMPENDING FORECLOSURE SALE

A FORECLOSURE ACTION HAS BEEN FILED AGAINST THE PROPERTY LOCATED AT (INSERT ADDRESS) IN THE CIRCUIT COURT FOR (INSERT NAME OF COUNTY). THIS NOTICE IS BEING SENT TO YOU AS A PERSON WHO LIVES IN THIS PROPERTY.

A FORECLOSURE SALE OF THE PROPERTY IS SCHEDULED TO OCCUR AS FOLLOWS:

DATE: _____

TIME: _____

PLACE:_____

AFTER THIS SALE, YOU COULD BE EVICTED, EVEN IF YOU ARE A TENANT AND EVEN IF YOU HAVE PAID THE RENT DUE AND COMPLIED WITH YOUR LEASE.

BELOW YOU WILL FIND THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE PERSON AUTHORIZED TO SELL THE PROPERTY. YOU MAY CONTACT THIS PERSON TO FIND OUT MORE ABOUT THE SALE. FOR FURTHER INFORMATION, YOU MAY REVIEW THE FILE IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT. YOU MAY WANT TO CONSULT AN ATTORNEY TO DETERMINE YOUR RIGHTS. YOU ALSO MAY CONTACT THE MARYLAND DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT, AT ~~1–877–462–7555~~ (INSERT TELEPHONE

NUMBER), OR CONSULT THE DEPARTMENT'S WEBSITE, ~~HTTP://WWW.MDHOPE.ORG/~~ (INSERT WEBSITE ADDRESS), FOR ASSISTANCE.

PERSON AUTHORIZED TO SELL THE PROPERTY:

_____
NAME

_____
ADDRESS

_____
TELEPHONE

_____
DATE OF THIS NOTICE".

(2) THE WRITTEN NOTICE REQUIRED BY THIS SUBSECTION SHALL BE:

(I) A SEPARATE DOCUMENT;

(II) PRINTED IN AT LEAST 12 POINT TYPE; AND

(III) SENT BY ~~CERTIFIED AND~~ FIRST–CLASS MAIL ~~WITH CERTIFICATE OF MAILING~~.

(3) THE OUTSIDE OF THE ENVELOPE CONTAINING THE WRITTEN NOTICE REQUIRED BY THIS SUBSECTION SHALL STATE, ON THE ADDRESS SIDE, IN BOLD, CAPITALIZED LETTERS IN AT LEAST 12 POINT TYPE, THE FOLLOWING: "IMPORTANT NOTICE TO ALL OCCUPANTS: FORECLOSURE INFORMATION ENCLOSED. OPEN IMMEDIATELY.".

(D) (1) IN ADDITION TO ANY OTHER NOTICE REQUIRED TO BE GIVEN BY THIS CODE OR THE MARYLAND RULES, THE PERSON ~~AUTHORIZED TO MAKE A SALE IN AN ACTION TO FORECLOSE A MORTGAGE OR DEED OF TRUST ON RESIDENTIAL PROPERTY~~ WHO PURCHASES RESIDENTIAL PROPERTY IN A FORECLOSURE SALE SHALL SEND, AFTER THE ENTRY OF A JUDGMENT AWARDING POSSESSION AND BEFORE ANY ATTEMPT TO EXECUTE THE WRIT OF POSSESSION, A WRITTEN NOTICE ADDRESSED TO "ALL OCCUPANTS" AT THE ADDRESS OF THE RESIDENTIAL PROPERTY IN SUBSTANTIALLY THE FOLLOWING FORM:

"IMPORTANT EVICTION NOTICE

THE CIRCUIT COURT FOR (INSERT NAME OF COUNTY) HAS ENTERED A JUDGMENT AWARDING POSSESSION OF THE PROPERTY LOCATED AT (INSERT ADDRESS). YOU COULD BE EVICTED FROM THE PROPERTY ON ANY DAY AFTER (INSERT DATE).

BELOW YOU WILL FIND THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE PERSON ~~AUTHORIZED TO SELL~~ WHO PURCHASED THE PROPERTY OR THE PURCHASER'S AGENT. YOU MAY CONTACT THIS PERSON TO FIND OUT MORE ABOUT THE COURT ORDER. FOR FURTHER INFORMATION, YOU MAY REVIEW THE FILE IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT. YOU MAY WANT TO CONSULT AN ATTORNEY TO DETERMINE YOUR RIGHTS. YOU ALSO MAY CONTACT THE MARYLAND DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT, AT ~~1-877-462-7555~~ (INSERT TELEPHONE NUMBER), OR CONSULT THE DEPARTMENT'S WEBSITE, ~~HTTP://WWW.MDHOPE.ORG/~~ (INSERT WEBSITE ADDRESS), FOR ASSISTANCE.

~~PERSON AUTHORIZED TO SELL THE PROPERTY:~~
PURCHASER OF THE PROPERTY OR PURCHASER'S AGENT:

_____
NAME

_____
ADDRESS

_____
TELEPHONE

_____
DATE OF THIS NOTICE".

(2) THE WRITTEN NOTICE REQUIRED BY THIS SUBSECTION SHALL BE:

(I) A SEPARATE DOCUMENT;

(II) PRINTED IN AT LEAST 12 POINT TYPE; AND

(III) SENT BY ~~CERTIFIED AND~~ FIRST–CLASS MAIL ~~WITH CERTIFICATE OF MAILING~~.

(3) THE OUTSIDE OF THE ENVELOPE CONTAINING THE WRITTEN NOTICE REQUIRED BY THIS SUBSECTION SHALL STATE, ON THE ADDRESS SIDE,

IN BOLD, CAPITALIZED LETTERS IN AT LEAST 12 POINT TYPE, THE FOLLOWING: "IMPORTANT NOTICE TO ALL OCCUPANTS: EVICTION INFORMATION ENCLOSED. OPEN IMMEDIATELY.".

(E) THE PERSON GIVING A NOTICE REQUIRED BY THIS SECTION SHALL FILE IN THE FORECLOSURE PROCEEDING AFTER EACH NOTICE IS SENT AN AFFIDAVIT OF COMPLIANCE WITH THE PROVISIONS OF THIS SECTION.

(F) IN THE EVENT OF POSTPONEMENT OF THE SALE, WHICH MAY BE DONE IN THE DISCRETION OF THE PERSON AUTHORIZED TO MAKE THE SALE, NO NEW OR ADDITIONAL NOTICE NEED BE GIVEN PURSUANT TO THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any foreclosure action filed before the effective date 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, May 19, 2009.

Chapter 616

(Senate Bill 863)

AN ACT concerning

Workers' Compensation – Death Benefits for Partially Dependent Individuals – Payment

FOR the purpose of ~~requiring an employer or insurer to continue certain payments under certain circumstances to certain individuals who were partially dependent at the time of the covered employee's death or who were wholly dependent at the time of the covered employee's death and became partially self–supporting;~~ altering the total amount of compensation payable to an individual who was partially dependent at the time of the covered employee's death or became self–supporting after the covered employee's death; ~~authorizing the Workers' Compensation Commission to recalculate certain weekly death benefit payments;~~ requiring the Workers' Compensation Commission to conduct a certain study; requiring the Commission to establish a certain workgroup

comprised of certain stakeholders; requiring the Commission to report its findings and recommendations by a certain date to certain committees; providing for the application of this Act; and generally relating to death benefits under workers' compensation law for partially dependent individuals.

BY repealing and reenacting, without amendments,
Article – Labor and Employment
Section 9–101(d) and 9–681(e) and (j)
Annotated Code of Maryland
(2008 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section ~~9–681(j) and~~ 9–682
Annotated Code of Maryland
(2008 Replacement Volume)

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

Article – Labor and Employment

9–101.

(d) "Commission" means the State Workers' Compensation Commission.

9–681.

(e) (1) If a surviving spouse who is wholly dependent at the time of death becomes wholly self–supporting before $45,000 has been paid, the employer or its insurer shall continue to pay death benefits until $45,000 has been paid.

(2) If a surviving spouse who is wholly dependent at the time of death becomes partly self–supporting, the employer or its insurer shall continue to make payments to the surviving spouse in accordance with § 9–682 of this subtitle.

(j) The Commission has continuing jurisdiction to:

(1) determine whether a surviving spouse or child has become wholly or partly self–supporting;

(2) suspend or terminate payments of compensation; ~~[~~and~~]~~

(3) reinstate payments of compensation that have been suspended or terminated~~; AND~~

~~**(4) RECALCULATE THE WEEKLY DEATH BENEFIT PAYABLE TO A PARTIALLY DEPENDENT INDIVIDUAL**~~.

9–682.

(a) The employer or its insurer shall pay a death benefit in accordance with this section if:

(1) there are no individuals who were wholly dependent on the deceased covered employee at the time of death, but there are individuals who were partly dependent; or

(2) a surviving spouse who was wholly dependent on the deceased covered employee at the time of death becomes partly self–supporting.

(b) (1) The maximum weekly death benefit payable under this section shall equal two–thirds of the average weekly wage of the deceased covered employee, but may not exceed two–thirds of the State average weekly wage.

(2) The weekly death benefit payable under this section shall be the percentage of the maximum weekly death benefit under paragraph (1) of this subsection that:

(i) the weekly earnings of the deceased covered employee bears to the combined weekly earnings of the deceased covered employee and the partly dependent individuals; and

(ii) does not exceed the maximum weekly death benefit.

(c) Except as otherwise provided in this section, the employer or its insurer shall pay the weekly death benefit:

(1) for the period of partial dependency; or

(2) until **[**$60,000**]** ~~**$45,000**~~ **$75,000** has been paid, including any payments made during a period of total dependency under § 9–681 of this subtitle.

(d) (1) Subject to paragraph (2) of this subsection, if a surviving spouse who is partly dependent remarries and does not have dependent children at the time of the remarriage, the employer or its insurer shall make payments to the surviving spouse for 2 years after the date of the remarriage.

(2) The total of the payments made before the remarriage may not exceed ~~$60,000~~ **$75,000**.

~~(E) (1) IF A SURVIVING SPOUSE WHO WAS PARTIALLY DEPENDENT ON THE DECEASED COVERED EMPLOYEE AT THE TIME OF DEATH CONTINUES TO BE PARTIALLY DEPENDENT AFTER $45,000 HAS BEEN PAID, THE EMPLOYER OR ITS INSURER SHALL CONTINUE TO MAKE PAYMENTS TO THE SURVIVING SPOUSE IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION.~~

~~(2) IF A SURVIVING SPOUSE WHO WAS WHOLLY DEPENDENT ON THE DECEASED COVERED EMPLOYEE AT THE TIME OF DEATH BECOMES PARTIALLY SELF–SUPPORTING AND CONTINUES TO BE PARTIALLY SELF–SUPPORTING AFTER $45,000 HAS BEEN PAID, THE EMPLOYER OR ITS INSURER SHALL CONTINUE TO MAKE PAYMENTS TO THE SURVIVING SPOUSE IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION.~~

~~(3) IF A SURVIVING SPOUSE WHO IS PARTIALLY DEPENDENT AT THE TIME OF DEATH BECOMES WHOLLY SELF–SUPPORTING BEFORE $45,000 HAS BEEN PAID, THE EMPLOYER OR ITS INSURER SHALL CONTINUE TO MAKE PAYMENTS UNTIL $45,000 HAS BEEN PAID.~~

~~[~~(e)~~]~~ ~~(F)~~ (1) Except as provided in paragraphs (2) and (3) of this subsection, the employer or its insurer shall continue to make payments to, or for the benefit of, a surviving child until the child reaches 18 years of age.

(2) If a child who is 18 years old or older remains partly dependent on the deceased covered employee, the employer or its insurer shall continue to make payments in accordance with subsections (b) and (c) of this section.

(3) The employer or its insurer shall continue to make payments to, or for the benefit of, a child who is 18 years old or older for up to 5 years after reaching the age of 18 if:

(i) the child is attending school on a full–time basis; and

(ii) the school offers an educational program or a vocational training program and the program is accredited or approved by the Maryland State Department of Education.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) (1) The Workers' Compensation Commission shall conduct a study on the death benefit provisions in §§ 9–678 through 9–686 of the Labor and Employment Article.

(2) The study shall determine legislative changes that would:

(i) provide fair and equitable benefits to wholly dependent individuals and partially dependent individuals; and

(ii) provide for coordination among all of the death benefit provisions.

(b) In conducting its study, the Commission shall establish a workgroup that is comprised of representatives of the various stakeholders, including representatives of:

(1) the Commission;

(2) labor;

(3) defense counsel;

(4) counsel for claimants;

(5) employers, including a representative of small business;

(6) workers' compensation insurance companies, including a representative of the Injured Workers' Insurance Fund;

(7) local governments; and

(8) any other person that the Commission considers appropriate.

(c) On or before December 1, 2009, the Commission shall report, in accordance with § 2–1246 of the State Government Article, its findings and recommendations, including draft legislation to the Senate Finance Committee and the House Economic Matters Committee.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall be applied to and interpreted to affect compensation arising from claims for death benefits filed on or after September 1, 2007.

SECTION ~~3.~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October 1, 2009~~ July 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 617

(House Bill 899)

AN ACT concerning

Workers' Compensation – Death Benefits for Partially Dependent Individuals – Payment

FOR the purpose of ~~requiring an employer or insurer to continue certain payments under certain circumstances to certain individuals who were partially dependent at the time of the covered employee's death or who were wholly dependent at the time of the covered employee's death and became partially self-supporting;~~ altering the total amount of compensation payable to an individual who was partially dependent at the time of the covered employee's death or became self–supporting after the covered employee's death; ~~authorizing the Workers' Compensation Commission to recalculate certain weekly death benefit payments;~~ requiring the Workers' Compensation Commission to conduct a certain study; requiring the Commission to establish a certain workgroup comprised of certain stakeholders; requiring the Commission to report its findings and recommendations by a certain date to certain committees; providing for the application of this Act; and generally relating to death benefits under workers' compensation law for partially dependent individuals.

BY repealing and reenacting, without amendments,
Article – Labor and Employment
Section 9–101(d) and 9–681(e) and (j)
Annotated Code of Maryland
(2008 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section ~~9–681(j) and~~ 9–682
Annotated Code of Maryland
(2008 Replacement Volume)

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

Article – Labor and Employment

9–101.

(d) "Commission" means the State Workers' Compensation Commission.

9–681.

(e) (1) If a surviving spouse who is wholly dependent at the time of death becomes wholly self–supporting before $45,000 has been paid, the employer or its insurer shall continue to pay death benefits until $45,000 has been paid.

(2) If a surviving spouse who is wholly dependent at the time of death becomes partly self–supporting, the employer or its insurer shall continue to make payments to the surviving spouse in accordance with § 9–682 of this subtitle.

(j) The Commission has continuing jurisdiction to:

(1) determine whether a surviving spouse or child has become wholly or partly self–supporting;

(2) suspend or terminate payments of compensation; ~~[~~and~~]~~

(3) reinstate payments of compensation that have been suspended or terminated~~; AND~~

~~(4) RECALCULATE THE WEEKLY DEATH BENEFIT PAYABLE TO A PARTIALLY DEPENDENT INDIVIDUAL~~.

9–682.

(a) The employer or its insurer shall pay a death benefit in accordance with this section if:

(1) there are no individuals who were wholly dependent on the deceased covered employee at the time of death, but there are individuals who were partly dependent; or

(2) a surviving spouse who was wholly dependent on the deceased covered employee at the time of death becomes partly self–supporting.

(b) (1) The maximum weekly death benefit payable under this section shall equal two–thirds of the average weekly wage of the deceased covered employee, but may not exceed two–thirds of the State average weekly wage.

(2) The weekly death benefit payable under this section shall be the percentage of the maximum weekly death benefit under paragraph (1) of this subsection that:

(i) the weekly earnings of the deceased covered employee bears to the combined weekly earnings of the deceased covered employee and the partly dependent individuals; and

(ii) does not exceed the maximum weekly death benefit.

(c) Except as otherwise provided in this section, the employer or its insurer shall pay the weekly death benefit:

(1) for the period of partial dependency; or

(2) until [$60,000] ~~$45,000~~ **$75,000** has been paid, including any payments made during a period of total dependency under § 9–681 of this subtitle.

(d) (1) Subject to paragraph (2) of this subsection, if a surviving spouse who is partly dependent remarries and does not have dependent children at the time of the remarriage, the employer or its insurer shall make payments to the surviving spouse for 2 years after the date of the remarriage.

(2) The total of the payments made before the remarriage may not exceed ~~$60,000~~ **$75,000**.

~~(E) (1) IF A SURVIVING SPOUSE WHO WAS PARTIALLY DEPENDENT ON THE DECEASED COVERED EMPLOYEE AT THE TIME OF DEATH CONTINUES TO BE PARTIALLY DEPENDENT AFTER $45,000 HAS BEEN PAID, THE EMPLOYER OR ITS INSURER SHALL CONTINUE TO MAKE PAYMENTS TO THE SURVIVING SPOUSE IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION.~~

~~(2) IF A SURVIVING SPOUSE WHO WAS WHOLLY DEPENDENT ON THE DECEASED COVERED EMPLOYEE AT THE TIME OF DEATH BECOMES PARTIALLY SELF–SUPPORTING AND CONTINUES TO BE PARTIALLY SELF–SUPPORTING AFTER $45,000 HAS BEEN PAID, THE EMPLOYER OR ITS INSURER SHALL CONTINUE TO MAKE PAYMENTS TO THE SURVIVING SPOUSE IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION.~~

~~(3) IF A SURVIVING SPOUSE WHO IS PARTIALLY DEPENDENT AT THE TIME OF DEATH BECOMES WHOLLY SELF–SUPPORTING BEFORE $45,000 HAS BEEN PAID, THE EMPLOYER OR ITS INSURER SHALL CONTINUE TO MAKE PAYMENTS UNTIL $45,000 HAS BEEN PAID.~~

[(e)] ~~(F)~~ (1) Except as provided in paragraphs (2) and (3) of this subsection, the employer or its insurer shall continue to make payments to, or for the benefit of, a surviving child until the child reaches 18 years of age.

(2) If a child who is 18 years old or older remains partly dependent on the deceased covered employee, the employer or its insurer shall continue to make payments in accordance with subsections (b) and (c) of this section.

(3) The employer or its insurer shall continue to make payments to, or for the benefit of, a child who is 18 years old or older for up to 5 years after reaching the age of 18 if:

(i) the child is attending school on a full–time basis; and

(ii) the school offers an educational program or a vocational training program and the program is accredited or approved by the Maryland State Department of Education.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) (1) The Workers' Compensation Commission shall conduct a study on the death benefit provisions in §§ 9–678 through 9–686 of the Labor and Employment Article.

(2) The study shall determine legislative changes that would:

(i) provide fair and equitable benefits to wholly dependent individuals and partially dependent individuals; and

(ii) provide for coordination among all of the death benefit provisions.

(b) In conducting its study, the Commission shall establish a workgroup that is comprised of representatives of the various stakeholders, including representatives of:

(1) the Commission;

(2) labor;

(3) defense counsel;

(4) counsel for claimants;

(5) employers, including a representative of small business;

(6) workers' compensation insurance companies, including a representative of the Injured Workers' Insurance Fund;

(7) local governments; and

(8) any other person that the Commission considers appropriate.

(c) On or before December 1, 2009, the Commission shall report, in accordance with § 2–1246 of the State Government Article, its findings and recommendations, including draft legislation to the Senate Finance Committee and the House Economic Matters Committee.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall be applied to and interpreted to affect compensation arising from claims for death benefits filed on or after September 1, 2007.

SECTION ~~3.~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October 1, 2009~~ July 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 618

(Senate Bill 868)

AN ACT concerning

Frederick County – Tip Jars and Punchboards – Licensed Distributors

FOR the purpose of altering a certain requirement to be met by a distributor licensed in Frederick County from whom certain persons may purchase a tip jar or punchboard for gaming purposes; and generally relating to tip jar and punchboard gaming in Frederick County.

BY repealing and reenacting, without amendments,
Article – Criminal Law
Section 13–1302 and 13–1305(a)(1)
Annotated Code of Maryland
(2002 Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 13–1305(d)
Annotated Code of Maryland
(2002 Volume and 2008 Supplement)

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

Article – Criminal Law

13–1302.

This subtitle applies only in Frederick County.

13–1305.

(a) (1) To operate a tip jar or punchboard in the county, an establishment or proprietor must be licensed to serve food and alcoholic beverages for consumption on the premises.

(d) The tip jar or punchboard shall be purchased from a distributor that:

(1) has an office in the **[**county**]** **STATE**;

(2) is licensed by the county agency that issues gaming event permits; and

(3) keeps the records that the county commissioners require.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 619

(House Bill 719)

AN ACT concerning

Frederick County – Tip Jars and Punchboards – Licensed Distributors

FOR the purpose of altering a certain requirement to be met by a distributor licensed in Frederick County from whom certain persons may purchase a tip jar or punchboard for gaming purposes; and generally relating to tip jar and punchboard gaming in Frederick County.

BY repealing and reenacting, without amendments,
Article – Criminal Law
Section 13–1302 and 13–1305(a)(1)
Annotated Code of Maryland
(2002 Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 13–1305(d)
Annotated Code of Maryland
(2002 Volume and 2008 Supplement)

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

Article – Criminal Law

13–1302.

This subtitle applies only in Frederick County.

13–1305.

(a) (1) To operate a tip jar or punchboard in the county, an establishment or proprietor must be licensed to serve food and alcoholic beverages for consumption on the premises.

(d) The tip jar or punchboard shall be purchased from a distributor that:

(1) has an office in the **[**county**]** **STATE**;

(2) is licensed by the county agency that issues gaming event permits; and

(3) keeps the records that the county commissioners require.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 620

(Senate Bill 874)

AN ACT concerning

Mental Hygiene Administration – Rights of Individuals with Mental Disorders in Facilities

FOR the purpose of altering certain policies of the State concerning the rights of individuals with mental disorders who receive services in certain facilities; repealing the authority of staff in certain facilities to use a certain technique to transition individuals to a restraint position; providing for the construction of certain provisions of this Act; defining certain terms; and generally relating to the rights of individuals with mental disorders in facilities that provide treatment to individuals with mental disorders.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 10–701
Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)

Preamble

WHEREAS, The mission of the Mental Hygiene Administration is to provide treatment and rehabilitation for people with a mental disorder in a safe, supportive, and recovery–oriented environment that encourages self–empowerment; and

WHEREAS, Prone restraints are face–down, physical holds that pose an unacceptable risk of death and serious injury to individuals in inpatient psychiatric facilities; and

WHEREAS, Selecting a family member or friend as an advocate to assist with treatment and discharge plans will empower individuals in inpatient psychiatric facilities, promote recovery, and sustain patients' community supports; and

WHEREAS, Advance directives for mental health care allow individuals to specify treatment preferences in the event they are found incapable of making health care decisions, are less restrictive than guardianship appointments, empower individuals with a mental disorder by honoring their treatment preferences, and expedite the administration of desired mental health treatment in an efficient and safe manner; now, therefore,

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

Article – Health – General

10–701.

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

(2) (I) "ADVOCATE" MEANS A PERSON WHO PROVIDES SUPPORT AND GUIDANCE TO AN INDIVIDUAL IN A FACILITY.

(II) "ADVOCATE" INCLUDES A FAMILY MEMBER OR FRIEND.

(III) "ADVOCATE" DOES NOT INCLUDE AN ATTORNEY ACTING IN THE CAPACITY OF LEGAL COUNSEL TO AN INDIVIDUAL IN A FACILITY DURING THE TREATMENT PLANNING AND DISCHARGE PLANNING PROCESS.

[(2)**] (3)** "Facility" does not include an acute general care hospital that does not have a separately identified inpatient psychiatric service.

[(3)**] (4)** (i) "Mental abuse" means any persistent course of conduct resulting in or maliciously intended to produce emotional harm.

(ii) "Mental abuse" does not include the performance of an accepted clinical procedure.

(5) (I) "PRONE RESTRAINT" MEANS RESTRICTING THE FREE MOVEMENT OF ALL OR A PORTION OF AN INDIVIDUAL'S BODY THROUGH THE USE OF PHYSICAL FORCE OR MECHANICAL DEVICES WHILE THE INDIVIDUAL IS IN A PRONE POSITION.

(II) "PRONE RESTRAINT" DOES NOT INCLUDE A TECHNIQUE FOR TRANSITIONING AN INDIVIDUAL TO A RESTRAINT POSITION THAT INVOLVES MOMENTARILY PLACING THE INDIVIDUAL FACE DOWN.

(b) It is the policy of this State that each **[**mentally ill**]** individual **WITH A MENTAL DISORDER** who receives any service in a facility has, in addition to any other rights, the rights provided in this subtitle.

(c) Each individual in a facility shall:

(1) Receive appropriate humane treatment and services in a manner that restricts the individual's personal liberty within a facility only to the extent necessary and consistent with the individual's treatment needs and applicable legal requirements;

(2) Receive treatment in accordance with the applicable individualized plan of rehabilitation or the individualized treatment plan provided for in § 10–706 of this subtitle;

(3) Be free from restraints or seclusions except for restraints or seclusions that are:

(i) Used only during an emergency in which the behavior of the individual places the individual or others at serious threat of violence or injury; and

(ii) 1. Ordered by a physician in writing; or

2. Directed by a registered nurse if a physician's order is obtained within 2 hours of the action;

(4) BE FREE FROM PRONE RESTRAINT;

[(4)**] (5)** Be free from **[**physical**]** restraint **[**or hold**]** that:

(i) **[**Places the individual face down with**] APPLIES** pressure **[**applied**]** to the **INDIVIDUAL'S** back;

(ii) Obstructs the airway of the individual or impairs the individual's ability to breathe;

(iii) Obstructs a staff member's view of the individual's face; or

(iv) Restricts the individual's ability to communicate distress;

[(5)**] (6)** Be free from mental abuse; **[**and**]**

[(6)**] (7)** Be protected from harm or abuse as provided in this subtitle**;**

~~**(8) EXCEPT WHEN THE INDIVIDUAL IS A CHILD AND THE CHILD'S LEGAL GUARDIAN HAS SUBMITTED A WRITTEN REQUEST THAT A SPECIFIC ADVOCATE NOT PARTICIPATE IN THE TREATMENT PLANNING AND DISCHARGE PLANNING PROCESS, HAVE THE RIGHT TO AN ADVOCATE OF THE INDIVIDUAL'S CHOICE PARTICIPATE IN THE TREATMENT PLANNING AND DISCHARGE PLANNING PROCESS; AND**~~

(8) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, AND SUBJECT TO SUBSECTION (J) OF THIS SECTION, HAVE THE RIGHT TO AN ADVOCATE OF THE INDIVIDUAL'S CHOICE PARTICIPATE IN THE TREATMENT PLANNING AND DISCHARGE PLANNING PROCESS; AND

(9) ~~IF~~ SUBJECT TO THE PROVISIONS OF § 10–708 OF THIS SUBTITLE, IF THE INDIVIDUAL HAS AN ADVANCE DIRECTIVE FOR MENTAL HEALTH SERVICES PROVIDED FOR IN § 5–602.1 OF THIS ARTICLE, RECEIVE TREATMENT IN ACCORDANCE WITH THE PREFERENCES IN THE ADVANCE DIRECTIVE.

[(d) Nothing in subsection (c)(4) of this section shall prohibit staff from using a technique for transitioning the individual to a restraint position that involves momentarily:

(1) Placing an individual face down; or

(2) Obstructing the view of an individual's face.

(e)**] (D) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (C)(8) OF THIS SECTION, A FACILITY MAY PROHIBIT AN ADVOCATE FROM PARTICIPATING IN THE TREATMENT PLANNING OR DISCHARGE PLANNING PROCESS FOR AN INDIVIDUAL IF:**

(1) *(I)* THE INDIVIDUAL IS A MINOR OR AN ADULT UNDER GUARDIANSHIP IN ACCORDANCE WITH § 13–705 OF THE ESTATES AND TRUSTS ~~ARTICLE AND~~ *ARTICLE; AND*

(II) THE PARENT OF THE MINOR OR **THE LEGAL GUARDIAN OF THE INDIVIDUAL HAS REQUESTED THAT THE ADVOCATE NOT PARTICIPATE; OR**

(2) THE ADVOCATE HAS ENGAGED IN BEHAVIOR THAT:

(I) IS DISRUPTIVE TO THE INDIVIDUAL, OTHER PATIENTS, OR STAFF AT THE FACILITY; OR

(II) POSES A THREAT TO THE SAFETY OF THE INDIVIDUAL, OTHER PATIENTS, OR STAFF AT THE FACILITY.

(E) A facility shall:

(1) Have a written policy specifying the method used to ensure that an individual whose primary language or method of communication is nonverbal is able to effectively communicate distress during a physical restraint or hold; and

(2) Ensure that all staff at the facility who are authorized to participate in a physical restraint or hold of individuals are trained in the method specified in the written policy required under item (1) of this subsection.

~~[~~(f)~~]~~ ~~(E)~~ Subject to the provisions of §§ 4–301 through 4–309 of this article, the records of each individual in a facility are confidential.

~~[~~(g)~~]~~ ~~(F)~~ (1) Notwithstanding any other provision of law, when the State designated protection and advocacy agency for persons with developmental disabilities has received and documented a request for an investigation of a possible violation of the rights of an individual in a facility that is owned and operated by the Department or under contract to the Department to provide mental health services in the community under this subtitle, the executive director of the protection and advocacy agency or the executive director's designee:

(i) Before pursuing any investigation:

1. Shall interview the individual whose rights have been allegedly violated; and

2. Shall attempt to obtain written consent from the individual; and

(ii) If the individual is unable to give written consent but does not object to the investigation:

1. Shall document this fact; and

2. Shall request, in writing, access to the individual's records from the Director of the Mental Hygiene Administration.

(2) On receipt of the request for access to the individual's records, the Director of the Mental Hygiene Administration shall authorize access to the individual's records.

(3) After satisfying the provisions of paragraphs (1) and (2) of this subsection, the executive director of the protection and advocacy agency, or the executive director's designee, may pursue an investigation and as part of that investigation, shall continue to have access to the records of the individual whose rights have been allegedly violated.

~~[~~(h)~~]~~ ~~(G)~~ (1) On admission to a facility, an individual shall be informed of the rights provided in this subtitle in language and terms that are appropriate to the individual's condition and ability to understand.

(2) A facility shall post notices in locations accessible to the individual and to visitors describing the rights provided in this subtitle in language and terms that may be readily understood.

~~[~~(i)~~]~~ ~~(H)~~ A facility shall implement an impartial, timely complaint procedure that affords an individual the ability to exercise the rights provided in this subtitle.

(J) THIS SECTION MAY NOT BE CONSTRUED TO:

(1) GRANT THE ADVOCATE OF AN INDIVIDUAL LEGAL AUTHORITY THAT THE ADVOCATE DOES NOT OTHERWISE HAVE UNDER LAW TO MAKE DECISIONS ON BEHALF OF THE INDIVIDUAL REGARDING TREATMENT OR DISCHARGE;

(2) GRANT THE ADVOCATE ACCESS TO THE MEDICAL RECORDS OF THE INDIVIDUAL OR OTHER CONFIDENTIAL INFORMATION THAT THE ADVOCATE DOES NOT OTHERWISE HAVE ACCESS TO UNDER LAW; OR

(3) LIMIT THE LEGAL AUTHORITY THAT AN ATTORNEY OR OTHER PERSON OTHERWISE HAS UNDER LAW TO PARTICIPATE IN THE TREATMENT PLANNING AND DISCHARGE PLANNING PROCESS OR TO OTHERWISE ACT ON BEHALF OF AN INDIVIDUAL IN A FACILITY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 621

(House Bill 415)

AN ACT concerning

Mental Hygiene Administration – Rights of Individuals with Mental Disorders in Facilities

FOR the purpose of altering certain policies of the State concerning the rights of individuals with mental disorders who receive services in certain facilities; repealing the authority of staff in certain facilities to use a certain technique to transition individuals to a restraint position; providing for the construction of certain provisions of this Act; defining certain terms; and generally relating to the rights of individuals with mental disorders in facilities that provide treatment to individuals with mental disorders.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 10–701
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

Preamble

WHEREAS, The mission of the Mental Hygiene Administration is to provide treatment and rehabilitation for people with a mental disorder in a safe, supportive, and recovery–oriented environment that encourages self–empowerment; and

WHEREAS, Prone restraints are face–down, physical holds that pose an unacceptable risk of death and serious injury to individuals in inpatient psychiatric facilities; and

WHEREAS, Selecting a family member or friend as an advocate to assist with treatment and discharge plans will empower individuals in inpatient psychiatric facilities, promote recovery, and sustain patients' community supports; and

WHEREAS, Advance directives for mental health care allow individuals to specify treatment preferences in the event they are found incapable of making health care decisions, are less restrictive than guardianship appointments, empower individuals with a mental disorder by honoring their treatment preferences, and expedite the administration of desired mental health treatment in an efficient and safe manner; now, therefore,

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

Article – Health – General

10–701.

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

(2) (I) "ADVOCATE" MEANS A PERSON WHO PROVIDES SUPPORT AND GUIDANCE TO AN INDIVIDUAL IN A FACILITY.

(II) "ADVOCATE" INCLUDES A FAMILY MEMBER OR FRIEND.

(III) "ADVOCATE" DOES NOT INCLUDE AN ATTORNEY ACTING IN THE CAPACITY OF LEGAL COUNSEL TO AN INDIVIDUAL IN A FACILITY DURING THE TREATMENT PLANNING AND DISCHARGE PLANNING PROCESS.

[(2)**] (3)** "Facility" does not include an acute general care hospital that does not have a separately identified inpatient psychiatric service.

[(3)**] (4)** (i) "Mental abuse" means any persistent course of conduct resulting in or maliciously intended to produce emotional harm.

(ii) "Mental abuse" does not include the performance of an accepted clinical procedure.

(5) (I) "PRONE RESTRAINT" MEANS RESTRICTING THE FREE MOVEMENT OF ALL OR A PORTION OF AN INDIVIDUAL'S BODY THROUGH THE USE OF PHYSICAL FORCE OR MECHANICAL DEVICES WHILE THE INDIVIDUAL IS IN A PRONE POSITION.

(II) "PRONE RESTRAINT" DOES NOT INCLUDE A TECHNIQUE FOR TRANSITIONING AN INDIVIDUAL TO A RESTRAINT POSITION THAT INVOLVES MOMENTARILY PLACING THE INDIVIDUAL FACE DOWN.

(b) It is the policy of this State that each **[**mentally ill**]** individual **WITH A MENTAL DISORDER** who receives any service in a facility has, in addition to any other rights, the rights provided in this subtitle.

(c) Each individual in a facility shall:

(1) Receive appropriate humane treatment and services in a manner that restricts the individual's personal liberty within a facility only to the extent

necessary and consistent with the individual's treatment needs and applicable legal requirements;

(2) Receive treatment in accordance with the applicable individualized plan of rehabilitation or the individualized treatment plan provided for in § 10–706 of this subtitle;

(3) Be free from restraints or seclusions except for restraints or seclusions that are:

(i) Used only during an emergency in which the behavior of the individual places the individual or others at serious threat of violence or injury; and

(ii) 1. Ordered by a physician in writing; or

2. Directed by a registered nurse if a physician's order is obtained within 2 hours of the action;

(4) BE FREE FROM PRONE RESTRAINT;

[(4)**] (5)** Be free from **[**physical**]** restraint **[**or hold**]** that:

(i) **[**Places the individual face down with**] APPLIES** pressure **[**applied**]** to the **INDIVIDUAL'S** back;

(ii) Obstructs the airway of the individual or impairs the individual's ability to breathe;

(iii) Obstructs a staff member's view of the individual's face; or

(iv) Restricts the individual's ability to communicate distress;

[(5)**] (6)** Be free from mental abuse; **[**and**]**

[(6)**] (7)** Be protected from harm or abuse as provided in this subtitle**;**

~~(8) EXCEPT WHEN THE INDIVIDUAL IS A CHILD AND THE CHILD'S LEGAL GUARDIAN HAS SUBMITTED A WRITTEN REQUEST THAT A SPECIFIC ADVOCATE NOT PARTICIPATE IN THE TREATMENT PLANNING AND DISCHARGE PLANNING PROCESS, HAVE THE RIGHT TO AN ADVOCATE OF THE INDIVIDUAL'S CHOICE PARTICIPATE IN THE TREATMENT PLANNING AND DISCHARGE PLANNING PROCESS; AND~~

(8) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, AND SUBJECT TO SUBSECTION (J) OF THIS SECTION, HAVE THE RIGHT TO AN

ADVOCATE OF THE INDIVIDUAL'S CHOICE PARTICIPATE IN THE TREATMENT PLANNING AND DISCHARGE PLANNING PROCESS; AND

(9) ~~IF~~ SUBJECT TO THE PROVISIONS OF § 10–708 OF THIS SUBTITLE, IF THE INDIVIDUAL HAS AN ADVANCE DIRECTIVE FOR MENTAL HEALTH SERVICES PROVIDED FOR IN § 5–602.1 OF THIS ARTICLE, RECEIVE TREATMENT IN ACCORDANCE WITH THE PREFERENCES IN THE ADVANCE DIRECTIVE.

[(d) Nothing in subsection (c)(4) of this section shall prohibit staff from using a technique for transitioning the individual to a restraint position that involves momentarily:

(1) Placing an individual face down; or

(2) Obstructing the view of an individual's face.

(e)**] (D) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (C)(8) OF THIS SECTION, A FACILITY MAY PROHIBIT AN ADVOCATE FROM PARTICIPATING IN THE TREATMENT PLANNING OR DISCHARGE PLANNING PROCESS FOR AN INDIVIDUAL IF:**

(1) (I) THE INDIVIDUAL IS A MINOR OR AN ADULT UNDER GUARDIANSHIP IN ACCORDANCE WITH § 13–705 OF THE ESTATES AND TRUSTS ARTICLE; AND

(II) THE PARENT OF THE MINOR OR THE LEGAL GUARDIAN OF THE INDIVIDUAL HAS REQUESTED THAT THE ADVOCATE NOT PARTICIPATE; OR

(2) THE ADVOCATE HAS ENGAGED IN BEHAVIOR THAT:

(I) IS DISRUPTIVE TO THE INDIVIDUAL, OTHER PATIENTS, OR STAFF AT THE FACILITY; OR

(II) POSES A THREAT TO THE SAFETY OF THE INDIVIDUAL, OTHER PATIENTS, OR STAFF AT THE FACILITY.

(E) A facility shall:

(1) Have a written policy specifying the method used to ensure that an individual whose primary language or method of communication is nonverbal is able to effectively communicate distress during a physical restraint or hold; and

(2) Ensure that all staff at the facility who are authorized to participate in a physical restraint or hold of individuals are trained in the method specified in the written policy required under item (1) of this subsection.

[(f)] ~~(E)~~ Subject to the provisions of §§ 4–301 through 4–309 of this article, the records of each individual in a facility are confidential.

[(g)] ~~(F)~~ (1) Notwithstanding any other provision of law, when the State designated protection and advocacy agency for persons with developmental disabilities has received and documented a request for an investigation of a possible violation of the rights of an individual in a facility that is owned and operated by the Department or under contract to the Department to provide mental health services in the community under this subtitle, the executive director of the protection and advocacy agency or the executive director's designee:

(i) Before pursuing any investigation:

1. Shall interview the individual whose rights have been allegedly violated; and

2. Shall attempt to obtain written consent from the individual; and

(ii) If the individual is unable to give written consent but does not object to the investigation:

1. Shall document this fact; and

2. Shall request, in writing, access to the individual's records from the Director of the Mental Hygiene Administration.

(2) On receipt of the request for access to the individual's records, the Director of the Mental Hygiene Administration shall authorize access to the individual's records.

(3) After satisfying the provisions of paragraphs (1) and (2) of this subsection, the executive director of the protection and advocacy agency, or the executive director's designee, may pursue an investigation and as part of that investigation, shall continue to have access to the records of the individual whose rights have been allegedly violated.

[(h)] ~~(G)~~ (1) On admission to a facility, an individual shall be informed of the rights provided in this subtitle in language and terms that are appropriate to the individual's condition and ability to understand.

(2) A facility shall post notices in locations accessible to the individual and to visitors describing the rights provided in this subtitle in language and terms that may be readily understood.

~~[~~(i)~~]~~ ~~(II)~~ A facility shall implement an impartial, timely complaint procedure that affords an individual the ability to exercise the rights provided in this subtitle.

(J) THIS SECTION MAY NOT BE CONSTRUED TO:

(1) GRANT THE ADVOCATE OF AN INDIVIDUAL LEGAL AUTHORITY THAT THE ADVOCATE DOES NOT OTHERWISE HAVE UNDER LAW TO MAKE DECISIONS ON BEHALF OF THE INDIVIDUAL REGARDING TREATMENT OR DISCHARGE;

(2) GRANT THE ADVOCATE ACCESS TO THE MEDICAL RECORDS OF THE INDIVIDUAL OR OTHER CONFIDENTIAL INFORMATION THAT THE ADVOCATE DOES NOT OTHERWISE HAVE ACCESS TO UNDER LAW; OR

(3) LIMIT THE LEGAL AUTHORITY THAT AN ATTORNEY OR OTHER PERSON OTHERWISE HAS UNDER LAW TO PARTICIPATE IN THE TREATMENT PLANNING AND DISCHARGE PLANNING PROCESS OR TO OTHERWISE ACT ON BEHALF OF AN INDIVIDUAL IN A FACILITY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 622

(Senate Bill 879)

AN ACT concerning

Gwendolyn Britt Student Health and Fitness Act

FOR the purpose of ~~requiring certain~~ authorizing local school systems to develop and implement certain ~~physical fitness measurement programs~~ Wellness Policy Implementation and Monitoring Plans to be used for certain purposes; requiring the State Department of Education to take certain steps to support certain ~~fitness measurement programs~~ Wellness Policy Implementation and Monitoring Plans; requiring ~~each~~ certain local school ~~system~~ systems to submit certain plans and certain reports to the Department; requiring the Department to

establish a certain Advisory Council; providing for the membership, election of officers, and staff of the Advisory Council; prohibiting certain members of the Advisory Council from receiving certain compensation; authorizing certain members of the Advisory Council to receive certain reimbursement; requiring the Advisory Council to meet certain times per year; requiring the Advisory Council to develop and coordinate certain educational programs for students; authorizing the Advisory Council to seek, accept, and expend certain funds and to seek, accept, and use certain services; and generally relating to the development and implementation of ~~physical fitness measurement programs~~ Wellness Policy Implementation and Monitoring Plans.

BY repealing and reenacting, with amendments,
Article – Education
Section 7–409
Annotated Code of Maryland
(2008 Replacement Volume)

Preamble

WHEREAS, Maryland was recently rated number 1 by Education Week in Quality Counts, and the physical education programs of Maryland should also be first in the nation; and

WHEREAS, Schools play an important role in partnership with parents, health professionals, and the community in addressing the issues that support the health and wellness of Maryland's public school students; and

WHEREAS, Inadequate participation in physical activity is a significant contributor to the "epidemic of obesity" that has plagued the nation's young people during the past 2 decades; and

WHEREAS, Physical education and nutrition education are key components in providing students with the skills and knowledge to develop a healthy lifestyle in youth which promote healthier lifestyles in adulthood; and

WHEREAS, Physical activity offers young people many health benefits, including improving aerobic capacity, muscular strength, and endurance, helping to control weight, building lean muscle and reducing fat, and helping to build greater bone mass to thwart the development of osteoporosis in adulthood and prevent or reduce the risk of high blood pressure; and

WHEREAS, Every school system should provide opportunities for and encourage physical activity during the school day; and

WHEREAS, Recess should be encouraged during the school day, and not used as a reward or punishment; and

WHEREAS, School wellness encompasses healthy eating, adequate physical activity, nutrition education, and physical education for all students; and

WHEREAS, Improving school wellness practices is essential to decreasing childhood obesity and preparing children to lead healthy, active, and productive lives; and

WHEREAS, The Task Force on Student Fitness in Maryland Public Schools has provided recommendations to the Governor and the Legislature on improving the health and wellness of Maryland's students; now, therefore,

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

Article – Education

7–409.

(a) Each public school shall have a program of physical education that is given in a planned and sequential manner to all students, kindergarten through grade 12, to develop their good health and physical fitness and improve their motor coordination and physical skills.

(b) The Department shall employ a full–time director of physical education.

(C) EACH LOCAL SCHOOL SYSTEM ~~SHALL~~ MAY DEVELOP AND IMPLEMENT AN ANNUAL ~~PHYSICAL FITNESS MEASUREMENT PROGRAM~~ WELLNESS POLICY IMPLEMENTATION AND MONITORING PLAN TO BE USED TO:

(1) ESTABLISH BASELINE STUDENT DATA FOR THE HEALTH–RELATED COMPONENTS OF PHYSICAL FITNESS;

(2) ASSIST STUDENTS WITH THE DEVELOPMENT OF PERSONAL PHYSICAL FITNESS PLANS;

(3) ENCOURAGE APPROPRIATE INTERVENTIONS FOR STUDENTS IDENTIFIED AS HAVING UNHEALTHY LEVELS OF PHYSICAL FITNESS;

(4) IDENTIFY EFFECTIVE PRACTICES FOR IMPROVEMENT OF STUDENT HEALTH–RELATED PHYSICAL FITNESS; AND

(5) ENCOURAGE PARTNERSHIPS WITH HEALTH AGENCIES TO ADDRESS STUDENT HEALTH–RELATED ISSUES IN THE STATE.

(D) THE DEPARTMENT SHALL:

(1) DEVELOP A PROCEDURE TO MONITOR AND MEASURE THE IMPLEMENTATION OF ~~EACH~~ A LOCAL SCHOOL SYSTEM'S ~~PHYSICAL FITNESS MEASUREMENT PROGRAM~~ WELLNESS POLICY IMPLEMENTATION AND MONITORING PLAN;

(2) PROVIDE FEEDBACK AND TECHNICAL ASSISTANCE TO EACH LOCAL SCHOOL SYSTEM ~~TO IMPLEMENT ITS~~ THAT IMPLEMENTS A ~~PHYSICAL FITNESS MEASUREMENT PROGRAM~~ WELLNESS POLICY IMPLEMENTATION AND MONITORING PLAN;

(3) IDENTIFY AND DISTRIBUTE TO EACH LOCAL SCHOOL SYSTEM EFFECTIVE WELLNESS POLICY PRACTICES FOR PHYSICAL ACTIVITY AND PHYSICAL EDUCATION; AND

(4) PROVIDE STAFF SUPPORT TO EACH LOCAL SCHOOL SYSTEM ~~TO IMPLEMENT THE LOCAL SCHOOL SYSTEM'S~~ THAT IMPLEMENTS A ~~PHYSICAL FITNESS MEASUREMENT PROGRAM~~ WELLNESS POLICY IMPLEMENTATION AND MONITORING PLAN.

(E) EACH LOCAL SCHOOL SYSTEM THAT IMPLEMENTS A WELLNESS POLICY IMPLEMENTATION AND MONITORING PLAN UNDER SUBSECTION (C) OF THIS SECTION SHALL SUBMIT TO THE DEPARTMENT:

(1) THE LOCAL SCHOOL SYSTEM'S ~~PHYSICAL FITNESS MEASUREMENT PROGRAM~~ WELLNESS POLICY IMPLEMENTATION AND MONITORING PLAN, THAT SHALL INCLUDE:

(I) POLICY GOALS;

(II) ACTIVITIES;

(III) EXPECTED OUTCOMES; AND

(IV) MEASUREMENTS FOR PHYSICAL ACTIVITY AND PHYSICAL EDUCATION; AND

(2) AN ANNUAL REPORT ON THE LOCAL SCHOOL SYSTEM'S PROGRESS TOWARD ACHIEVING THE POLICY GOALS OF THE IMPLEMENTATION PLAN.

(F) (1) THE DEPARTMENT SHALL ESTABLISH AN ADVISORY COUNCIL ON HEALTH AND PHYSICAL EDUCATION.

(2) THE ADVISORY COUNCIL SHALL CONSIST OF THE FOLLOWING MEMBERS, SELECTED BY EACH ORGANIZATION FROM WHICH THE MEMBER IS A REPRESENTATIVE:

(I) A REPRESENTATIVE FROM THE DEPARTMENT;

(II) A REPRESENTATIVE FROM THE MARYLAND PARENT–TEACHER ASSOCIATION;

(III) A REPRESENTATIVE FROM THE MARYLAND STATE TEACHERS ASSOCIATION;

(IV) A REPRESENTATIVE FROM THE PUBLIC SCHOOL SUPERINTENDENTS ASSOCIATION OF MARYLAND;

(V) REPRESENTATIVES FROM EACH LOCAL SCHOOL SYSTEM;

(VI) A REPRESENTATIVE FROM THE MARYLAND ASSOCIATION OF BOARDS OF EDUCATION;

(VII) A REPRESENTATIVE FROM THE MARYLAND ASSOCIATION OF COUNTIES;

(VIII) A REPRESENTATIVE FROM THE GOVERNOR'S COUNCIL ON PHYSICAL FITNESS AND SPORT;

(IX) A REPRESENTATIVE OF THE PROFESSIONAL ORGANIZATION FOR HEALTH, PHYSICAL EDUCATION, RECREATION, AND DANCE;

(X) A REPRESENTATIVE FROM AN INSTITUTION OF HIGHER EDUCATION HAVING A HEALTH AND PHYSICAL EDUCATION TEACHER EDUCATION PROGRAM;

(XI) A REPRESENTATIVE FROM SPECIAL OLYMPICS OF MARYLAND;

(XII) A REPRESENTATIVE FROM THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE;

(XIII) A REPRESENTATIVE FROM THE AMERICAN ACADEMY OF PEDIATRICS; AND

(XIV) REPRESENTATIVES FROM THE FOLLOWING HEALTH ORGANIZATIONS:

1. THE AMERICAN HEART ASSOCIATION;

2. THE AMERICAN CANCER SOCIETY; AND

3. THE AMERICAN DIABETES ASSOCIATION.

(3) FROM AMONG ITS MEMBERS, THE COUNCIL SHALL ELECT A CHAIR, VICE CHAIR, AND ANY OTHER OFFICERS NECESSARY TO CARRY OUT THE ADVISORY COUNCIL'S FUNCTIONS.

(4) THE DEPARTMENT SHALL PROVIDE STAFF AND OTHER NECESSARY SUPPORT TO THE ADVISORY COUNCIL USING EXISTING RESOURCES.

(5) A MEMBER OF THE ADVISORY COUNCIL MAY NOT RECEIVE COMPENSATION FOR SERVING ON THE ADVISORY COUNCIL, BUT IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

(6) THE ADVISORY COUNCIL SHALL MEET AT LEAST TWICE EACH YEAR AND MAY HOLD ADDITIONAL MEETINGS AT THE DISCRETION OF THE CHAIR OR AT THE REQUEST OF A MAJORITY OF THE MEMBERS.

(7) THE ADVISORY COUNCIL SHALL:

(I) DEVELOP AND COORDINATE PROGRAMS IN COLLABORATION WITH PUBLIC SCHOOLS TO EDUCATE STUDENTS REGARDING THE IMPORTANCE OF:

1. PHYSICAL ACTIVITY AND PHYSICAL MOVEMENT;

2. THE RELATIONSHIP OF PHYSICAL ACTIVITY TO A HEALTHY LIFESTYLE AND IMPROVED FITNESS;

3. THE RELATIONSHIP BETWEEN HEALTHY EATING, PHYSICAL ACTIVITY, AND MAINTAINING A HEALTHY WEIGHT; AND

4. THE VALUE OF PHYSICAL ACTIVITY AND ITS RELATIONSHIP TO IMPROVED ACADEMIC ACHIEVEMENT AND STRESS REDUCTION; AND

(II) IDENTIFY PROMISING HEALTH AND PHYSICAL EDUCATION PRACTICES IN THE STATE;

(III) BUILD A NETWORK OF HEALTH AND PHYSICAL EDUCATION PROFESSIONALS TO SHARE INFORMATION AND STRENGTHEN PARTNERSHIPS;

(IV) SUPPORT SUCCESSFUL HEALTH AND PHYSICAL EDUCATION PROGRAMS IN THE STATE AND ENCOURAGE THE EXPANSION OF THOSE PROGRAMS; AND

(V) CONSULT WITH ORGANIZATIONS REPRESENTED ON THE ADVISORY COUNCIL AS APPROPRIATE.

(8) THE ADVISORY COUNCIL MAY:

(I) SEEK, ACCEPT, AND EXPEND FUNDS FROM ANY SOURCE, INCLUDING DONATIONS, STATE APPROPRIATIONS, AND FEDERAL GRANTS; AND

(II) SEEK, ACCEPT, AND USE SERVICES FROM INDIVIDUALS, CORPORATIONS, AND GOVERNMENT ENTITIES.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 623

(House Bill 1264)

AN ACT concerning

Gwendolyn Britt Student Health and Fitness Act

FOR the purpose of ~~requiring certain~~ authorizing local school systems to develop and implement certain ~~physical fitness measurement programs~~ Wellness Policy Implementation and Monitoring Plans to be used for certain purposes; requiring the State Department of Education to take certain steps to support certain ~~fitness measurement programs~~ Wellness Policy Implementation and Monitoring Plans; requiring ~~each~~ certain local school ~~system~~ systems to submit certain plans and certain reports to the Department; requiring the Department to establish a certain Advisory Council; providing for the membership, election of officers, and staff of the Advisory Council; prohibiting certain members of the

Advisory Council from receiving certain compensation; authorizing certain members of the Advisory Council to receive certain reimbursement; requiring the Advisory Council to meet certain times per year; requiring the Advisory Council to develop and coordinate certain educational programs for students; authorizing the Advisory Council to seek, accept, and expend certain funds and to seek, accept, and use certain services; and generally relating to the development and implementation of ~~physical fitness measurement programs~~ Wellness Policy Implementation and Monitoring Plans.

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(3) FROM AMONG ITS MEMBERS, THE COUNCIL SHALL ELECT A CHAIR, VICE CHAIR, AND ANY OTHER OFFICERS NECESSARY TO CARRY OUT THE ADVISORY COUNCIL'S FUNCTIONS.

(4) THE DEPARTMENT SHALL PROVIDE STAFF AND OTHER NECESSARY SUPPORT TO THE ADVISORY COUNCIL USING EXISTING RESOURCES.

(5) A MEMBER OF THE ADVISORY COUNCIL MAY NOT RECEIVE COMPENSATION FOR SERVING ON THE ADVISORY COUNCIL, BUT IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

(6) THE ADVISORY COUNCIL SHALL MEET AT LEAST TWICE EACH YEAR AND MAY HOLD ADDITIONAL MEETINGS AT THE DISCRETION OF THE CHAIR OR AT THE REQUEST OF A MAJORITY OF THE MEMBERS.

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(I) SEEK, ACCEPT, AND EXPEND FUNDS FROM ANY SOURCE, INCLUDING DONATIONS, STATE APPROPRIATIONS, AND FEDERAL GRANTS; AND

(II) SEEK, ACCEPT, AND USE SERVICES FROM INDIVIDUALS, CORPORATIONS, AND GOVERNMENT ENTITIES.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 624

(Senate Bill 901)

AN ACT concerning

Baltimore City Land Bank Authority – Recodification

FOR the purpose of transferring, without substantive change, certain provisions of law concerning the Baltimore City Land Bank Authority from the Annotated Code of Maryland to the Baltimore City Charter; making stylistic changes; and generally relating to the recodification of the Baltimore City Land Bank Authority.

BY repealing
Article 24 – Political Subdivisions – Miscellaneous Provisions
Section 22–101 through 22–212 and the title "Title 22. Baltimore City Land Bank Authority"
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

BY adding to
The Charter of Baltimore City
Article II – General Powers
Section (65)
(2007 Replacement Volume, as amended)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 22–101 through 22–212 and the title "Title 22. Baltimore City Land Bank Authority" of Article 24 – Political Subdivisions – Miscellaneous Provisions of the Annotated Code of Maryland be repealed.

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

The Charter of Baltimore City

Article II – General Powers

The Mayor and City Council of Baltimore shall have full power and authority to exercise all of the powers heretofore or hereafter granted to it by the Constitution of Maryland or by any Public General or Public Local Laws of the State of Maryland; and in particular, without limitation upon the foregoing, shall have power by ordinance, or such other method as may be provided for in its Charter, subject to the provisions of said Constitution and Public General Laws:

(65)

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

(2) "AUTHORITY" MEANS A NONPROFIT OR QUASI–GOVERNMENTAL ENTITY CREATED BY BALTIMORE CITY UNDER SUBSECTION (C) OF THIS SECTION.

(3) "BOARD" MEANS THE BOARD OF DIRECTORS OF THE AUTHORITY.

(4) (I) "BOND" MEANS A BOND ISSUED BY THE AUTHORITY UNDER THIS SUBTITLE.

(II) "BOND" INCLUDES A BOND, A REFUNDING BOND, A NOTE, AND ANY OTHER OBLIGATION.

(5) "COST" INCLUDES:

(I) THE PURCHASE PRICE OF PROPERTY;

(II) THE COST TO ACQUIRE ANY RIGHT, TITLE, OR INTEREST IN PROPERTY;

(III) THE COST OF ANY IMPROVEMENTS MADE TO PROPERTY;

(IV) THE AMOUNT TO BE PAID TO DISCHARGE EACH OBLIGATION NECESSARY OR DESIRABLE TO VEST TITLE TO ANY PART OF PROPERTY IN THE AUTHORITY OR OTHER OWNER;

(V) THE COST OF ANY PROPERTY, RIGHT, EASEMENT, FRANCHISE, AND PERMIT ASSOCIATED WITH A PROJECT;

(VI) THE COST OF LABOR, MACHINERY, AND EQUIPMENT NECESSARY TO IMPLEMENT A PROJECT;

(VII) FINANCING CHARGES;

(VIII) INTEREST AND RESERVES FOR PRINCIPAL AND INTEREST AND FOR IMPROVEMENTS;

(IX) THE COST OF REVENUE AND COST ESTIMATES, ENGINEERING AND LEGAL SERVICES, PLANS, SPECIFICATIONS, STUDIES, SURVEYS, AND OTHER EXPENSES NECESSARY OR INCIDENT TO DETERMINING THE FEASIBILITY OR PRACTICABILITY OF A PROJECT;

(X) ADMINISTRATIVE EXPENSES; AND

(XI) OTHER EXPENSES AS NECESSARY OR INCIDENT TO:

1. FINANCING A PROJECT;

2. ACQUIRING AND IMPROVING A PROJECT;

3. PLACING A PROJECT IN OPERATION, INCLUDING REASONABLE PROVISION FOR WORKING CAPITAL; AND

4. OPERATING AND MAINTAINING A PROJECT.

(6) "FINANCE" INCLUDES REFINANCE.

(7) (I) "PROJECT" MEANS ANY ORGANIZED PLAN CARRIED OUT BY THE AUTHORITY IN RELATION TO:

1. ACQUIRING AND REHABILITATING ABANDONED AND DILAPIDATED PROPERTIES; AND

2. MARKETING AND LEASING OR SELLING THE REHABILITATED PROPERTIES.

(II) "PROJECT" INCLUDES:

1. ACQUIRING LAND OR AN INTEREST IN LAND;

2. ACQUIRING STRUCTURES, EQUIPMENT, AND FURNISHINGS LOCATED ON A PROPERTY;

3. ACQUIRING PROPERTY THAT IS FUNCTIONALLY RELATED AND SUBORDINATE TO A PROJECT; AND

4. OBTAINING OR CONTRACTING FOR ANY SERVICES NECESSARY FOR THE REHABILITATION OF A PROPERTY.

(8) (I) "REVENUES" MEANS THE INCOME, REVENUE, AND OTHER MONEY THE AUTHORITY RECEIVES FROM OR IN CONNECTION WITH A PROJECT AND ALL OTHER INCOME OF THE AUTHORITY.

(II) "REVENUES" INCLUDES GRANTS, RENTALS, RATES, FEES, AND CHARGES.

(9) "TAX SALE PROPERTY" MEANS PROPERTY OR AN INTEREST IN PROPERTY SOLD BY THE TAX COLLECTOR OF BALTIMORE CITY IN ACCORDANCE WITH TITLE 14, SUBTITLE 8, PART III OF THE TAX – PROPERTY ARTICLE OF THE ANNOTATED CODE OF MARYLAND.

(10) (I) "TRUST AGREEMENT" MEANS AN AGREEMENT ENTERED INTO BY THE AUTHORITY TO SECURE A BOND.

(II) "TRUST AGREEMENT" MAY INCLUDE A BOND CONTRACT, BOND RESOLUTION, OR OTHER CONTRACT WITH OR FOR THE BENEFIT OF A BONDHOLDER.

(B) (1) THIS SECTION SHALL BE LIBERALLY CONSTRUED TO ACCOMPLISH ITS PURPOSES.

(2) THE POWERS GRANTED TO THE AUTHORITY UNDER THIS SECTION SHALL BE CONSTRUED AS SUPPLEMENTAL AND IN ADDITION TO POWERS GRANTED TO THE AUTHORITY UNDER ANY STATE OR LOCAL LAW.

(3) THIS SECTION DOES NOT AUTHORIZE THE AUTHORITY TO:

(I) EXERCISE THE POWER OF EMINENT DOMAIN; OR

(II) LEVY ANY TAX OR SPECIAL ASSESSMENT.

(C) (1) BY ORDINANCE, BALTIMORE CITY MAY ESTABLISH A LAND BANK AUTHORITY IN ACCORDANCE WITH THIS SECTION.

(2) AN ORDINANCE ADOPTED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE PROPOSED ARTICLES OF INCORPORATION OF THE AUTHORITY THAT STATE:

(I) THE NAME OF THE AUTHORITY, WHICH SHALL BE "LAND BANK AUTHORITY OF BALTIMORE CITY";

(II) THAT THE AUTHORITY IS FORMED UNDER THIS SECTION;

(III) THE NAMES, ADDRESSES, AND TERMS OF OFFICE OF THE INITIAL MEMBERS OF THE BOARD OF DIRECTORS OF THE AUTHORITY;

(IV) THE ADDRESS OF THE PRINCIPAL OFFICE OF THE AUTHORITY;

(V) THE PURPOSES FOR WHICH THE AUTHORITY IS FORMED; AND

(VI) THE POWERS OF THE AUTHORITY SUBJECT TO THE LIMITATIONS ON THE POWERS OF THE AUTHORITY UNDER THIS SECTION.

(3) (I) THE MAYOR OF BALTIMORE CITY, OR ANY OFFICIAL DESIGNATED IN THE ORDINANCE ESTABLISHING THE AUTHORITY, SHALL EXECUTE AND FILE THE ARTICLES OF INCORPORATION OF THE AUTHORITY FOR RECORDATION WITH THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION.

(II) WHEN THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION ACCEPTS THE ARTICLES OF INCORPORATION FOR RECORDATION, THE AUTHORITY BECOMES A BODY POLITIC AND CORPORATE AND AN INSTRUMENTALITY OF BALTIMORE CITY.

(III) ACCEPTANCE OF THE ARTICLES OF INCORPORATION FOR RECORDATION BY THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION IS CONCLUSIVE EVIDENCE OF THE FORMATION OF THE AUTHORITY.

(4) (I) BY ORDINANCE, BALTIMORE CITY MAY ADOPT AN AMENDMENT TO THE ARTICLES OF INCORPORATION OF THE AUTHORITY.

(II) ARTICLES OF AMENDMENT MAY CONTAIN ANY PROVISION THAT LAWFULLY COULD BE CONTAINED IN ARTICLES OF INCORPORATION AT THE TIME OF THE AMENDMENT.

(III) THE ARTICLES OF AMENDMENT SHALL BE FILED FOR RECORDATION WITH THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION.

(IV) THE ARTICLES OF AMENDMENT ARE EFFECTIVE AS OF THE TIME THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION ACCEPTS THE ARTICLES FOR RECORDATION.

(V) ACCEPTANCE OF THE ARTICLES OF AMENDMENT FOR RECORDATION BY THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION IS CONCLUSIVE EVIDENCE THAT THE ARTICLES HAVE BEEN LAWFULLY AND PROPERLY ADOPTED.

(5) (I) SUBJECT TO THE PROVISIONS OF THIS SUBSECTION AND ANY LIMITATIONS IMPOSED BY LAW ON THE IMPAIRMENT OF CONTRACTS, BALTIMORE CITY, IN ITS SOLE DISCRETION, BY ORDINANCE MAY:

1. SET OR CHANGE THE STRUCTURE, ORGANIZATION, PROCEDURES, PROGRAMS, OR ACTIVITIES OF THE AUTHORITY; OR

2. TERMINATE THE AUTHORITY.

(II) ON TERMINATION OF THE AUTHORITY:

1. TITLE TO ALL PROPERTY OF THE AUTHORITY SHALL BE TRANSFERRED TO AND SHALL VEST IN BALTIMORE CITY; AND

2. ALL OBLIGATIONS OF THE AUTHORITY SHALL BE TRANSFERRED TO AND ASSUMED BY BALTIMORE CITY.

(D) AN ORDINANCE THAT CREATES A LAND BANK AUTHORITY SHALL ESTABLISH A BOARD OF DIRECTORS TO GOVERN THE AUTHORITY AND SHALL INCLUDE PROVISIONS FOR:

(1) APPOINTMENT PROCEDURES;

(2) TERM LENGTHS;

(3) REMOVAL PROCEDURES;

(4) ELECTION OF A CHAIR; AND

(5) POWERS OF THE BOARD.

(E) (1) EXCEPT AS LIMITED BY THE AUTHORITY'S ARTICLES OF INCORPORATION, THE AUTHORITY HAS ALL THE POWERS SET FORTH IN THIS SECTION.

(2) THE AUTHORITY MAY:

(I) ADOPT BYLAWS FOR THE CONDUCT OF BUSINESS OF THE AUTHORITY;

(II) SUE AND BE SUED;

(III) MAINTAIN AN OFFICE AT A PLACE THE AUTHORITY DESIGNATES;

(IV) BORROW MONEY;

(V) ISSUE BONDS AND OTHER OBLIGATIONS FOR ANY CORPORATE PURPOSE IN ACCORDANCE WITH THIS SECTION OR AN ORDINANCE ADOPTED UNDER THIS SECTION;

(VI) INVEST MONEY OF THE AUTHORITY IN INSTRUMENTS, OBLIGATIONS, SECURITIES, OR PROPERTY;

(VII) ENTER INTO CONTRACTS AND EXECUTE THE INSTRUMENTS OR AGREEMENTS NECESSARY OR CONVENIENT TO CARRY OUT

THIS SECTION OR AN ORDINANCE ADOPTED UNDER THIS SECTION TO ACCOMPLISH THEIR PURPOSES;

(VIII) SOLICIT AND ACCEPT GIFTS, GRANTS, LOANS, OR OTHER ASSISTANCE IN ANY FORM FROM ANY PUBLIC OR PRIVATE SOURCE, SUBJECT TO THE PROVISIONS OF THIS SECTION OR ANY ORDINANCE ADOPTED UNDER THIS SECTION;

(IX) PARTICIPATE IN ANY WAY IN A PROGRAM OF THE FEDERAL GOVERNMENT, THE STATE, A POLITICAL SUBDIVISION OF THE STATE, OR AN INTERGOVERNMENTAL ENTITY CREATED UNDER THE LAWS OF THE STATE;

(X) CONTRACT FOR GOODS AND SERVICES;

(XI) STUDY, DEVELOP, AND PREPARE REPORTS OR PLANS TO ASSIST IN THE AUTHORITY'S EXERCISE OF POWERS AND TO MONITOR AND EVALUATE THE AUTHORITY'S PROGRESS;

(XII) CONTRACT WITH PUBLIC OR PRIVATE ENTITIES FOR THE PROVISION OF SERVICES NECESSARY FOR THE MANAGEMENT AND OPERATION OF THE AUTHORITY;

(XIII) PROVIDE ACQUISITION, MANAGEMENT, AND SALE SERVICES TO BALTIMORE CITY FOR CITY–OWNED PROPERTY;

(XIV) CREATE, OWN, CONTROL, OR BE A MEMBER OF A CORPORATION, LIMITED LIABILITY COMPANY, PARTNERSHIP, OR OTHER PERSON, WHETHER OPERATED FOR PROFIT OR NOT FOR PROFIT, FOR THE PURPOSES OF DEVELOPING PROPERTY IN ORDER TO MAXIMIZE MARKETABILITY;

(XV) EXERCISE A POWER USUALLY POSSESSED BY A PRIVATE CORPORATION IN PERFORMING SIMILAR FUNCTIONS UNLESS TO DO SO WOULD CONFLICT WITH STATE LAW; AND

(XVI) DO ALL THINGS NECESSARY OR CONVENIENT TO CARRY OUT THE POWERS EXPRESSLY GRANTED BY THIS SECTION OR BY AN ORDINANCE ADOPTED UNDER THIS SECTION.

(3) THE AUTHORITY MAY DELEGATE TO A MEMBER OR OFFICER A POWER GRANTED TO THE AUTHORITY BY THIS SECTION, INCLUDING THE POWER

TO EXECUTE A BOND, OBLIGATION, CERTIFICATE, DEED, LEASE, MORTGAGE AGREEMENT, OR OTHER DOCUMENT OR INSTRUMENT.

(F) (1) THE AUTHORITY MAY:

(I) ACQUIRE, DIRECTLY OR THROUGH A PERSON OR GOVERNMENTAL ENTITY, BY GIFT, DEVISE, TRANSFER, EXCHANGE, FORECLOSURE, PURCHASE, OR OTHERWISE ON TERMS AND CONDITIONS AND IN A MANNER THE AUTHORITY CONSIDERS PROPER, REAL PROPERTY OR RIGHTS OR INTERESTS IN REAL PROPERTY;

(II) OWN IN THE AUTHORITY'S NAME PROPERTY ACQUIRED BY OR CONVEYED TO THE AUTHORITY BY THE STATE, A LOCAL GOVERNMENT, AN INTERGOVERNMENTAL AGENCY CREATED UNDER THE LAWS OF THIS STATE, OR ANY OTHER PUBLIC OR PRIVATE PERSON, INCLUDING TAX FORECLOSED PROPERTY AND PROPERTY WITHOUT CLEAR TITLE;

(III) SELL, LEASE AS LESSOR, TRANSFER, AND DISPOSE OF THE AUTHORITY'S PROPERTY OR INTEREST IN PROPERTY;

(IV) PROCURE INSURANCE AGAINST LOSS IN CONNECTION WITH THE PROPERTY, ASSETS, OR ACTIVITIES OF THE AUTHORITY; AND

(V) EXECUTE DEEDS, MORTGAGES, CONTRACTS, LEASES, PURCHASES, OR OTHER AGREEMENTS REGARDING THE PROPERTY OF THE AUTHORITY.

(2) PROPERTY PURCHASED, OWNED, OR SOLD UNDER THIS SUBSECTION MAY NOT BE LOCATED OUTSIDE OF BALTIMORE CITY.

(G) THE AUTHORITY MAY EMPLOY STAFF AND RETAIN CONSULTANTS AS EMPLOYEES OR AGENTS THAT THE AUTHORITY CONSIDERS NECESSARY AND SET THEIR COMPENSATION.

(H) THE COURT MAY APPOINT THE AUTHORITY TO SERVE AS A RECEIVER IN A RECEIVERSHIP PROCEEDING FILED BY BALTIMORE CITY.

(I) (1) THE AUTHORITY SHALL:

(I) ADOPT A CODE OF ETHICS FOR THE AUTHORITY'S DIRECTORS, OFFICERS, AND EMPLOYEES;

(II) ESTABLISH POLICIES AND PROCEDURES REQUIRING THE DISCLOSURE OF RELATIONSHIPS THAT MAY GIVE RISE TO A CONFLICT OF INTEREST, INCLUDING REQUIRING THAT ANY MEMBER OF THE BOARD WITH A DIRECT OR INDIRECT INTEREST IN A MATTER BEFORE THE AUTHORITY DISCLOSE THE MEMBER'S INTEREST TO THE BOARD BEFORE THE BOARD TAKES ANY ACTION ON THE MATTER; AND

(III) COMPLY WITH THE STATE OPEN MEETINGS ACT UNDER TITLE 10, SUBTITLE 5 AND SUBTITLE 6, PART III OF THE STATE GOVERNMENT ARTICLE OF THE ANNOTATED CODE OF MARYLAND.

(2) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION OR THE ORDINANCE ESTABLISHING AN AUTHORITY, THE PROCEDURES OF BALTIMORE CITY CONTROL ANY MATTER RELATING TO THE INTERNAL ADMINISTRATION OF THE AUTHORITY.

(J) (1) THE AUTHORITY MAY EXERCISE THE POWERS GRANTED TO BALTIMORE CITY UNDER §§ 14–825 THROUGH 14–831 OF THE TAX – PROPERTY ARTICLE OF THE ANNOTATED CODE OF MARYLAND.

(2) THE AUTHORITY MAY HAVE THE SAME IMMUNITIES AS BALTIMORE CITY.

(K) (1) WITH RESPECT TO PROPERTY HELD OR OWNED BY THE AUTHORITY, THE AUTHORITY MAY:

(I) GRANT OR ACQUIRE A LICENSE, EASEMENT, OR OPTION;

(II) FIX, CHARGE, AND COLLECT RENTS, FEES, AND CHARGES FOR USE OF THE PROPERTY;

(III) PAY TAXES OR SPECIAL ASSESSMENTS DUE;

(IV) TAKE ANY ACTION, PROVIDE ANY NOTICE, OR INSTITUTE ANY PROCEEDING REQUIRED TO CLEAR OR QUIET TITLE IN ORDER TO ESTABLISH OWNERSHIP BY AND VEST TITLE TO PROPERTY IN THE AUTHORITY;

(V) ABATE VIOLATIONS OF THE LOCAL AND STATE BUILDING, FIRE, HEALTH, AND RELATED CODES; AND

(VI) HOLD, MANAGE, MAINTAIN, OPERATE, REPAIR, LEASE AS LESSOR, SECURE, PREVENT THE WASTE OR DETERIORATION OF, DEMOLISH,

AND TAKE ALL OTHER ACTIONS NECESSARY TO PRESERVE THE VALUE OF THE PROPERTY IT HOLDS OR OWNS.

(2) THE AUTHORITY SHALL BE MADE A PARTY TO, AND SHALL DEFEND ANY ACTION OR PROCEEDING CONCERNING, CLAIMS AGAINST PROPERTY HELD BY THE AUTHORITY.

(L) (1) PROPERTY HELD BY THE AUTHORITY SHALL BE INVENTORIED AND CLASSIFIED ACCORDING TO TITLE STATUS AND SUITABILITY FOR USE.

(2) A REGISTER OF DEEDS IN BALTIMORE CITY MAY NOT CHARGE A FEE TO RECORD A DOCUMENT EVIDENCING THE TRANSFER UNDER THIS SECTION OF PROPERTY TO THE AUTHORITY BY THE STATE OR BALTIMORE CITY.

(M) (1) FOLLOWING AN UNSUCCESSFUL ATTEMPT ON THE PART OF BALTIMORE CITY TO COLLECT OUTSTANDING LIENS AT TAX SALE AND SUBJECT TO THE APPROVAL OF THE TAX COLLECTING UNIT OF BALTIMORE CITY, THE AUTHORITY MAY ACCEPT FROM A PERSON WITH AN INTEREST IN A PARCEL OF TAX DELINQUENT PROPERTY OR TAX SALE PROPERTY A DEED OR ASSIGNMENT CONVEYING THAT PERSON'S INTEREST IN THE PROPERTY INSTEAD OF:

(I) THE FORECLOSURE OR SALE OF THE PROPERTY FOR DELINQUENT TAXES, PENALTIES, AND INTEREST, AS DEFINED BY § 14–801(C) OF THE TAX – PROPERTY ARTICLE OF THE ANNOTATED CODE OF MARYLAND; OR

(II) DELINQUENT SPECIFIC TAXES LEVIED BY A LOCAL TAXING JURISDICTION.

(2) EXCEPT AS OTHERWISE PROVIDED BY LAW, CONVEYANCE OF PROPERTY BY DEED INSTEAD OF FORECLOSURE UNDER THIS SECTION MAY NOT AFFECT OR IMPAIR ANY OTHER LIEN AGAINST THE PROPERTY OR ANY EXISTING RECORDED OR UNRECORDED INTEREST IN THE PROPERTY, INCLUDING:

(I) FUTURE INSTALLMENTS OF SPECIAL ASSESSMENTS;

(II) LIENS RECORDED BY THE STATE;

(III) EASEMENTS OR RIGHTS–OF–WAY;

(IV) PRIVATE DEED RESTRICTIONS;

(V) SECURITY INTERESTS AND MORTGAGES; OR

(VI) TAX LIENS OF OTHER TAXING JURISDICTIONS THAT DO NOT CONSENT TO A RELEASE OF THEIR LIENS.

(3) A TAX LIEN AGAINST PROPERTY HELD BY OR UNDER THE CONTROL OF THE AUTHORITY MAY BE RELEASED OR ABATED AT ANY TIME BY ONE OR MORE OF THE FOLLOWING:

(I) BALTIMORE CITY WITH RESPECT TO A LIEN HELD BY BALTIMORE CITY;

(II) THE GOVERNING BODY OF ANY TAXING JURISDICTION OTHER THAN THE STATE, COUNTY, OR MUNICIPAL CORPORATION WITH RESPECT TO A LIEN HELD BY THE TAXING JURISDICTION;

(III) A PUBLIC WATER OR SEWER AUTHORITY WITH RESPECT TO A TAX LIEN OR RIGHT TO COLLECT A TAX HELD BY THE PUBLIC WATER OR SEWER AUTHORITY; OR

(IV) THE STATE COMPTROLLER WITH RESPECT TO A STATE TAX LIEN.

(N) (1) MONEY RECEIVED BY THE AUTHORITY AS PAYMENT OF TAXES, PENALTIES, OR INTEREST, OR FROM THE REDEMPTION OR SALE OF PROPERTY SUBJECT TO A TAX LIEN OF ANY TAXING UNIT SHALL BE RETURNED TO THE LOCAL TAX COLLECTING UNIT IN THE JURISDICTION WHERE THE PROPERTY IS LOCATED FOR DISTRIBUTION ON A PRO RATA BASIS TO THE APPROPRIATE TAXING UNITS IN AN AMOUNT EQUAL TO DELINQUENT TAXES, PENALTIES, AND INTEREST OWED ON THE PROPERTY.

(2) PROCEEDS RECEIVED BY THE AUTHORITY MAY BE RETAINED BY THE AUTHORITY FOR THE PURPOSES OF THIS SECTION, UNLESS OTHERWISE DESIGNATED BY:

(I) THIS SECTION;

(II) THE PROVISIONS OF A DEED;

(III) ANY OTHER LAW; OR

(IV) AN AGREEMENT OF THE AUTHORITY.

(O) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE AUTHORITY IS EXEMPT FROM ANY REQUIREMENT TO PAY STATE OR LOCAL TAXES OR ASSESSMENTS ON THE AUTHORITY'S PROPERTIES, ACTIVITIES, OR ANY REVENUE FROM THE PROPERTIES OR ACTIVITIES.

(2) PROPERTY THAT THE AUTHORITY SELLS OR LEASES TO A PRIVATE ENTITY IS SUBJECT TO STATE AND LOCAL PROPERTY TAXES FROM THE TIME OF THE SALE OR LEASE.

(3) THE PRINCIPAL OF AND INTEREST ON BONDS, THE TRANSFER OF BONDS, AND ANY INCOME DERIVED FROM THE BONDS, INCLUDING PROFITS MADE ON THEIR SALE OR TRANSFER, ARE FOREVER EXEMPT FROM ALL STATE AND LOCAL TAXES.

(P) (1) THE AUTHORITY MAY BRING A CIVIL ACTION TO PREVENT, RESTRAIN, OR ENJOIN THE WASTE OF OR UNLAWFUL REMOVAL OF ANY PROPERTY FROM REAL PROPERTY HELD BY THE AUTHORITY.

(2) (I) THE AUTHORITY SHALL BE MADE A PARTY TO ANY ACTION OR PROCEEDING INSTITUTED FOR THE PURPOSE OF SETTING ASIDE TITLE TO PROPERTY HELD BY THE AUTHORITY OR FOR THE SALE OF PROPERTY BY THE AUTHORITY.

(II) A HEARING IN ANY SUCH PROCEEDING MAY NOT BE HELD UNTIL THE AUTHORITY IS SERVED IN ACCORDANCE WITH THE MARYLAND RULES.

(Q) (1) PROPERTY OF THE AUTHORITY IS PUBLIC PROPERTY DEVOTED TO AN ESSENTIAL PUBLIC AND GOVERNMENTAL FUNCTION AND PURPOSE.

(2) INCOME OF THE AUTHORITY IS CONSIDERED TO BE FOR A PUBLIC AND GOVERNMENTAL PURPOSE.

(R) THE AUTHORITY IS SUBJECT TO ANY LOCAL:

(1) ZONING LAWS;

(2) PERMITTING PROCESSES FOR CONSTRUCTION, DEMOLITION, OR REPAIR OF A PROPERTY; AND

(3) LAND USE CONTROLS.

(S) THE AUTHORITY SHALL REPORT ANNUALLY TO THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE OF THE ANNOTATED CODE OF MARYLAND, THE GENERAL ASSEMBLY ON THE ACTIVITIES OF THE AUTHORITY.

(T) (1) (I) THE AUTHORITY MAY PERIODICALLY:

1. ISSUE BONDS TO PAY ALL OR PART OF THE COST OF ACQUIRING OR IMPROVING PROPERTY;

2. FUND OR REFUND THOSE BONDS;

3. PURCHASE BONDS WITH ANY FUNDS AVAILABLE; AND

4. HOLD, PLEDGE, CANCEL, OR RESELL BONDS.

(II) BY RESOLUTION, THE AUTHORITY MAY AUTHORIZE THE CHAIR, ONE OF THE AUTHORITY'S MEMBERS, OR A COMMITTEE OF THE MEMBERS TO DETERMINE OR PROVIDE FOR ANY MATTERS RELATING TO BONDS THAT THE AUTHORITY CONSIDERS APPROPRIATE, INCLUDING:

1. SPECIFYING, DETERMINING, PRESCRIBING, AND APPROVING MATTERS, DOCUMENTS, AND PROCEDURES THAT RELATE TO THE AUTHORIZATION, SALE, SECURITY, ISSUANCE, DELIVERY, AND PAYMENT OF AND FOR THE BONDS;

2. CREATING SECURITY FOR THE BONDS;

3. PROVIDING FOR THE ADMINISTRATION OF BOND ISSUES; AND

4. TAKING OTHER ACTIONS IT CONSIDERS APPROPRIATE CONCERNING THE BONDS.

(III) THE POWER GRANTED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH IS IN ADDITION TO POWERS CONFERRED ON THE AUTHORITY BY THIS SECTION AND DOES NOT LIMIT ANY POWER OF THE AUTHORITY UNDER THIS SECTION.

(IV) 1. SUBJECT TO SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, THE AUTHORITY MAY AUTHORIZE THE EXECUTIVE DIRECTOR

TO TAKE ANY OF THE ACTIONS DESCRIBED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH.

2. IF THE AUTHORITY AUTHORIZES THE EXECUTIVE DIRECTOR TO TAKE ANY OF THE ACTIONS DESCRIBED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE AUTHORITY SHALL PRESCRIBE LIMITS WITHIN WHICH THE EXECUTIVE DIRECTOR MAY EXERCISE DISCRETION.

(2) THE AUTHORITY MAY ISSUE THE BONDS AT ONE TIME OR IN ONE OR MORE SERIES FROM TIME TO TIME.

(3) FOR EACH ISSUE OF THE AUTHORITY'S BONDS, THE AUTHORITY SHALL PASS A RESOLUTION THAT:

(I) SPECIFIES AND DESCRIBES THE PROJECT FOR WHICH THE PROCEEDS OF THE BOND ISSUANCE ARE INTENDED;

(II) GENERALLY DESCRIBES THE PUBLIC PURPOSE AND THE FINANCING TRANSACTION TO BE ACCOMPLISHED;

(III) SPECIFIES THE MAXIMUM PRINCIPAL AMOUNT OF THE BONDS THAT MAY BE ISSUED BY THE AUTHORITY; AND

(IV) IMPOSES ANY TERMS OR CONDITIONS ON THE ISSUANCE AND SALE OF THE BONDS THAT THE AUTHORITY CONSIDERS APPROPRIATE.

(4) SUBJECT TO ANY PROVISIONS FOR THEIR REGISTRATION, BONDS ARE NEGOTIABLE INSTRUMENTS FOR ALL PURPOSES REGARDLESS OF WHETHER THEY ARE PAYABLE FROM A SPECIAL FUND.

(5) (I) THE BONDS MAY BE:

1. SERIAL BONDS;

2. TERM BONDS; OR

3. BOTH IN THE DISCRETION OF THE AUTHORITY.

(II) SUBJECT TO ANY DELEGATION UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION, THE RESOLUTION AUTHORIZING BONDS MAY PROVIDE:

1. THE DATES OF THE BONDS;

2. THE MATURITY DATES OF THE BONDS;

3. THE INTEREST RATES ON THE BONDS;

4. THE TIME AT WHICH THE BONDS WILL BE PAYABLE;

5. THE DENOMINATIONS OF THE BONDS;

6. WHETHER THE BONDS WILL BE IN COUPON OR REGISTERED FORM;

7. ANY REGISTRATION PRIVILEGES OF THE BONDS;

8. THE MANNER OF EXECUTION OF THE BONDS;

9. THE PLACE AT WHICH THE BONDS WILL BE PAYABLE; AND

10. ANY TERMS OF REDEMPTION OF THE BONDS.

(III) THE BONDS SHALL MATURE WITHIN A PERIOD NOT TO EXCEED 50 YEARS AFTER THE DATE OF ISSUE.

(IV) THE BONDS SHALL BE PAYABLE IN UNITED STATES CURRENCY.

(6) (I) THE AUTHORITY SHALL SELL THE BONDS AT COMPETITIVE OR NEGOTIATED SALE IN A MANNER AND FOR A PRICE THE AUTHORITY DETERMINES TO BE IN THE AUTHORITY'S BEST INTERESTS.

(II) BONDS ARE EXEMPT FROM §§ 8–206 AND 8–208 OF THE STATE FINANCE AND PROCUREMENT ARTICLE OF THE ANNOTATED CODE OF MARYLAND.

(7) AN OFFICER'S SIGNATURE OR FACSIMILE ON A BOND REMAINS VALID EVEN IF THE OFFICER LEAVES OFFICE BEFORE THE BOND IS DELIVERED.

(8) PENDING PREPARATION OF THE DEFINITIVE BONDS, THE AUTHORITY MAY ISSUE INTERIM RECEIPTS OR CERTIFICATES THAT WILL BE EXCHANGED FOR DEFINITIVE BONDS.

(9) (I) A TRUST AGREEMENT AUTHORIZING BONDS MAY CONTAIN PROVISIONS THAT ARE PART OF THE CONTRACT WITH THE BONDHOLDERS.

(II) THE PROVISIONS MAY INCLUDE:

1. PLEDGING THE FOLLOWING TO SECURE PAYMENT OF BONDS, SUBJECT TO ANY EXISTING AGREEMENTS WITH BONDHOLDERS:

A. THE FULL FAITH AND CREDIT OF THE AUTHORITY;

B. REVENUES OF A PROJECT;

C. A REVENUE–PRODUCING CONTRACT THE AUTHORITY HAS MADE WITH A PERSON OR PUBLIC ENTITY; OR

D. THE PROCEEDS OF THE SALE OF BONDS;

2. THE RATES, RENTALS, FEES, AND OTHER CHARGES, THE AMOUNTS TO BE RAISED IN EACH YEAR, AND THE USE AND DISPOSITION OF THE REVENUES;

3. THE SETTING ASIDE OF RESERVES AND SINKING FUNDS AND THEIR DISPOSITION;

4. LIMITS ON THE RIGHT OF THE AUTHORITY OR THE AUTHORITY'S AGENTS TO RESTRICT AND REGULATE THE USE OF A PROJECT;

5. LIMITS ON THE PURPOSE TO WHICH THE PROCEEDS OF SALE OF BONDS MAY BE APPLIED;

6. LIMITS ON ISSUING ADDITIONAL BONDS AND REFUNDING BONDS AND THE TERMS UNDER WHICH ADDITIONAL BONDS MAY BE ISSUED AND SECURED;

7. THE PROCEDURE TO AMEND OR ABROGATE THE TERMS OF A CONTRACT WITH BONDHOLDERS AND THE REQUIREMENTS FOR CONSENT;

8. LIMITS ON THE AMOUNT OF PROJECT REVENUES TO BE EXPENDED FOR OPERATING, ADMINISTRATIVE, OR OTHER EXPENSES OF THE AUTHORITY;

9. THE ACTS OR OMISSIONS THAT CONSTITUTE DEFAULT BY THE AUTHORITY AND THE RIGHTS AND REMEDIES OF THE BONDHOLDERS IN THE EVENT OF A DEFAULT;

10. THE CONVEYANCE OR MORTGAGING OF A PROJECT AND ITS SITE TO SECURE THE BONDHOLDERS; AND

11. THE CREATION AND DISPOSITION OF A COLLATERAL FUND FOR THE PURPOSE OF SECURING THE BONDHOLDERS.

(10) THE MEMBERS OF THE AUTHORITY AND A PERSON EXECUTING THE BONDS MAY NOT BE HELD LIABLE PERSONALLY ON THE BONDS.

(U) (1) THE CORPORATE TRUSTEE UNDER A TRUST AGREEMENT MAY BE A TRUST COMPANY OR A BANK THAT HAS THE POWERS OF A TRUST COMPANY IN OR OUTSIDE THE STATE.

(2) AN EXPENSE INCURRED IN CARRYING OUT THE TRUST AGREEMENT OR A RESOLUTION MAY BE TREATED AS PART OF THE COST OF THE OPERATION OF A PROJECT.

(V) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, IN A PROCEEDING INVOLVING THE VALIDITY OR ENFORCEABILITY OF A BOND OR THE SECURITY FOR A BOND, THE DETERMINATION OF THE AUTHORITY UNDER THIS SECTION IS CONCLUSIVE AND BINDING.

(W) BONDS ARE SECURITIES:

(1) IN WHICH ANY OF THE FOLLOWING PERSONS MAY LEGALLY AND PROPERLY INVEST MONEY, INCLUDING CAPITAL THAT THE PERSON OWNS OR CONTROLS:

(I) AN OFFICER OR UNIT OF THE STATE OR A POLITICAL SUBDIVISION;

(II) A BANK, TRUST COMPANY, SAVINGS AND LOAN ASSOCIATION, INVESTMENT COMPANY, OR OTHER PERSON CONDUCTING A BANKING BUSINESS;

(III) AN INSURANCE COMPANY, INSURANCE ASSOCIATION, OR OTHER PERSON CONDUCTING AN INSURANCE BUSINESS;

(IV) A PERSONAL REPRESENTATIVE, GUARDIAN, TRUSTEE, OR OTHER FIDUCIARY; AND

(V) ANY OTHER PERSON; AND

(2) THAT MAY BE DEPOSITED WITH AND RECEIVED BY A UNIT OF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE FOR ANY PURPOSE FOR WHICH THE DEPOSIT OF BONDS OR OBLIGATIONS OF THE STATE IS AUTHORIZED BY LAW.

(X) (1) A BOND IS NOT:

(I) A DEBT OR LIABILITY OF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE; OR

(II) A PLEDGE OF THE FAITH AND CREDIT OF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE.

(2) EACH BOND SHALL STATE ON THE FACE OF THE BOND THAT NEITHER THE STATE NOR A POLITICAL SUBDIVISION OF THE STATE IS OBLIGED TO PAY THE PRINCIPAL OF OR INTEREST ON THE BOND EXCEPT FROM REVENUES PLEDGED TO THE PAYMENT OF THE BOND.

(3) THE ISSUANCE OF BONDS DOES NOT DIRECTLY, INDIRECTLY, OR CONTINGENTLY OBLIGATE THE STATE OR ITS POLITICAL SUBDIVISIONS:

(I) TO LEVY OR PLEDGE A TAX TO PAY THE BONDS; OR

(II) TO MAKE AN APPROPRIATION TO PAY THE BONDS.

(4) NOTHING IN THIS SECTION PROHIBITS THE AUTHORITY FROM PLEDGING ITS FULL FAITH AND CREDIT IN CONNECTION WITH THE ISSUANCE OF BONDS.

(Y) (1) THE AUTHORITY MAY:

(I) FIX AND COLLECT RATES, RENTS, FEES, AND CHARGES RELATED TO A PROJECT AND FOR THE SERVICES RELATED TO A PROJECT; AND

(II) CONTRACT WITH ANY PERSON OR GOVERNMENTAL ENTITY TO EXERCISE ITS AUTHORITY UNDER THIS SUBSECTION.

(2) THE RATES, RENTS, FEES, AND CHARGES ESTABLISHED BY THE AUTHORITY UNDER THIS SUBSECTION SHALL BE FIXED AND ADJUSTED SO THAT THE AGGREGATE AMOUNT OF THE RATES, RENTS, FEES, AND CHARGES FROM THE PROJECT, WHEN ADDED TO OTHER AVAILABLE MONEY, IS SUFFICIENT TO:

(I) PAY FOR THE EXPENSES OF THE PROJECT;

(II) PAY THE PRINCIPAL OF AND THE INTEREST ON THE BONDS THAT THE AUTHORITY ISSUED FOR THE PROJECT AS THEY BECOME DUE AND PAYABLE; AND

(III) CREATE AND MAINTAIN RESERVES REQUIRED OR PROVIDED FOR IN A TRUST AGREEMENT.

(3) THE RATES, RENTS, FEES, AND CHARGES ESTABLISHED BY THE AUTHORITY UNDER THIS SUBSECTION ARE NOT SUBJECT TO SUPERVISION OR REGULATION BY ANY UNIT OF THE STATE OTHER THAN THE AUTHORITY.

(Z) (1) (I) ANY PLEDGE OF REVENUES AND OTHER MONEY UNDER SUBSECTION (T)(9) OF THIS SECTION IS VALID AND BINDING FROM THE TIME THE PLEDGE IS MADE.

(II) 1. THE REVENUE OR MONEY THAT THE AUTHORITY PLEDGES AND RECEIVES IS SUBJECT IMMEDIATELY TO THE LIEN OF THE PLEDGE.

2. NEITHER PHYSICAL DELIVERY OF THE REVENUE OR MONEY NOR ANY OTHER ACT IS REQUIRED TO VALIDATE THE LIEN.

(III) THE LIEN OF THE PLEDGE IS VALID AND BINDING AGAINST EACH PARTY WITH A CLAIM AGAINST THE AUTHORITY IN TORT, CONTRACT, OR OTHERWISE, REGARDLESS OF WHETHER THE PARTY HAS NOTICE OF THE LIEN.

(2) THE TRUST AGREEMENT AND ANY OTHER AGREEMENT OR LEASE CREATING A PLEDGE UNDER THIS SECTION NEED NOT BE FILED OR RECORDED, EXCEPT IN THE RECORDS OF THE AUTHORITY.

(AA) (1) PROCEEDS FROM THE SALE OF BONDS AND OTHER REVENUES RECEIVED UNDER THIS SECTION ARE TRUST FUNDS TO BE HELD AND APPLIED SOLELY AS PROVIDED IN THIS SECTION.

(2) (I) EACH OFFICER, BANK, OR TRUST COMPANY THAT RECEIVES TRUST MONEY FROM THE AUTHORITY UNDER THIS SECTION SHALL ACT AS TRUSTEE OF THE MONEY AND SHALL HOLD AND APPLY THE MONEY FOR THE PURPOSES SPECIFIED UNDER THIS SECTION.

(II) THE OFFICER, BANK, OR TRUST COMPANY HOLDING MONEY IS SUBJECT TO:

1. ANY REGULATION ADOPTED UNDER THIS SECTION; AND

2. THE RESOLUTION AUTHORIZING THE ISSUANCE OF BONDS OR THE TRUST AGREEMENT.

(BB) (1) (I) THE AUTHORITY MAY ISSUE BONDS TO REFUND OUTSTANDING BONDS OF THE AUTHORITY, INCLUDING PAYING:

1. ANY REDEMPTION PREMIUM;

2. INTEREST ACCRUED OR TO ACCRUE TO THE DATE OF REDEMPTION, PURCHASE, OR MATURITY OF THE BONDS; AND

3. IF CONSIDERED ADVISABLE BY THE AUTHORITY, ANY PART OF THE COST OF ACQUIRING OR IMPROVING PROPERTY AS PART OF A PROJECT.

(II) REFUNDING BONDS MAY BE ISSUED FOR ANY CORPORATE PURPOSE, INCLUDING:

1. REALIZING SAVINGS IN THE EFFECTIVE COSTS OF DEBT SERVICE, DIRECTLY OR THROUGH A DEBT RESTRUCTURING; OR

2. ALLEVIATING A POTENTIAL OR ACTUAL DEFAULT.

(2) A REFUNDING BOND THAT THE AUTHORITY ISSUES UNDER THIS SUBSECTION SHALL BE ISSUED IN THE SAME MANNER AND IS SUBJECT TO THIS SECTION TO THE SAME EXTENT AS ANY OTHER BOND.

(3) THE AUTHORITY MAY ISSUE REFUNDING BONDS IN ONE OR MORE SERIES IN AN AMOUNT GREATER THAN THE AMOUNT OF THE BONDS TO BE REFUNDED.

(CC) (1) THE AUTHORITY MAY ISSUE NEGOTIABLE BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF BONDS FOR ANY CORPORATE PURPOSE.

(2) BOND ANTICIPATION NOTES ISSUED UNDER THIS SUBSECTION SHALL BE ISSUED IN THE SAME MANNER AS BONDS.

(3) BOND ANTICIPATION NOTES ISSUED UNDER THIS SUBSECTION AND THE RESOLUTION AUTHORIZING THEM MAY CONTAIN ANY PROVISIONS, CONDITIONS, OR LIMITATIONS THAT MAY BE INCLUDED IN A TRUST AGREEMENT.

(4) THE AUTHORITY MAY ISSUE BOND ANTICIPATION NOTES TO PAY ANY OTHER BOND ANTICIPATION NOTES.

(5) BOND ANTICIPATION NOTES SHALL BE PAID FROM:

(I) REVENUES OF THE AUTHORITY;

(II) MONEY AVAILABLE AND NOT OTHERWISE PLEDGED; OR

(III) THE PROCEEDS OF THE SALE OF THE BONDS IN ANTICIPATION OF WHICH THE NOTES WERE ISSUED.

(DD) (1) THE AUTHORITY SHALL CONVEY TITLE TO PROPERTY RELATING TO A PROJECT AND RELEASE COLLATERAL IN ACCORDANCE WITH THIS SUBSECTION WHEN THE FOLLOWING CONDITIONS ARE MET:

(I) 1. THE PRINCIPAL OF AND INTEREST ON BONDS ISSUED TO FINANCE THE PROJECT, INCLUDING ANY REFUNDING BONDS, HAVE BEEN FULLY PAID AND RETIRED; OR

2. ADEQUATE PROVISION HAS BEEN MADE TO FULLY PAY AND RETIRE THE BONDS;

(II) ALL OTHER CONDITIONS OF THE TRUST AGREEMENT HAVE BEEN SATISFIED; AND

(III) THE LIEN OF THE TRUST AGREEMENT HAS BEEN RELEASED.

(2) ON SATISFACTION OF THE CONDITIONS UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE AUTHORITY PROMPTLY SHALL EXECUTE ANY

DEEDS, CONVEYANCES, RELEASES, AND DOCUMENTS AND TAKE ANY OTHER ACTION NECESSARY TO CONVEY TITLE TO THE PROPERTY AND RELEASE COLLATERAL FREE OF ALL LIENS AND ENCUMBRANCES CREATED THROUGH THE AUTHORITY.

(EE) (1) A BONDHOLDER, A HOLDER OF ANY COUPONS ATTACHED TO BONDS, OR A TRUSTEE UNDER A TRUST AGREEMENT SECURING THE BONDS MAY SUE TO:

(I) PROTECT AND ENFORCE RIGHTS UNDER LAWS OF THE STATE OR A TRUST AGREEMENT; AND

(II) ENFORCE AND COMPEL THE PERFORMANCE OF DUTIES BY THE AUTHORITY OR ITS OFFICER, EMPLOYEE, OR AGENT THAT THIS SECTION OR A TRUST AGREEMENT REQUIRES, INCLUDING FIXING AND COLLECTING RATES, RENTS, FEES, AND CHARGES THAT THE TRUST AGREEMENT REQUIRES TO BE FIXED AND COLLECTED.

(2) THE RIGHTS UNDER THIS SUBSECTION ARE SUBJECT TO ANY TRUST AGREEMENT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 625

(Senate Bill 908)

AN ACT concerning

Task Force on Prisoner Reentry

FOR the purpose of establishing a Task Force on Prisoner Reentry; providing for the membership of the Task Force; providing for the designation of a chair of the Task Force; providing for staff for the Task Force; prohibiting a member of the Task Force from receiving compensation; authorizing a member of the Task Force to receive reimbursement for certain expenses; requiring the Task Force to study certain issues; requiring the Task Force to report its interim findings to the Governor and the General Assembly on or before a certain date; requiring the Task Force to report its final findings and recommendations to the Governor and the General Assembly on or before a certain date; making this Act an

emergency measure; providing for the termination of this Act; and generally relating to the establishment of a Task Force on Prisoner Reentry.

BY adding to
Article – Correctional Services
Section 2–501
Annotated Code of Maryland
(2008 Replacement Volume and 2008 Supplement)

Preamble

WHEREAS, There is a growing population of criminal offenders who return to their communities and commit new crimes; and

WHEREAS, An important component of breaking the cycle of criminal recidivism is a successful prisoner reentry program; and

WHEREAS, The Congress of the United States passed with bipartisan support and the President of the United States signed on April 9, 2008, the Second Chance Act of 2007, an Act that provides grants to government agencies to provide employment assistance, substance abuse treatment, housing, family programming, mentoring, victim support, and other services that can help reduce recidivism; and

WHEREAS, One of the conditions of receiving financial assistance under the federal Second Chance Act of 2007 is the establishment of a Task Force on Prisoner Reentry; and

WHEREAS, It is the intent of the General Assembly that the appropriate State agencies should apply for federal financial assistance provided under the federal Second Chance Act of 2007; now, therefore,

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

Article – Correctional Services

2–501.

(A) THERE IS A TASK FORCE ON PRISONER REENTRY.

(B) THE TASK FORCE CONSISTS OF THE FOLLOWING ~~17~~ MEMBERS:

(1) TWO MEMBERS OF THE HOUSE OF DELEGATES, APPOINTED BY THE SPEAKER OF THE HOUSE;

(2) TWO MEMBERS OF THE SENATE OF MARYLAND, APPOINTED BY THE PRESIDENT OF THE SENATE;

(3) TWO MEMBERS OF THE PUBLIC WITH RELEVANT EXPERTISE IN THE PROVISION OF REENTRY SERVICES TO ADULT OFFENDERS, APPOINTED BY THE GOVERNOR;

(4) TWO MEMBERS OF THE PUBLIC WITH RELEVANT EXPERTISE IN THE PROVISION OF REENTRY SERVICES TO JUVENILE OFFENDERS, APPOINTED BY THE GOVERNOR;

(5) TWO INDIVIDUALS WHO WERE FORMERLY COMMITTED TO A STATE CORRECTIONAL FACILITY, APPOINTED BY THE GOVERNOR; ~~AND~~

(6) TWO MEMBERS OF THE PUBLIC WHO REPRESENT EMPLOYER ORGANIZATIONS, APPOINTED BY THE GOVERNOR;

(7) TWO MEMBERS OF THE PUBLIC WHO REPRESENT ORGANIZED LABOR, APPOINTED BY THE GOVERNOR;

(8) UP TO FOUR MEMBERS, APPOINTED BY THE GOVERNOR, WHO REPRESENT LOCAL REENTRY TASK FORCES THAT HAVE REVIEWED OR ARE IN THE PROCESS OF REVIEWING LOCAL POLICIES AND PRACTICES RELATING TO THE EMPLOYMENT OF EX–OFFENDERS, INCLUDING ONE FROM PRINCE GEORGE'S COUNTY AND ONE FROM BALTIMORE CITY; AND

~~(6)~~ (9) THE FOLLOWING ~~SEVEN~~ MEMBERS, WHO SHALL SERVE EX OFFICIO:

(I) THE SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL SERVICES, OR THE SECRETARY'S DESIGNEE;

(II) THE SECRETARY OF JUVENILE SERVICES, OR THE SECRETARY'S DESIGNEE;

(III) THE STATE SUPERINTENDENT OF EDUCATION, OR THE SUPERINTENDENT'S DESIGNEE;

(IV) THE SECRETARY OF HUMAN RESOURCES, OR THE SECRETARY'S DESIGNEE;

(V) THE SECRETARY OF HEALTH AND MENTAL HYGIENE, OR THE SECRETARY'S DESIGNEE;

(VI) THE SECRETARY OF LABOR, LICENSING, AND REGULATION, OR THE SECRETARY'S DESIGNEE; ~~AND~~

(VII) THE COMMISSIONER OF CORRECTION, OR THE COMMISSIONER'S DESIGNEE; AND

(VIII) THE ADMINISTRATOR OF THE MOTOR VEHICLE ADMINISTRATION, OR THE ADMINISTRATOR'S DESIGNEE; AND

(IX) ONE MEMBER FROM THE GOVERNOR'S WORKFORCE INVESTMENT BOARD, APPOINTED BY THE GOVERNOR.

(C) THE SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL SERVICES, OR THE SECRETARY'S DESIGNEE SHALL:

(1) CHAIR THE TASK FORCE; AND

(2) PROVIDE STAFF SUPPORT FOR THE TASK FORCE FROM THE DEPARTMENT.

(D) A MEMBER OF THE TASK FORCE MAY NOT RECEIVE COMPENSATION 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.

(E) THE TASK FORCE SHALL:

(1) EXAMINE WAYS TO POOL RESOURCES AND FUNDING STREAMS TO PROMOTE LOWER RECIDIVISM RATES FOR RETURNING OFFENDERS AND MINIMIZE THE HARMFUL EFFECTS OF OFFENDERS' TIME IN PRISON, JAIL, OR A JUVENILE FACILITY ON FAMILIES AND COMMUNITIES OF OFFENDERS BY COLLECTING DATA AND BEST PRACTICES IN OFFENDER REENTRY FROM DEMONSTRATION GRANTEES AND OTHER AGENCIES AND ORGANIZATIONS;

(2) ANALYZE THE STATUTORY, REGULATORY, RULES–BASED, AND PRACTICE–BASED HURDLES TO REINTEGRATION OF ADULT AND JUVENILE OFFENDERS INTO THE COMMUNITY;

(3) INVESTIGATE GUIDELINES AND CRITERIA TO TRACK OUTCOMES OF INMATE REENTRY PROGRAM PARTICIPATION, INCLUDING PROGRAM APPROVALS, DAY–TO–DAY PROGRAM PARTICIPATION, AND PROGRAM GRADUATION AND OTHER TYPES OF PROGRAM COMPLETION AND NONCOMPLETION;

(4) RESEARCH LONGITUDINAL DATA TRACKING OF THE PRE– AND POST–RELEASE IMPACT OF REENTRY PROGRAMS;

(5) INVESTIGATE THE NUMBER OF IDLE INMATES IN EACH STATE CORRECTIONAL FACILITY; AND

(6) DEVELOP A COMPREHENSIVE STRATEGIC REENTRY PLAN AS SPECIFIED UNDER THE FEDERAL SECOND CHANCE ACT OF 2007.

(F) (1) THE TASK FORCE SHALL SUBMIT AN INTERIM REPORT OF ITS FINDINGS AND RECOMMENDATIONS TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON OR BEFORE DECEMBER 31, 2010.

(2) THE TASK FORCE SHALL SUBMIT A FINAL REPORT OF ITS FINDINGS AND RECOMMENDATIONS TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON OR BEFORE DECEMBER 31, 2011.

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009. It shall remain effective for a period of 3 years and, at the end of June 30, 2012, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three–fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted. It shall remain effective through June 30, 2012, and, at the end of June 30, 2012, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 19, 2009.

Chapter 626

(House Bill 637)

AN ACT concerning

Task Force on Prisoner Reentry

FOR the purpose of establishing a Task Force on Prisoner Reentry; providing for the membership of the Task Force; providing for the designation of a chair of the

Task Force; providing for staff for the Task Force; prohibiting a member of the Task Force from receiving compensation; authorizing a member of the Task Force to receive reimbursement for certain expenses; requiring the Task Force to study certain issues; requiring the Task Force to report its interim findings to the Governor and the General Assembly on or before a certain date; requiring the Task Force to report its final findings and recommendations to the Governor and the General Assembly on or before a certain date; making this Act an emergency measure; providing for the termination of this Act; and generally relating to the establishment of a Task Force on Prisoner Reentry.

BY adding to
Article – Correctional Services
Section 2–501
Annotated Code of Maryland
(2008 Replacement Volume and 2008 Supplement)

Preamble

WHEREAS, There is a growing population of criminal offenders who return to their communities and commit new crimes; and

WHEREAS, An important component of breaking the cycle of criminal recidivism is a successful prisoner reentry program; and

WHEREAS, The Congress of the United States passed with bipartisan support and the President of the United States signed on April 9, 2008, the Second Chance Act of 2007, an Act that provides grants to government agencies to provide employment assistance, substance abuse treatment, housing, family programming, mentoring, victim support, and other services that can help reduce recidivism; and

WHEREAS, One of the conditions of receiving financial assistance under the federal Second Chance Act of 2007 is the establishment of a Task Force on Prisoner Reentry; and

WHEREAS, It is the intent of the General Assembly that the appropriate State agencies should apply for federal financial assistance provided under the federal Second Chance Act of 2007; now, therefore,

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

Article – Correctional Services

2–501.

(A) THERE IS A TASK FORCE ON PRISONER REENTRY.

(B) THE TASK FORCE CONSISTS OF THE FOLLOWING ~~17~~ MEMBERS:

(1) TWO MEMBERS OF THE HOUSE OF DELEGATES, APPOINTED BY THE SPEAKER OF THE HOUSE;

(2) TWO MEMBERS OF THE SENATE OF MARYLAND, APPOINTED BY THE PRESIDENT OF THE SENATE;

(3) TWO MEMBERS OF THE PUBLIC WITH RELEVANT EXPERTISE IN THE PROVISION OF REENTRY SERVICES TO ADULT OFFENDERS, APPOINTED BY THE GOVERNOR;

(4) TWO MEMBERS OF THE PUBLIC WITH RELEVANT EXPERTISE IN THE PROVISION OF REENTRY SERVICES TO JUVENILE OFFENDERS, APPOINTED BY THE GOVERNOR;

(5) TWO INDIVIDUALS WHO WERE FORMERLY COMMITTED TO A STATE CORRECTIONAL FACILITY, APPOINTED BY THE GOVERNOR; ~~AND~~

(6) TWO MEMBERS OF THE PUBLIC WHO REPRESENT EMPLOYER ORGANIZATIONS, APPOINTED BY THE GOVERNOR;

(7) TWO MEMBERS OF THE PUBLIC WHO REPRESENT ORGANIZED LABOR, APPOINTED BY THE GOVERNOR;

(8) UP TO FOUR MEMBERS, APPOINTED BY THE GOVERNOR, WHO REPRESENT LOCAL REENTRY TASK FORCES THAT HAVE REVIEWED OR ARE IN THE PROCESS OF REVIEWING LOCAL POLICIES AND PRACTICES RELATING TO THE EMPLOYMENT OF EX–OFFENDERS, INCLUDING ONE FROM PRINCE GEORGE'S COUNTY AND ONE FROM BALTIMORE CITY; AND

~~(6)~~ (9) THE FOLLOWING ~~SEVEN~~ MEMBERS, WHO SHALL SERVE EX OFFICIO:

(I) THE SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL SERVICES, OR THE SECRETARY'S DESIGNEE;

(II) THE SECRETARY OF JUVENILE SERVICES, OR THE SECRETARY'S DESIGNEE;

(III) THE STATE SUPERINTENDENT OF EDUCATION, OR THE SUPERINTENDENT'S DESIGNEE;

(IV) THE SECRETARY OF HUMAN RESOURCES, OR THE SECRETARY'S DESIGNEE;

(V) THE SECRETARY OF HEALTH AND MENTAL HYGIENE, OR THE SECRETARY'S DESIGNEE;

(VI) THE SECRETARY OF LABOR, LICENSING, AND REGULATION, OR THE SECRETARY'S DESIGNEE; ~~AND~~

(VII) THE COMMISSIONER OF CORRECTION, OR THE COMMISSIONER'S DESIGNEE; AND

(VIII) THE ADMINISTRATOR OF THE MOTOR VEHICLE ADMINISTRATION, OR THE ADMINISTRATOR'S DESIGNEE; AND

(IX) ONE MEMBER FROM THE GOVERNOR'S WORKFORCE INVESTMENT BOARD, APPOINTED BY THE GOVERNOR.

(C) THE SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL SERVICES, OR THE SECRETARY'S DESIGNEE SHALL:

(1) CHAIR THE TASK FORCE; AND

(2) PROVIDE STAFF SUPPORT FOR THE TASK FORCE FROM THE DEPARTMENT.

(D) A MEMBER OF THE TASK FORCE MAY NOT RECEIVE COMPENSATION 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.

(E) THE TASK FORCE SHALL:

(1) EXAMINE WAYS TO POOL RESOURCES AND FUNDING STREAMS TO PROMOTE LOWER RECIDIVISM RATES FOR RETURNING OFFENDERS AND MINIMIZE THE HARMFUL EFFECTS OF OFFENDERS' TIME IN PRISON, JAIL, OR A JUVENILE FACILITY ON FAMILIES AND COMMUNITIES OF OFFENDERS BY COLLECTING DATA AND BEST PRACTICES IN OFFENDER REENTRY FROM DEMONSTRATION GRANTEES AND OTHER AGENCIES AND ORGANIZATIONS;

(2) ANALYZE THE STATUTORY, REGULATORY, RULES–BASED, AND PRACTICE–BASED HURDLES TO REINTEGRATION OF ADULT AND JUVENILE OFFENDERS INTO THE COMMUNITY;

(3) INVESTIGATE GUIDELINES AND CRITERIA TO TRACK OUTCOMES OF INMATE REENTRY PROGRAM PARTICIPATION, INCLUDING PROGRAM APPROVALS, DAY–TO–DAY PROGRAM PARTICIPATION, AND PROGRAM GRADUATION AND OTHER TYPES OF PROGRAM COMPLETION AND NONCOMPLETION;

(4) RESEARCH LONGITUDINAL DATA TRACKING OF THE PRE– AND POST–RELEASE IMPACT OF REENTRY PROGRAMS;

(5) INVESTIGATE THE NUMBER OF IDLE INMATES IN EACH STATE CORRECTIONAL FACILITY; AND

(6) DEVELOP A COMPREHENSIVE STRATEGIC REENTRY PLAN AS SPECIFIED UNDER THE FEDERAL SECOND CHANCE ACT OF 2007.

(F) (1) THE TASK FORCE SHALL SUBMIT AN INTERIM REPORT OF ITS FINDINGS AND RECOMMENDATIONS TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON OR BEFORE DECEMBER 31, 2010.

(2) THE TASK FORCE SHALL SUBMIT A FINAL REPORT OF ITS FINDINGS AND RECOMMENDATIONS TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON OR BEFORE DECEMBER 31, 2011.

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009. It shall remain effective for a period of 3 years and, at the end of June 30, 2012, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three–fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted. It shall remain effective through June 30, 2012, and, at the end of June 30, 2012, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 19, 2009.

Chapter 627

(Senate Bill 931)

AN ACT concerning

Community Development Administration – Local Government Infrastructure Financing Program – Capital Reserve Funds

FOR the purpose of authorizing the Community Development Administration to establish certain capital reserve funds in connection with the financing of certain infrastructure projects; providing that money of a fund may be used only to pay the principal of, and premium and interest on, certain debt obligations of the Administration secured by the fund; providing that a capital reserve fund may consist of certain money; providing that if the balance in a capital reserve fund is below a certain amount, the Administration may not use the money in the fund for certain purposes and shall replenish the fund in a certain manner; requiring the Administration to request the Comptroller to advance certain funds to replenish the capital reserve fund under certain circumstances; prohibiting the Administration, except under certain circumstances, from issuing certain bonds, notes, or other obligations if issuing the bonds, notes, or other obligations would result in the capital reserve fund falling below a certain requirement; defining certain terms; making this Act contingent on the taking effect of another Act; and generally relating to the authority of the Community Development Administration to establish capital reserve funds and issue certain bonds, notes, and other obligations.

BY adding to
Article – Housing and Community Development
Section 4–233.1
Annotated Code of Maryland
(2006 Volume and 2008 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

4–233.1.

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

(2) "CAPITAL RESERVE FUND" MEANS A RESERVE FUND CREATED UNDER THIS SECTION.

(3) "MINIMUM CAPITAL RESERVE REQUIREMENT" MEANS THE MINIMUM CAPITAL RESERVE AMOUNT ESTABLISHED BY THE ADMINISTRATION FOR A CAPITAL RESERVE FUND IN CONNECTION WITH THE ISSUANCE OF BONDS,

NOTES, OR OTHER OBLIGATIONS OF THE ADMINISTRATION IN CONNECTION WITH THE FINANCING OF ONE OR MORE INFRASTRUCTURE PROJECTS.

(B) THE ADMINISTRATION MAY ESTABLISH ONE OR MORE CAPITAL RESERVE FUNDS IN CONNECTION WITH THE FINANCING OF ONE OR MORE INFRASTRUCTURE PROJECTS.

(C) MONEY IN A CAPITAL RESERVE FUND SHALL BE USED SOLELY TO PAY THE PRINCIPAL OF, AND PREMIUM AND INTEREST ON, THE BONDS, NOTES, OR OTHER OBLIGATIONS OF THE ADMINISTRATION:

(1) SECURED BY THE CAPITAL RESERVE FUND; AND

(2) ISSUED IN CONNECTION WITH FINANCING INFRASTRUCTURE PROJECTS.

(D) A CAPITAL RESERVE FUND MAY CONSIST OF:

(1) MONEY APPROPRIATED IN THE STATE BUDGET FOR THE PURPOSES OF THE CAPITAL RESERVE FUND;

(2) PROCEEDS OF A SALE OF BONDS, NOTES, OR OTHER OBLIGATIONS OF THE ADMINISTRATION OR THE STATE;

(3) INVESTMENT EARNINGS OF THE CAPITAL RESERVE FUND; AND

(4) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF A CAPITAL RESERVE FUND.

(E) (1) IF THE BALANCE OF A CAPITAL RESERVE FUND IS LESS THAN THE MINIMUM CAPITAL RESERVE REQUIREMENT ESTABLISHED BY THE ADMINISTRATION FOR THAT FUND, THE ADMINISTRATION:

(I) MAY NOT USE MONEY FROM THE FUND FOR THE OPTIONAL PURCHASE OR REDEMPTION OF A BOND, NOTE, OR OTHER OBLIGATION OF THE ADMINISTRATION; AND

(II) SHALL REPLENISH THE FUND FROM AVAILABLE OPERATING REVENUE GENERATED BY INFRASTRUCTURE PROJECTS OR FUNDS PROVIDED BY THE STATE.

(2) IF AVAILABLE OPERATING REVENUE GENERATED BY INFRASTRUCTURE PROJECTS AND FUNDS PROVIDED BY THE STATE ARE INSUFFICIENT TO REPLENISH A CAPITAL RESERVE FUND AS REQUIRED UNDER

PARAGRAPH (1) OF THIS SUBSECTION, THE ADMINISTRATION SHALL REQUEST THAT THE COMPTROLLER ADVANCE THE CONTINGENT FUNDING TO REPLENISH THE CAPITAL RESERVE FUND AS PROVIDED IN THE LOCAL GOVERNMENT INFRASTRUCTURE FINANCING PROGRAM CAPITAL RESERVE FUND LOAN OF 2009 ~~(CHAPTER ___(S.B. ___/H.B. ___)(9LR3031)~~ (CHAPTER 719 (S.B. 932/H.B. 1330) OF THE ACTS OF THE GENERAL ASSEMBLY OF 2009) OR ANY OTHER BOND BILL ENABLING ACT FOR THIS PURPOSE.

(F) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE ADMINISTRATION MAY NOT ISSUE BONDS, NOTES, OR OTHER OBLIGATIONS SECURED IN WHOLE OR IN PART BY A CAPITAL RESERVE FUND IF ON ISSUANCE THE AMOUNT IN THE CAPITAL RESERVE FUND WILL BE LESS THAN THE MINIMUM CAPITAL RESERVE REQUIREMENT.

(2) THE LIMITATION UNDER PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY IF AT THE TIME OF ISSUANCE AN AMOUNT IS DEPOSITED IN THE CAPITAL RESERVE FUND SO THAT ON ISSUANCE THE TOTAL AMOUNT IN THE CAPITAL RESERVE FUND WILL BE AT LEAST EQUAL TO THE MINIMUM CAPITAL RESERVE REQUIREMENT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009, contingent on the taking effect of ~~Chapter _____ (S.B. _____/H.B. _____) (9lr3031)~~ Chapter 719 (S.B. 932/H.B. 1330) of the Acts of the General Assembly of 2009, and if ~~Chapter _____ (S.B. ____/H.B. ____) (9lr3031)~~ Chapter 719 (S.B. 932/H.B. 1330) does not become effective this Act shall be null and void without the necessity of further action by the General Assembly.

Approved by the Governor, May 19, 2009.

Chapter 628

(House Bill 1331)

AN ACT concerning

Community Development Administration – Local Government Infrastructure Financing Program – Capital Reserve Funds

FOR the purpose of authorizing the Community Development Administration to establish certain capital reserve funds in connection with the financing of certain infrastructure projects; providing that money of a fund may be used only to pay the principal of, and premium and interest on, certain debt obligations of the Administration secured by the fund; providing that a capital reserve fund

may consist of certain money; providing that if the balance in a capital reserve fund is below a certain amount, the Administration may not use the money in the fund for certain purposes and shall replenish the fund in a certain manner; requiring the Administration to request the Comptroller to advance certain funds to replenish the capital reserve fund under certain circumstances; prohibiting the Administration, except under certain circumstances, from issuing certain bonds, notes, or other obligations if issuing the bonds, notes, or other obligations would result in the capital reserve fund falling below a certain requirement; defining certain terms; making this Act contingent on the taking effect of another Act; and generally relating to the authority of the Community Development Administration to establish capital reserve funds and issue certain bonds, notes, and other obligations.

BY adding to
Article – Housing and Community Development
Section 4–233.1
Annotated Code of Maryland
(2006 Volume and 2008 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

4–233.1.

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

(2) "CAPITAL RESERVE FUND" MEANS A RESERVE FUND CREATED UNDER THIS SECTION.

(3) "MINIMUM CAPITAL RESERVE REQUIREMENT" MEANS THE MINIMUM CAPITAL RESERVE AMOUNT ESTABLISHED BY THE ADMINISTRATION FOR A CAPITAL RESERVE FUND IN CONNECTION WITH THE ISSUANCE OF BONDS, NOTES, OR OTHER OBLIGATIONS OF THE ADMINISTRATION IN CONNECTION WITH THE FINANCING OF ONE OR MORE INFRASTRUCTURE PROJECTS.

(B) THE ADMINISTRATION MAY ESTABLISH ONE OR MORE CAPITAL RESERVE FUNDS IN CONNECTION WITH THE FINANCING OF ONE OR MORE INFRASTRUCTURE PROJECTS.

(C) MONEY IN A CAPITAL RESERVE FUND SHALL BE USED SOLELY TO PAY THE PRINCIPAL OF, AND PREMIUM AND INTEREST ON, THE BONDS, NOTES, OR OTHER OBLIGATIONS OF THE ADMINISTRATION:

(1) SECURED BY THE CAPITAL RESERVE FUND; AND

(2) ISSUED IN CONNECTION WITH FINANCING INFRASTRUCTURE PROJECTS.

(D) A CAPITAL RESERVE FUND MAY CONSIST OF:

(1) MONEY APPROPRIATED IN THE STATE BUDGET FOR THE PURPOSES OF THE CAPITAL RESERVE FUND;

(2) PROCEEDS OF A SALE OF BONDS, NOTES, OR OTHER OBLIGATIONS OF THE ADMINISTRATION OR THE STATE;

(3) INVESTMENT EARNINGS OF THE CAPITAL RESERVE FUND; AND

(4) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF A CAPITAL RESERVE FUND.

(E) (1) IF THE BALANCE OF A CAPITAL RESERVE FUND IS LESS THAN THE MINIMUM CAPITAL RESERVE REQUIREMENT ESTABLISHED BY THE ADMINISTRATION FOR THAT FUND, THE ADMINISTRATION:

(I) MAY NOT USE MONEY FROM THE FUND FOR THE OPTIONAL PURCHASE OR REDEMPTION OF A BOND, NOTE, OR OTHER OBLIGATION OF THE ADMINISTRATION; AND

(II) SHALL REPLENISH THE FUND FROM AVAILABLE OPERATING REVENUE GENERATED BY INFRASTRUCTURE PROJECTS OR FUNDS PROVIDED BY THE STATE.

(2) IF AVAILABLE OPERATING REVENUE GENERATED BY INFRASTRUCTURE PROJECTS AND FUNDS PROVIDED BY THE STATE ARE INSUFFICIENT TO REPLENISH A CAPITAL RESERVE FUND AS REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE ADMINISTRATION SHALL REQUEST THAT THE COMPTROLLER ADVANCE THE CONTINGENT FUNDING TO REPLENISH THE CAPITAL RESERVE FUND AS PROVIDED IN THE LOCAL GOVERNMENT INFRASTRUCTURE FINANCING PROGRAM CAPITAL RESERVE FUND LOAN OF 2009 ~~(CHAPTER ___(S.B. ___/H.B. ___)(9LR3031)~~ (CHAPTER 719 (S.B. 932/H.B. 1330) OF THE ACTS OF THE GENERAL ASSEMBLY OF 2009) OR ANY OTHER BOND BILL ENABLING ACT FOR THIS PURPOSE.

(F) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE ADMINISTRATION MAY NOT ISSUE BONDS, NOTES, OR OTHER OBLIGATIONS SECURED IN WHOLE OR IN PART BY A CAPITAL RESERVE FUND IF

ON ISSUANCE THE AMOUNT IN THE CAPITAL RESERVE FUND WILL BE LESS THAN THE MINIMUM CAPITAL RESERVE REQUIREMENT.

(2) THE LIMITATION UNDER PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY IF AT THE TIME OF ISSUANCE AN AMOUNT IS DEPOSITED IN THE CAPITAL RESERVE FUND SO THAT ON ISSUANCE THE TOTAL AMOUNT IN THE CAPITAL RESERVE FUND WILL BE AT LEAST EQUAL TO THE MINIMUM CAPITAL RESERVE REQUIREMENT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009, contingent on the taking effect of ~~Chapter _____ (S.B. _____/H.B. _____) (9lr3031)~~ Chapter 719 (S.B. 932/H.B. 1330) of the Acts of the General Assembly of 2009, and if ~~Chapter _____ (S.B. ____/H.B. ____) (9lr3031)~~ Chapter 719 (S.B. 932/H.B. 1330) does not become effective this Act shall be null and void without the necessity of further action by the General Assembly.

Approved by the Governor, May 19, 2009.

Chapter 629

(Senate Bill 933)

AN ACT concerning

Family Law – State Citizens Review Board for Children and Local Boards of Review – Duties

FOR the purpose of altering the ~~cases required to be reviewed by~~ duties of the State Citizens Review Board for Children and local boards of review for children in out–of–home care; requiring the State Board to tabulate and analyze certain results and submit ~~them~~ certain results and findings to the Department of Human Resources; altering the requirements ~~for certain community forums~~ related to public outreach; altering ~~the frequency of~~ requirements related to certain case reviews by local boards; requiring that certain case reviews be based on certain priorities and a certain agreement; altering the findings and recommendations required to be included in certain reports; ~~repealing a requirement that a local board explain a certain finding;~~ repealing a provision authorizing certain case reviews to include certain questions; and generally relating to the State Citizens Review Board for Children and local boards of review.

BY repealing and reenacting, with amendments,
Article – Family Law
Section 5–539.1 and 5–545

Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

Preamble

WHEREAS, The State has taken measures to ensure the safety and permanency of children entrusted in its care; and

WHEREAS, Local boards should focus on the permanency of children; and

WHEREAS, It is necessary to realign the duties of the local citizens review boards for children to avoid duplication of case review and to ensure that the system is working together; and

WHEREAS, The General Assembly wishes to ensure that children in the State's care have a plan of permanency; now, therefore,

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

Article – Family Law

5–539.1.

(a) In addition to any duties set forth elsewhere, the State Board shall, by examining the policies, procedures, and practices of State and local agencies and [by reviewing], **WHERE APPROPRIATE** ~~IN~~, specific cases, evaluate the extent to which State and local agencies are effectively discharging their child protection responsibilities in accordance with:

(1) the State plan under 42 U.S.C. § 5106a(b);

(2) the child protection standards set forth in 42 U.S.C. § 5106a(b); and

(3) any other criteria that the State Board considers important to ensure the protection of children, including:

(i) a review of the extent to which the State child protective services system is coordinated with the foster care and adoption program established under Part E of Title IV of the Social Security Act; and

(ii) a review of child fatalities and near fatalities.

(b) (1) Case reviews conducted under subsection (a) of this section shall include questions designed to meet the quality assessment goals for casework services in § 5–1308 of this title.

(2) The State Board shall tabulate **AND ANALYZE** the results of **[**the**]** **ALL** case reviews **CONDUCTED UNDER SUBSECTION (A) OF THIS SECTION** and submit the results **AND FINDINGS** for consideration as part of the local department self–assessment process in § 5–1309 of this title.

(3) THE STATE BOARD SHALL TABULATE AND ANALYZE THE RESULTS OF ALL CASE REVIEWS, BOTH ON A JURISDICTIONAL AND A STATEWIDE BASIS, AND SUBMIT THE RESULTS AND FINDINGS TO THE DEPARTMENT ON A QUARTERLY BASIS.

(c) The State Board ~~or its designee shall hold in–person or electronic community forums that~~ **SHALL**~~[~~:

(1)~~]~~ provide for public outreach and comment~~[~~; and

(2) ~~report the~~ **MAKE AVAILABLE TO THE PUBLIC SYSTEMIC** findings and recommendations of the State Board, the local citizen review panel, if any, and the local boards~~]~~.

(d) The State Board may:

(1) by a majority vote of its members add up to four members with expertise in the prevention and treatment of child abuse and neglect for the purpose of performing its duties under this section; and

(2) to assist the State Board in its reviews of specific cases, designate:

(i) local teams composed of members of local boards of out–of–home care of children and staff; or

(ii) local citizens review panels established under § 5–539.2 of this subtitle.

(e) In consultation with local citizens review panels and the State Council on Child Abuse and Neglect, the State Board shall develop protocols that govern the scope of activities of local citizens review panels to reflect the provisions of the federal Child Abuse Prevention and Treatment Act (42 U.S.C. § 5101 et seq.).

(f) The State Board shall coordinate its activities under this section with the State Council on Child Abuse and Neglect, the State Child Fatality Review Team, local citizens review panels, and the local child fatality review teams in order to avoid unnecessary duplication of effort.

(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.

(2) The State Board may combine the reports required under paragraph (1) of this subsection and § 5–539 of this subtitle.

(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.

5–545.

(a) (1) Each local board shall review children in out–of–home care in accordance with the regulations adopted by the State Board and the Secretary of Human Resources.

(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**]** **THAT THE LOCAL BOARDS REVIEW** ~~**ONLY THOSE**~~ **CASES** ~~**WITH A PLAN OF ADOPTION OR ANOTHER PLANNED PERMANENT LIVING ARRANGEMENT, TO INCLUDE:**~~

~~**(I) A REVIEW OF EACH CASE AT LEAST 6 MONTHS AFTER THE CHANGE OF PLAN; AND**~~

~~**(II) SUBSEQUENT REVIEWS OF CASES WITH A PLAN OF ADOPTION OR ANOTHER PLANNED PERMANENT LIVING ARRANGEMENT WHEN THE COURT, THE LOCAL DEPARTMENT, OR THE LOCAL BOARD RAISES A CONCERN THAT THE LOCAL BOARD MAY ADDRESS THROUGH FINDINGS AND RECOMMENDATIONS REQUIRED UNDER SUBSECTION (C) OF THIS SECTION**~~ **BASED ON PRIORITIES AGREED UPON BY THE DEPARTMENT AND THE STATE BOARD AND STATED IN A MEMORANDUM OF AGREEMENT**.

(b) Each local board shall report in writing to the juvenile court and the local department on each minor child whose case is reviewed by the local board.

(c) In the report, the local board shall include**, WHERE APPLICABLE,** the following findings and recommendations:

[(1) the applicability of provisions authorizing the waiver of reunification services in § 3–812 of the Courts Article;

(2) the appropriateness of the termination of parental rights for a minor child, including the applicability of the requirements and exceptions described in § 5–525.1 of this subtitle;

(3) agreement or disagreement with the permanency plan;

(4) any reasonable efforts made toward the preservation of family relationships and connections;]

~~(1) FOR CASES WITH A PLAN OF ADOPTION:~~

~~(I) THAT THE CHILD IS RECEIVING APPROPRIATE SERVICES TO ACHIEVE THE STATED PERMANENCY GOAL;~~

~~(II) THAT THE CHILD WILL ACHIEVE PERMANENCY IN A TIMELY MANNER; AND~~

~~(III)~~ (5) THE IDENTIFICATION OF BARRIERS TO ACHIEVE TIMELY PERMANENCY; ~~AND~~

~~(2) FOR CASES WITH ANOTHER PLANNED PERMANENT LIVING ARRANGEMENT:~~

~~(I) THAT THE CHILD'S PERMANENCY PLAN IS APPROPRIATE;~~

~~(II)~~ (6) ~~THAT~~ WHETHER THE CHILD IS RECEIVING APPROPRIATE SERVICES TO ACHIEVE THE STATED PERMANENCY GOAL;

~~(III) THAT THE CHILD WILL ACHIEVE PERMANENCY IN A TIMELY MANNER;~~

[(5)] **~~(IV)~~ (7)** any reasonable efforts made towards a permanent placement and preparing the child for independent living, if applicable;

[~~(6)~~ **(8)** the level of safety of current and planned living arrangements and the adequacy of the Department's efforts to keep the child safe;

~~(7)~~ **(9)** the appropriateness of the current living arrangement and agreement or disagreement with the local department's placement plan; ~~and~~

~~(8)]~~ ~~(V)~~ **(10)** the appropriateness of efforts to meet the child's education and health care needs**; AND**

~~(VI)~~ **(11) ANY REASONABLE EFFORTS MADE TOWARDS PROMOTING THE CHILD'S RELATIONSHIP WITH INDIVIDUALS WHO WILL PLAY A LASTING, SUPPORTIVE ROLE IN THE CHILD'S LIFE**.

~~[~~(d) (1) If the local board finds under subsection (c)(7) of this section that a child's current living arrangement is not appropriate and the child is not placed in the jurisdiction of origin, the local board shall explain why the arrangement is inappropriate, including whether:

(i) resources are not available to meet the child's service needs;

(ii) family treatment services are not accessible;

(iii) distance is a barrier to family visitation; or

(iv) the local school system is not meeting the child's educational needs.

(2) If the local board disagrees under subsection (c)(7) of this section with the local department's placement plan and the child would be placed outside the jurisdiction of origin, the local board shall explain why the plan is inappropriate, including whether:

(i) resources are not available to meet the child's service needs;

(ii) family treatment services are not accessible;

(iii) distance is a barrier to family visitation; or

(iv) the local school system is not meeting the child's educational needs.~~]~~

~~[~~(e)~~]~~ ~~(D)~~ (1) **[**Case reviews conducted under this section may include questions designed to meet the quality assessment goals for casework services in § 5–1308 of this title.

(2)**]** The State Board shall tabulate **AND ANALYZE** the results of the case reviews and submit the results **AND FINDINGS** for consideration as part of the local department self–assessment process in § 5–1309 of this title.

(2) THE STATE BOARD SHALL TABULATE AND ANALYZE RESULTS OF CASE REVIEWS, BOTH ON A JURISDICTIONAL AND A STATEWIDE BASIS, AND SUBMIT THE RESULTS AND FINDINGS TO THE DEPARTMENT ON A QUARTERLY BASIS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 630

(House Bill 1337)

AN ACT concerning

Family Law – State Citizens Review Board for Children and Local Boards of Review – Duties

FOR the purpose of altering the ~~cases required to be reviewed by~~ duties of the State Citizens Review Board for Children and local boards of review for children in out–of–home care; requiring the State Board to tabulate and analyze certain results and submit ~~them~~ certain results and findings to the Department of Human Resources; altering the requirements ~~for certain community forums~~ related to public outreach; altering ~~the frequency of~~ requirements related to certain case reviews by local boards; requiring that certain case reviews be based on certain priorities and a certain agreement; altering the findings and recommendations required to be included in certain reports; ~~repealing a requirement that a local board explain a certain finding;~~ repealing a provision authorizing certain case reviews to include certain questions; and generally relating to the State Citizens Review Board for Children and local boards of review.

BY repealing and reenacting, with amendments,
Article – Family Law
Section 5–539.1 and 5–545
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

Preamble

WHEREAS, The State has taken measures to ensure the safety and permanency of children entrusted in its care; and

WHEREAS, Local boards should focus on the permanency of children; and

WHEREAS, It is necessary to realign the duties of the local citizens review boards for children to avoid duplication of case review and to ensure that the system is working together; and

WHEREAS, The General Assembly wishes to ensure that children in the State's care have a plan of permanency; now, therefore,

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

Article – Family Law

5–539.1.

(a) In addition to any duties set forth elsewhere, the State Board shall, by examining the policies, procedures, and practices of State and local agencies and [by reviewing], **WHERE APPROPRIATE** ~~**IN,**~~ specific cases, evaluate the extent to which State and local agencies are effectively discharging their child protection responsibilities in accordance with:

(1) the State plan under 42 U.S.C. § 5106a(b);

(2) the child protection standards set forth in 42 U.S.C. § 5106a(b); and

(3) any other criteria that the State Board considers important to ensure the protection of children, including:

(i) a review of the extent to which the State child protective services system is coordinated with the foster care and adoption program established under Part E of Title IV of the Social Security Act; and

(ii) a review of child fatalities and near fatalities.

(b) (1) Case reviews conducted under subsection (a) of this section shall include questions designed to meet the quality assessment goals for casework services in § 5–1308 of this title.

(2) The State Board shall tabulate **AND ANALYZE** the results of [the] **ALL** case reviews **CONDUCTED UNDER SUBSECTION (A) OF THIS SECTION** and submit the results **AND FINDINGS** for consideration as part of the local department self–assessment process in § 5–1309 of this title.

(3) THE STATE BOARD SHALL TABULATE AND ANALYZE THE RESULTS OF ALL CASE REVIEWS, BOTH ON A JURISDICTIONAL AND A STATEWIDE

BASIS, AND SUBMIT THE RESULTS AND FINDINGS TO THE DEPARTMENT ON A QUARTERLY BASIS.

(c) The State Board ~~or its designee shall hold in–person or electronic community forums that~~ **SHALL**[:

(1)] provide for public outreach and comment[; and

(2) ~~report the~~ **MAKE AVAILABLE TO THE PUBLIC SYSTEMIC** findings and recommendations of the State Board, the local citizen review panel, if any, and the local boards].

(d) The State Board may:

(1) by a majority vote of its members add up to four members with expertise in the prevention and treatment of child abuse and neglect for the purpose of performing its duties under this section; and

(2) to assist the State Board in its reviews of specific cases, designate:

(i) local teams composed of members of local boards of out–of–home care of children and staff; or

(ii) local citizens review panels established under § 5–539.2 of this subtitle.

(e) In consultation with local citizens review panels and the State Council on Child Abuse and Neglect, the State Board shall develop protocols that govern the scope of activities of local citizens review panels to reflect the provisions of the federal Child Abuse Prevention and Treatment Act (42 U.S.C. § 5101 et seq.).

(f) The State Board shall coordinate its activities under this section with the State Council on Child Abuse and Neglect, the State Child Fatality Review Team, local citizens review panels, and the local child fatality review teams in order to avoid unnecessary duplication of effort.

(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.

(2) The State Board may combine the reports required under paragraph (1) of this subsection and § 5–539 of this subtitle.

(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.

5–545.

(a) (1) Each local board shall review children in out–of–home care in accordance with the regulations adopted by the State Board and the Secretary of Human Resources.

(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**]** **THAT THE LOCAL BOARDS REVIEW** ~~**ONLY THOSE**~~ **CASES** ~~**WITH A PLAN OF ADOPTION OR ANOTHER PLANNED PERMANENT LIVING ARRANGEMENT, TO INCLUDE:**~~

~~**(I) A REVIEW OF EACH CASE AT LEAST 6 MONTHS AFTER THE CHANGE OF PLAN; AND**~~

~~**(II) SUBSEQUENT REVIEWS OF CASES WITH A PLAN OF ADOPTION OR ANOTHER PLANNED PERMANENT LIVING ARRANGEMENT WHEN THE COURT, THE LOCAL DEPARTMENT, OR THE LOCAL BOARD RAISES A CONCERN THAT THE LOCAL BOARD MAY ADDRESS THROUGH FINDINGS AND RECOMMENDATIONS REQUIRED UNDER SUBSECTION (C) OF THIS SECTION**~~ **BASED ON PRIORITIES AGREED UPON BY THE** ~~**LOCAL DEPARTMENT**~~ ***DEPARTMENT*** **AND THE STATE BOARD AND STATED IN A MEMORANDUM OF AGREEMENT**.

(b) Each local board shall report in writing to the juvenile court and the local department on each minor child whose case is reviewed by the local board.

(c) In the report, the local board shall include**, WHERE APPLICABLE,** the following findings and recommendations:

~~**[**~~(1) the applicability of provisions authorizing the waiver of reunification services in § 3–812 of the Courts Article;

(2) the appropriateness of the termination of parental rights for a minor child, including the applicability of the requirements and exceptions described in § 5–525.1 of this subtitle;

(3) agreement or disagreement with the permanency plan;

(4) any reasonable efforts made toward the preservation of family relationships and connections;~~]~~

~~**(1) FOR CASES WITH A PLAN OF ADOPTION:**~~

~~**(I) THAT THE CHILD IS RECEIVING APPROPRIATE SERVICES TO ACHIEVE THE STATED PERMANENCY GOAL;**~~

~~**(II) THAT THE CHILD WILL ACHIEVE PERMANENCY IN A TIMELY MANNER; AND**~~

~~**(III)**~~ **(5) THE IDENTIFICATION OF BARRIERS TO ACHIEVE TIMELY PERMANENCY;** ~~**AND**~~

~~**(2) FOR CASES WITH ANOTHER PLANNED PERMANENT LIVING ARRANGEMENT:**~~

~~**(I) THAT THE CHILD'S PERMANENCY PLAN IS APPROPRIATE;**~~

~~**(II)**~~ **(6)** ~~**THAT**~~ **WHETHER THE CHILD IS RECEIVING APPROPRIATE SERVICES TO ACHIEVE THE STATED PERMANENCY GOAL;**

~~**(III) THAT THE CHILD WILL ACHIEVE PERMANENCY IN A TIMELY MANNER;**~~

[(5)**]** ~~**(IV)**~~ **(7)** any reasonable efforts made towards a permanent placement and preparing the child for independent living, if applicable;

~~**[**(6)~~ **(8)** the level of safety of current and planned living arrangements and the adequacy of the Department's efforts to keep the child safe;

~~(7)~~ **(9)** the appropriateness of the current living arrangement and agreement or disagreement with the local department's placement plan; ~~and~~

~~(8)**]**~~ ~~**(V)**~~ **(10)** the appropriateness of efforts to meet the child's education and health care needs**; AND**

~~(VI)~~ **(11)** **ANY REASONABLE EFFORTS MADE TOWARDS PROMOTING THE CHILD'S RELATIONSHIP WITH INDIVIDUALS WHO WILL PLAY A LASTING, SUPPORTIVE ROLE IN THE CHILD'S LIFE**.

~~[~~(d) (1) If the local board finds under subsection (c)(7) of this section that a child's current living arrangement is not appropriate and the child is not placed in the jurisdiction of origin, the local board shall explain why the arrangement is inappropriate, including whether:

(i) resources are not available to meet the child's service needs;

(ii) family treatment services are not accessible;

(iii) distance is a barrier to family visitation; or

(iv) the local school system is not meeting the child's educational needs.

(2) If the local board disagrees under subsection (c)(7) of this section with the local department's placement plan and the child would be placed outside the jurisdiction of origin, the local board shall explain why the plan is inappropriate, including whether:

(i) resources are not available to meet the child's service needs;

(ii) family treatment services are not accessible;

(iii) distance is a barrier to family visitation; or

(iv) the local school system is not meeting the child's educational needs.~~]~~

~~[~~(e)~~]~~ ~~(D)~~ (1) **[**Case reviews conducted under this section may include questions designed to meet the quality assessment goals for casework services in § 5–1308 of this title.

(2)**]** The State Board shall tabulate **AND ANALYZE** the results of the case reviews and submit the results **AND FINDINGS** for consideration as part of the local department self–assessment process in § 5–1309 of this title.

(2) THE STATE BOARD SHALL TABULATE AND ANALYZE RESULTS OF CASE REVIEWS, BOTH ON A JURISDICTIONAL AND A STATEWIDE BASIS, AND SUBMIT THE RESULTS AND FINDINGS TO THE DEPARTMENT ON A QUARTERLY BASIS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 631

(Senate Bill 962)

AN ACT concerning

Town of University Park Employees – Participation in the Employees' Pension System

FOR the purpose of requiring certain employees of the Town of University Park to participate in the Employees' Pension System of the State of Maryland as of a certain date; providing for certain employees of the Town of University Park to receive service credit for certain prior service; providing that certain employees of the Town of University Park who become members of the Employees' Pension System after a certain date may not receive certain service credit; and generally relating to employees of the Town of University Park participating in the Employees' Pension System.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 23–201(a), 23–204(b), and 31–111
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

BY adding to
Article – State Personnel and Pensions
Section 31–111.5
Annotated Code of Maryland
(2004 Replacement Volume and 2008 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

23–201.

(a) Except as provided in subsection (b) of this section, §§ 23–203 through 23–205 of this subtitle apply only to:

(1) a regular employee whose compensation is provided by State appropriation or paid from State funds;

(2) an appointed or elected official of the State, including:

(i) a clerk of the circuit court;

(ii) a register of wills;

(iii) a State's Attorney; and

(iv) a sheriff;

(3) an employee or official of a participating governmental unit who is eligible to participate under Title 31, Subtitle 1 of this article;

(4) an employee of the Office of the Sheriff of Baltimore City;

(5) an additional employee or agent of the State Racing Commission authorized by § 11–207 of the Business Regulation Article;

(6) a permanent employee of the board of supervisors of elections of a county;

(7) a full–time master in chancery or in juvenile causes who is appointed on or after July 1, 1989, in any county by the circuit court for that county;

(8) an employee of the Maryland Environmental Service who is a member of the Employees' Pension System on June 30, 1993, or transfers from the Employees' Retirement System on or after July 1, 1993;

(9) a former Baltimore City jail employee who became an employee of the Baltimore City Detention Center and a member of the Employees' Pension System on July 1, 1991;

(10) a nonfaculty employee of the Baltimore City Community College who:

(i) is a member of the Employees' Pension System on October 1, 2002;

(ii) transfers from the Employees' Retirement System on or after October 1, 2002;

(iii) transfers from the Teachers' Pension System in accordance with § 23–202.1 of this subtitle; or

(iv) becomes an employee of the Baltimore City Community College on or after October 1, 2002;

(11) a court reporter for the Circuit Court for Charles County who is a member of the Employees' Pension System on July 1, 1994, or transfers from the Employees' Retirement System on or after July 1, 1994;

(12) a staff employee of the University System of Maryland, Morgan State University, or St. Mary's College who is:

(i) a member of the Employees' Pension System on January 1, 1998, or transfers from the Employees' Retirement System on or after January 1, 1998; or

(ii) a staff employee of the University System of Maryland, Morgan State University, or St. Mary's College who becomes an employee on or after January 1, 1998;

(13) on or after the date that the Board of Education of Kent County begins participation in the Employees' Pension System, a supportive service employee of the Board of Education of Kent County;

(14) an employee of the Town of Oakland on or after the date that the Town of Oakland begins participation in the Employees' Pension System;

(15) an employee of the City of Frostburg on or after the date that the City of Frostburg begins participation in the Employees' Pension System; **[**and**]**

(16) an employee of the Town of Berwyn Heights on or after the date that the Town of Berwyn Heights begins participation in the Employees' Pension System**; AND**

(17) AN EMPLOYEE OF THE TOWN OF UNIVERSITY PARK ON OR AFTER THE DATE THAT THE TOWN OF UNIVERSITY PARK BEGINS PARTICIPATION IN THE EMPLOYEES' PENSION SYSTEM.

23–204.

(b) (1) This subsection does not apply to an employee of the Town of Berwyn Heights.

(2) (i) Except as provided in paragraph (3) of this subsection, this subsection applies only to the employees of a participating governmental unit who:

1. are employed by the participating governmental unit on June 30, 2004; and

2. were employed by the participating governmental unit on the effective date of participation in the State systems.

(ii) Except as provided in paragraph (3) of this subsection, membership in the Employees' Pension System is optional for an individual under subparagraph (i) of this paragraph until the individual ceases employment with the participating governmental unit that was employing the individual on June 30, 2004.

(3) Membership in the Employees' Pension System is not optional for individuals who are:

(i) supportive service employees of the Board of Education of Kent County;

(ii) employees of the Town of Oakland; **[**or**]**

(iii) employees of the City of Frostburg**; OR**

(IV) EMPLOYEES OF THE TOWN OF UNIVERSITY PARK.

31–111.

(a) Except as provided in subsection (b) of this section and §§ 31–111.1, 31–111.3, **[**and**]** 31–111.4**, AND 31–111.5** of this subtitle, if an employee of a participating governmental unit joins the Employees' Pension System within 1 year after the effective date, the employee is entitled to service credit for employment with the participating governmental unit before the effective date.

(b) If an employee of the Baltimore Metropolitan Council elects to become a member of the Employees' Retirement System or the Employees' Pension System, the employee may not receive credit for service from July 1, 1992, to the effective date unless the employee pays to the Board of Trustees the amount of the member contributions the employee would have made during that period, plus regular interest.

31–111.5.

(A) AN INDIVIDUAL WHO IS AN EMPLOYEE OF THE TOWN OF UNIVERSITY PARK ON THE EFFECTIVE DATE SHALL RECEIVE ELIGIBILITY SERVICE AND CREDITABLE SERVICE IN THE EMPLOYEES' PENSION SYSTEM EQUAL TO ~~90%~~ 70% OF THE INDIVIDUAL'S PERIOD OF EMPLOYMENT WITH THE TOWN OF UNIVERSITY PARK BEFORE THE EFFECTIVE DATE AS CERTIFIED BY THE TOWN OF UNIVERSITY PARK AS OF THE EFFECTIVE DATE.

(B) IF AN EMPLOYEE OR FORMER EMPLOYEE OF THE TOWN OF UNIVERSITY PARK BECOMES A MEMBER OF THE EMPLOYEES' PENSION SYSTEM

AT ANY TIME AFTER THE EFFECTIVE DATE, THE EMPLOYEE MAY NOT RECEIVE SERVICE CREDIT FOR EMPLOYMENT WITH THE TOWN OF UNIVERSITY PARK BEFORE THE EFFECTIVE DATE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 632

(House Bill 1383)

AN ACT concerning

Town of University Park Employees – Participation in the Employees' Pension System

FOR the purpose of requiring certain employees of the Town of University Park to participate in the Employees' Pension System of the State of Maryland as of a certain date; providing for certain employees of the Town of University Park to receive service credit for certain prior service; providing that certain employees of the Town of University Park who become members of the Employees' Pension System after a certain date may not receive certain service credit; and generally relating to employees of the Town of University Park participating in the Employees' Pension System.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 23–201(a), 23–204(b), and 31–111
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

BY adding to
Article – State Personnel and Pensions
Section 31–111.5
Annotated Code of Maryland
(2004 Replacement Volume and 2008 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

23–201.

(a) Except as provided in subsection (b) of this section, §§ 23–203 through 23–205 of this subtitle apply only to:

(1) a regular employee whose compensation is provided by State appropriation or paid from State funds;

(2) an appointed or elected official of the State, including:

(i) a clerk of the circuit court;

(ii) a register of wills;

(iii) a State's Attorney; and

(iv) a sheriff;

(3) an employee or official of a participating governmental unit who is eligible to participate under Title 31, Subtitle 1 of this article;

(4) an employee of the Office of the Sheriff of Baltimore City;

(5) an additional employee or agent of the State Racing Commission authorized by § 11–207 of the Business Regulation Article;

(6) a permanent employee of the board of supervisors of elections of a county;

(7) a full–time master in chancery or in juvenile causes who is appointed on or after July 1, 1989, in any county by the circuit court for that county;

(8) an employee of the Maryland Environmental Service who is a member of the Employees' Pension System on June 30, 1993, or transfers from the Employees' Retirement System on or after July 1, 1993;

(9) a former Baltimore City jail employee who became an employee of the Baltimore City Detention Center and a member of the Employees' Pension System on July 1, 1991;

(10) a nonfaculty employee of the Baltimore City Community College who:

(i) is a member of the Employees' Pension System on October 1, 2002;

(ii) transfers from the Employees' Retirement System on or after October 1, 2002;

(iii) transfers from the Teachers' Pension System in accordance with § 23–202.1 of this subtitle; or

(iv) becomes an employee of the Baltimore City Community College on or after October 1, 2002;

(11) a court reporter for the Circuit Court for Charles County who is a member of the Employees' Pension System on July 1, 1994, or transfers from the Employees' Retirement System on or after July 1, 1994;

(12) a staff employee of the University System of Maryland, Morgan State University, or St. Mary's College who is:

(i) a member of the Employees' Pension System on January 1, 1998, or transfers from the Employees' Retirement System on or after January 1, 1998; or

(ii) a staff employee of the University System of Maryland, Morgan State University, or St. Mary's College who becomes an employee on or after January 1, 1998;

(13) on or after the date that the Board of Education of Kent County begins participation in the Employees' Pension System, a supportive service employee of the Board of Education of Kent County;

(14) an employee of the Town of Oakland on or after the date that the Town of Oakland begins participation in the Employees' Pension System;

(15) an employee of the City of Frostburg on or after the date that the City of Frostburg begins participation in the Employees' Pension System; **[**and**]**

(16) an employee of the Town of Berwyn Heights on or after the date that the Town of Berwyn Heights begins participation in the Employees' Pension System**; AND**

(17) AN EMPLOYEE OF THE TOWN OF UNIVERSITY PARK ON OR AFTER THE DATE THAT THE TOWN OF UNIVERSITY PARK BEGINS PARTICIPATION IN THE EMPLOYEES' PENSION SYSTEM.

23–204.

(b) (1) This subsection does not apply to an employee of the Town of Berwyn Heights.

(2) (i) Except as provided in paragraph (3) of this subsection, this subsection applies only to the employees of a participating governmental unit who:

1. are employed by the participating governmental unit on June 30, 2004; and

2. were employed by the participating governmental unit on the effective date of participation in the State systems.

(ii) Except as provided in paragraph (3) of this subsection, membership in the Employees' Pension System is optional for an individual under subparagraph (i) of this paragraph until the individual ceases employment with the participating governmental unit that was employing the individual on June 30, 2004.

(3) Membership in the Employees' Pension System is not optional for individuals who are:

(i) supportive service employees of the Board of Education of Kent County;

(ii) employees of the Town of Oakland; **[**or**]**

(iii) employees of the City of Frostburg**; OR**

(IV) EMPLOYEES OF THE TOWN OF UNIVERSITY PARK.

31–111.

(a) Except as provided in subsection (b) of this section and §§ 31–111.1, 31–111.3, **[**and**]** 31–111.4**, AND 31–111.5** of this subtitle, if an employee of a participating governmental unit joins the Employees' Pension System within 1 year after the effective date, the employee is entitled to service credit for employment with the participating governmental unit before the effective date.

(b) If an employee of the Baltimore Metropolitan Council elects to become a member of the Employees' Retirement System or the Employees' Pension System, the employee may not receive credit for service from July 1, 1992, to the effective date unless the employee pays to the Board of Trustees the amount of the member contributions the employee would have made during that period, plus regular interest.

31–111.5.

(A) AN INDIVIDUAL WHO IS AN EMPLOYEE OF THE TOWN OF UNIVERSITY PARK ON THE EFFECTIVE DATE SHALL RECEIVE ELIGIBILITY SERVICE AND CREDITABLE SERVICE IN THE EMPLOYEES' PENSION SYSTEM EQUAL TO ~~90%~~ 70% OF THE INDIVIDUAL'S PERIOD OF EMPLOYMENT WITH THE

TOWN OF UNIVERSITY PARK BEFORE THE EFFECTIVE DATE AS CERTIFIED BY THE TOWN OF UNIVERSITY PARK AS OF THE EFFECTIVE DATE.

(B) IF AN EMPLOYEE OR FORMER EMPLOYEE OF THE TOWN OF UNIVERSITY PARK BECOMES A MEMBER OF THE EMPLOYEES' PENSION SYSTEM AT ANY TIME AFTER THE EFFECTIVE DATE, THE EMPLOYEE MAY NOT RECEIVE SERVICE CREDIT FOR EMPLOYMENT WITH THE TOWN OF UNIVERSITY PARK BEFORE THE EFFECTIVE DATE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 633

(Senate Bill 964)

AN ACT concerning

Caroline County Board of Education – Election and Appointment of Members – Referendum

FOR the purpose of requiring that ~~the~~ certain members of the Caroline County Board of Education be elected; requiring that certain members of the Caroline County Board of Education be appointed by the Governor with the advice and consent of the Senate; establishing a procedure for the election of certain members of the county board; specifying that ~~the~~ certain members be elected by certain districts; specifying elected member qualifications; establishing qualifications for certain student members; providing that certain high schools in Caroline County have representation through a student member of the county board; providing for the appointment of certain members by the Governor with the advice and consent of the Senate; specifying certain criteria for the Governor with regard to the appointment of certain members; providing for the nomination and selection of certain student members; establishing a certain term of office for the elected members; specifying the initial terms of the elected members and staggering their terms; providing a procedure for filling ~~a vacancy~~ certain vacancies on the county board; requiring the county board to conduct certain interviews and publish certain notices when filling a vacancy; providing for the removal of certain members under certain circumstances; providing for the election of the president and vice president of the county board; providing for the compensation and expenses of ~~the~~ certain members of the county board; requiring the county board to meet at certain intervals; providing that the terms of certain appointed members of the county board shall expire on a

certain date; making a stylistic change; submitting this Act to a referendum of the legally qualified voters of Caroline County; and generally relating to the Caroline County Board of Education and the election and appointment of its members.

BY repealing and reenacting, with amendments,
Article – Education
Section ~~3–114(a)~~ 3–108(a) and 3–114
Annotated Code of Maryland
(2008 Replacement Volume)

BY adding to
Article – Education
Section 3–3A–01 through 3–3A–06 to be under the new subtitle "Subtitle 3A. Caroline County"
Annotated Code of Maryland
(2008 Replacement Volume)

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

Article – Education

3–108.

(a) **(1)** Except [for the Baltimore City Board of School Commissioners established under § 3–108.1 of this subtitle, counties listed in § 3–114 of this subtitle, and subject to the provisions of § 3–110 of this subtitle with respect to the Anne Arundel County Board of Education] **AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION**, the Governor shall appoint the members of each county board from the residents of that county.

(2) THE MEMBERS OF THE FOLLOWING COUNTY BOARDS OF EDUCATION SHALL BE SELECTED AS FOLLOWS:

(I) THE BALTIMORE CITY BOARD OF SCHOOL COMMISSIONERS IN ACCORDANCE WITH § 3–108.1 OF THIS SUBTITLE;

(II) THE CAROLINE COUNTY BOARD OF EDUCATION IN ACCORDANCE WITH § 3–3A–02 OF THIS TITLE;

(III) THE ANNE ARUNDEL COUNTY BOARD OF EDUCATION IN ACCORDANCE WITH § 3–110 OF THIS SUBTITLE; AND

(IV) THE COUNTY BOARDS OF EDUCATION IN THE COUNTIES LISTED IN § 3–114 OF THIS SUBTITLE IN ACCORDANCE WITH THE PROVISIONS OF THAT SECTION.

3–114.

(a) In the following counties, the members of the county board shall be elected:

(1) Allegany;

(2) Calvert;

~~**(3) CAROLINE;**~~

~~**[**(3)**] (4)** Carroll;~~

~~**[**(4)**] (5)** Cecil;~~

~~**[**(5)**] (6)** Charles;~~

~~**[**(6)**] (7)** Dorchester;~~

~~**[**(7)**] (8)** Frederick;~~

~~**[**(8)**] (9)** Garrett;~~

~~**[**(9)**] (10)** Howard;~~

~~**[**(10)**] (11)** Kent;~~

~~**[**(11) Prince George's;~~

~~(12) Montgomery;**]**~~

~~**(12) MONTGOMERY;**~~

~~**(13) PRINCE GEORGE'S;**~~

~~**[**(13)**] (14)** Queen Anne's;~~

~~**[**(14)**]** **(15)** St. Mary's;~~

~~**[**(15)**] (16)** Somerset;~~

~~[(16)] (17) Talbot;~~

~~[(17)] (18) Washington; and~~

~~[(18)] (19) Worcester.~~

(3) Carroll;

(4) Cecil;

(5) Charles;

(6) Dorchester;

(7) Frederick;

(8) Garrett;

(9) Howard;

(10) Kent;

(11) Prince George's;

(12) Montgomery;

(13) Queen Anne's;

(14) St. Mary's;

(15) Somerset;

(16) Talbot;

(17) Washington; and

(18) Worcester.

(B) IN CAROLINE COUNTY, IN ACCORDANCE WITH SUBTITLE 3A OF THIS TITLE, THE MEMBERS OF THE COUNTY BOARD SHALL BE A COMBINATION OF MEMBERS WHO ARE ELECTED AND APPOINTED.

[(b)**] (C)** An individual subject to the authority of the county board may not serve as a member of the county board. At the time of filing a certificate of candidacy for election to a county board, a person shall certify to the local board of supervisors of election whether or not he is subject to the authority of the county board. The

Governor shall not issue a commission of election to a person who has certified affirmatively and who is elected to a county board until the member–elect offers proof that he is no longer subject to the authority of the county board.

[(c)] **(D)** The election of the county boards shall be held as provided in Subtitles 2 through 14 of this title and the Election Law Article.

SUBTITLE 3A. CAROLINE COUNTY.

3–3A–01.

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

(B) "APPOINTED MEMBER" MEANS ONE OF THE ~~THREE~~ TWO VOTING MEMBERS APPOINTED BY THE GOVERNOR, WITH THE ADVICE AND CONSENT OF THE SENATE, UNDER ~~§ 3–3A–02(B)(2)~~ § 3–3A–02(B)(3)(I)1 OF THIS SUBTITLE.

~~(B)~~ (C) "BOARD OF EDUCATION DISTRICT" OR "DISTRICT" MEANS A GEOGRAPHIC AREA OF CAROLINE COUNTY IN WHICH AN ELECTED MEMBER OF THE CAROLINE COUNTY BOARD OF EDUCATION MUST BE A LEGAL RESIDENT.

~~(C)~~ (D) (1) "ELECTED MEMBER" MEANS ONE OF THE ~~FIVE~~ THREE NONPARTISAN VOTING MEMBERS OF THE CAROLINE COUNTY BOARD OF EDUCATION ELECTED BY THE VOTERS OF CAROLINE COUNTY.

(2) "ELECTED MEMBER" DOES NOT INCLUDE THE NONVOTING STUDENT MEMBERS SELECTED UNDER § 3–3A–02(F) OF THIS SUBTITLE.

3–3A–02.

(A) THE CAROLINE COUNTY BOARD OF EDUCATION CONSISTS OF ~~FIVE~~:

(1) ~~FIVE~~ THREE ELECTED MEMBERS;

(2) ~~THREE~~ TWO APPOINTED MEMBERS; AND

(3) TWO NONVOTING STUDENT MEMBERS.

(B) (1) ONE ELECTED MEMBER SHALL BE ELECTED FROM EACH OF THE ~~FIVE~~ THREE BOARD OF EDUCATION DISTRICTS ESTABLISHED IN CAROLINE COUNTY.

(2) AN ELECTED MEMBER SHALL BE:

(I) A RESIDENT OF THE DISTRICT FROM WHICH THE MEMBER IS ELECTED; AND

(II) ELECTED ONLY BY THE VOTERS OF THAT DISTRICT.

(3) (I) 1. ~~THREE~~ TWO APPOINTED MEMBERS SHALL BE APPOINTED BY THE GOVERNOR, WITH THE ADVICE AND CONSENT OF THE SENATE, FROM THE COUNTY AT–LARGE.

2. EACH APPOINTED MEMBER SHALL BE A RESIDENT OF THE COUNTY.

(II) IN APPOINTING MEMBERS TO THE COUNTY BOARD, THE GOVERNOR SHALL ENSURE, TO THE EXTENT PRACTICABLE, THAT THE TOTAL MAKEUP OF THE COUNTY BOARD REFLECTS GENDER, ETHNIC, AND RACIAL DIVERSITY.

(C) (1) THE BOARD OF EDUCATION DISTRICTS SHALL:

(I) BE ESTABLISHED BY THE COUNTY COMMISSIONERS OF CAROLINE COUNTY; AND

(II) BE SUBSTANTIALLY EQUAL IN POPULATION AND REAPPORTIONED ON THE BASIS OF EACH DECENNIAL CENSUS OF THE UNITED STATES.

(2) REAPPORTIONED DISTRICTS SHALL BECOME EFFECTIVE FOR THE TERM OF OFFICE COMMENCING AFTER THE FIRST REGULAR PRIMARY ELECTION HELD AT LEAST 15 MONTHS AFTER THE OFFICIAL REPORT ON POPULATION IS RECEIVED BY THE STATE FROM THE BUREAU OF THE CENSUS.

(D) (1) AS APPLICABLE FOR THAT BOARD OF EDUCATION DISTRICT, AT THE GENERAL ELECTION THE BALLOT SHALL PROVIDE THE VOTER WITH THE CHOICE TO CAST A VOTE "FOR" A CANDIDATE FOR ELECTION FROM THAT DISTRICT.

(2) AFTER THE ELECTION RESULTS ARE CERTIFIED, THE STATE BOARD OF ELECTIONS SHALL DECLARE FOR EACH DISTRICT WHETHER A CANDIDATE HAS BEEN ELECTED.

(E) (1) AN INDIVIDUAL ELECTED TO THE COUNTY BOARD SHALL BE AT LEAST 21 YEARS OLD AND A REGISTERED VOTER AND RESIDENT OF CAROLINE COUNTY FOR AT LEAST 3 YEARS.

(2) A MEMBER MAY NOT CONTINUE AS A MEMBER OF THE COUNTY BOARD IF THE MEMBER:

(I) NO LONGER RESIDES IN THE BOARD OF EDUCATION DISTRICT THAT THE MEMBER IS DESIGNATED TO REPRESENT; OR

(II) IS NOT A REGISTERED VOTER OF CAROLINE COUNTY.

(3) AN INDIVIDUAL EMPLOYED BY, OR UNDER THE DIRECTION OF, THE COUNTY BOARD OR THE CAROLINE COUNTY SUPERINTENDENT OF SCHOOLS IS NOT ELIGIBLE TO SERVE ON THE COUNTY BOARD.

(F) (1) A STUDENT MEMBER OF THE COUNTY BOARD SHALL:

(I) BE A REGULARLY ENROLLED ELEVENTH OR TWELFTH GRADE STUDENT OF GOOD CHARACTER AND IN GOOD STANDING IN A CAROLINE COUNTY PUBLIC HIGH SCHOOL DURING THE STUDENT'S TERM IN OFFICE;

(II) BE SELECTED IN THE STUDENT'S TENTH OR ELEVENTH GRADE IN ACCORDANCE WITH PARAGRAPH (3) OF THIS SUBSECTION; AND

(III) 1. SERVE FOR A TERM OF 1 YEAR; AND

2. IF THE STUDENT IS IN THE TWELFTH GRADE, CONTINUE TO SERVE AFTER GRADUATION AND UNTIL A SUCCESSOR IS SELECTED AND QUALIFIES.

(2) EACH HIGH SCHOOL IN THE COUNTY SHALL BE REPRESENTED BY A STUDENT MEMBER OF THE COUNTY BOARD.

(3) (I) FOR NOMINATION TO THE COUNTY BOARD, THE STUDENT BODY SHALL SUBMIT TO THE PRINCIPAL OF THE HIGH SCHOOL A LIST OF NOMINEES THAT CONTAINS THE NAMES OF ELIGIBLE STUDENTS.

(II) THE PRINCIPAL OF THE HIGH SCHOOL SHALL SELECT THE STUDENT MEMBER FROM THE LIST OF NOMINEES SUBMITTED TO THE PRINCIPAL UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

(4) IF A VACANCY IN THE POSITION OF STUDENT MEMBER OCCURS DURING THE TERM OF A STUDENT MEMBER, THE PRINCIPAL OF THE HIGH SCHOOL REPRESENTED ON THE COUNTY BOARD SHALL SELECT ANOTHER STUDENT MEMBER USING THE METHOD SET FORTH UNDER PARAGRAPH (3) OF THIS SUBSECTION.

~~(F)~~ (G) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, EACH ELECTED MEMBER SERVES FOR A TERM OF 4 YEARS BEGINNING ON THE FIRST MONDAY IN DECEMBER AFTER THE MEMBER'S ELECTION AND UNTIL A SUCCESSOR IS ELECTED AND QUALIFIES.

(2) THE INITIAL TERMS OF THE ELECTED MEMBERS ARE STAGGERED AS FOLLOWS:

(I) THE ~~THREE~~ TWO MEMBERS ELECTED TO THE COUNTY BOARD AT THE GENERAL ELECTION IN NOVEMBER 2012 WHO RECEIVE THE HIGHEST NUMBER OF VOTES CAST FROM AMONG THE SUCCESSFUL CANDIDATES AT THAT ELECTION SHALL SERVE FOR A TERM OF 4 YEARS; AND

(II) THE ~~TWO MEMBERS~~ MEMBER ELECTED TO THE COUNTY BOARD AT THE GENERAL ELECTION IN NOVEMBER 2012 WHO ~~RECEIVE~~ RECEIVES THE LEAST NUMBER OF VOTES CAST FROM AMONG THE SUCCESSFUL CANDIDATES AT THAT ELECTION SHALL SERVE FOR A TERM OF 2 YEARS.

~~(G)~~ (H) (1) IN THE EVENT OF A VACANCY OF AN ELECTED MEMBER ON THE COUNTY BOARD DUE TO DEATH, RESIGNATION, DISQUALIFICATION, OR REMOVAL, THE REMAINING ~~ELECTED~~ VOTING MEMBERS SHALL SELECT A QUALIFIED INDIVIDUAL TO FILL THE VACANCY FOR THE REMAINDER OF THE TERM OF THE VACATING MEMBER AND UNTIL A SUCCESSOR IS ELECTED AND QUALIFIES.

(2) AN INDIVIDUAL APPOINTED TO FILL A VACANCY FOR AN ELECTED MEMBER SHALL BE A RESIDENT OF THE SAME BOARD OF EDUCATION DISTRICT AS THAT OF THE VACATING MEMBER.

(3) BEFORE FILLING A VACANCY FOR AN ELECTED MEMBER, THE REMAINING ~~ELECTED~~ VOTING MEMBERS OF THE COUNTY BOARD SHALL CONDUCT AN INTERVIEW OF EACH APPLICANT AT AN OPEN MEETING.

(4) (I) THE COUNTY BOARD SHALL PUBLISH A LIST OF THE NAMES OF THE APPLICANTS FOR A VACANCY ON THE COUNTY BOARD AT LEAST 2 WEEKS BEFORE THE INTERVIEW OF THE FIRST APPLICANT IS SCHEDULED TO OCCUR.

(II) THE COUNTY BOARD SHALL CAUSE PUBLIC NOTICE OF THE DATE, TIME, AND LOCATION OF THE INTERVIEW FOR EACH APPLICANT TO BE PUBLISHED:

1. AT LEAST 2 WEEKS BEFORE THE INTERVIEW IS SCHEDULED TO OCCUR; AND

2. IN THE SAME MANNER AS PUBLIC NOTICE OF A REGULAR MEETING OF THE COUNTY BOARD IS PUBLISHED.

(5) THE COUNTY BOARD IS NOT REQUIRED TO CONDUCT DISCUSSIONS OF THE APPLICANTS OR MAKE THE FINAL SELECTION OF THE ELECTED MEMBER TO FILL THE VACANCY AT AN OPEN MEETING.

(I) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, EACH APPOINTED MEMBER SERVES FOR A TERM OF 4 YEARS BEGINNING ON THE FIRST MONDAY IN DECEMBER 2012.

(2) THE INITIAL TERMS OF THE APPOINTED MEMBERS ARE STAGGERED AS FOLLOWS:

(I) ONE APPOINTED MEMBER SHALL SERVE FOR A TERM OF 6 YEARS; AND

(II) ONE APPOINTED MEMBER SHALL SERVE FOR A TERM OF 4 YEARS.

(3) IN THE EVENT OF A VACANCY OF AN APPOINTED MEMBER DUE TO DEATH, RESIGNATION, DISQUALIFICATION, OR REMOVAL, THE GOVERNOR SHALL APPOINT ANOTHER INDIVIDUAL TO COMPLETE THE TERM OF THE VACATING APPOINTED MEMBER.

3–3A–03.

(A) WITH THE APPROVAL OF THE GOVERNOR, THE STATE BOARD MAY REMOVE ANY MEMBER OF THE COUNTY BOARD FOR ANY OF THE FOLLOWING REASONS:

(1) IMMORALITY;

(2) MISCONDUCT IN OFFICE;

(3) INCOMPETENCY; OR

(4) WILLFUL NEGLECT OF DUTY.

(B) BEFORE REMOVING A MEMBER, THE STATE BOARD SHALL SEND THE MEMBER A COPY OF THE CHARGES AGAINST THE MEMBER AND GIVE THE MEMBER AN OPPORTUNITY WITHIN 10 DAYS TO REQUEST A HEARING.

(C) IF THE MEMBER REQUESTS A HEARING WITHIN THE 10–DAY PERIOD:

(1) (I) THE STATE BOARD PROMPTLY SHALL HOLD A HEARING; BUT

(II) A HEARING MAY NOT BE SET WITHIN 10 DAYS AFTER THE STATE BOARD SENDS THE MEMBER A NOTICE OF THE HEARING; AND

(2) THE MEMBER SHALL HAVE AN OPPORTUNITY TO BE HEARD PUBLICLY BEFORE THE STATE BOARD IN THE MEMBER'S OWN DEFENSE, IN PERSON OR BY COUNSEL.

(D) A MEMBER REMOVED UNDER THIS SECTION HAS THE RIGHT TO A DE NOVO REVIEW OF THE REMOVAL BY THE CIRCUIT COURT FOR CAROLINE COUNTY.

3–3A–04.

(A) AT ITS FIRST MEETING IN DECEMBER OF EACH YEAR, THE ~~ELECTED~~ VOTING MEMBERS OF THE COUNTY BOARD SHALL ELECT A PRESIDENT AND VICE PRESIDENT FROM AMONG ITS MEMBERS.

(B) IN THE EVENT OF A VACANCY IN THE OFFICE OF PRESIDENT OR VICE PRESIDENT OF THE COUNTY BOARD, THE ~~ELECTED~~ VOTING MEMBERS OF THE COUNTY BOARD SHALL ELECT A NEW OFFICER TO FILL THE VACANCY WITHIN 30 DAYS AFTER THE VACANCY OCCURS.

3–3A–05.

(A) THE PRESIDENT OF THE COUNTY BOARD IS ENTITLED TO RECEIVE $4,000 ANNUALLY AS COMPENSATION, AND THE OTHER VOTING MEMBERS ARE ENTITLED TO RECEIVE $3,500 EACH ANNUALLY AS COMPENSATION.

(B) AS PROVIDED IN THE CAROLINE COUNTY BUDGET, EACH ~~ELECTED~~ VOTING MEMBER IS ENTITLED TO AN ALLOWANCE FOR TRAVEL AND OTHER EXPENSES.

(C) ~~AN ELECTED~~ A VOTING MEMBER IS NOT ELIGIBLE FOR ANY FRINGE BENEFIT PROVIDED BY THE CAROLINE COUNTY PUBLIC SCHOOL SYSTEM, THE CAROLINE COUNTY BOARD OF EDUCATION, OR THE COUNTY COMMISSIONERS OF CAROLINE COUNTY, INCLUDING:

(1) HEALTH INSURANCE;

(2) LIFE INSURANCE; AND

(3) A PENSION.

3–3A–06.

(A) THE COUNTY BOARD SHALL MEET AT LEAST ONCE EACH MONTH.

(B) (1) EACH MEETING OF THE COUNTY BOARD SHALL BE CONDUCTED IN ACCORDANCE WITH THE PROVISIONS OF THE MARYLAND OPEN MEETINGS ACT, TITLE 10, SUBTITLE 5 OF THE STATE GOVERNMENT ARTICLE.

(2) THE COUNTY BOARD MAY AVAIL ITSELF OF ANY EXCLUSION AUTHORIZED UNDER THE MARYLAND OPEN MEETINGS ACT.

SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding the provisions of this Act, the terms of the appointed members of the Caroline County Board of Education in office on the effective date of this Act shall expire at the end of December 2, 2012.

SECTION 3. AND BE IT FURTHER ENACTED, That before this Act becomes effective it shall first be submitted to a referendum of the legally qualified voters of Caroline County at the general election to be held in November of 2010. The County governing body and the Caroline County Board of Elections shall do those things necessary and proper to provide for and hold the referendum required by this section. There shall be printed on the ballot to be used at this election the title of this Act and underneath the title, on separate lines, a square or box opposite the words "For a Board of Education ~~Elected by the Voters of Caroline County~~ *Elected in Part by the Voters of Caroline County (3 members) and Appointed in Part by the Governor (2 members)*" and a corresponding square box opposite the words "For a Board of Education Appointed by the Governor". A voter may choose only one of the methods of selection. If a majority of the votes cast on the question are "For a Board of Education ~~Elected by the Voters of Caroline County~~ *Elected in Part by the Voters of Caroline County (3 members) and Appointed in Part by the Governor (2 members)*", the provisions of this Act shall become effective on the 30th day following the official canvass of votes for the referendum.

SECTION 4. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section 3 of this Act and for the sole purpose of providing for the referendum required by Section 3 of this Act, this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 634

(Senate Bill 974)

AN ACT concerning

Local Government Tort Claims Act – Notice of Claim

FOR the purpose of clarifying certain provisions of law governing the notice of a claim required to be given to a defendant local government under the Local Government Tort Claims Act; repealing redundant language; making stylistic changes; and generally relating to notice of a claim under the Local Government Tort Claims Act.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 5–304
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – Courts and Judicial Proceedings

5–304.

(a) This section does not apply to an action against a nonprofit corporation described in § 5–301(d)(23), (24), (25), (26), or (28) of this subtitle or its employees.

(b) **(1)** Except as provided in subsections (a) and (d) of this section, an action for unliquidated damages may not be brought against a local government or its employees unless the notice of the claim required by this section is given within 180 days after the injury.

(2) THE NOTICE SHALL BE IN WRITING AND SHALL STATE THE TIME, PLACE, AND CAUSE OF THE INJURY.

(c) (1) **[**Except in Anne Arundel County, Baltimore County, Harford County, and Prince George's County, the**]** **THE** notice **REQUIRED UNDER THIS SECTION** shall be given in person or by certified mail, return receipt requested, bearing a postmark from the United States Postal Service, by the claimant or the representative of the claimant**[**, to the county commissioner, county council, or corporate authorities of a defendant local government, or:**]**.

(2) EXCEPT AS OTHERWISE PROVIDED, IF THE DEFENDANT LOCAL GOVERNMENT IS A COUNTY, THE NOTICE REQUIRED UNDER THIS SECTION SHALL BE GIVEN TO THE COUNTY COMMISSIONERS OR COUNTY COUNCIL OF THE DEFENDANT LOCAL GOVERNMENT.

(3) IF THE DEFENDANT LOCAL GOVERNMENT IS:

(i) **[**In**]** Baltimore City, **THE NOTICE SHALL BE GIVEN** to the City Solicitor;

(ii) **[**In**]** Howard County **OR MONTGOMERY COUNTY**, **THE NOTICE SHALL BE GIVEN** to the County Executive; and

(iii) **[**In Montgomery County, to the County Executive.

(2) In**]** Anne Arundel County, Baltimore County, Harford County, **[**and**] OR** Prince George's County, the notice shall be given **[**in person or by certified mail, return receipt requested, bearing a postmark from the United States Postal Service, by the claimant or the representative of the claimant,**]** to the county solicitor or county attorney.

[(3) The notice shall be in writing and shall state the time, place, and cause of the injury.**]**

(4) FOR ANY OTHER LOCAL GOVERNMENT, THE NOTICE SHALL BE GIVEN TO THE CORPORATE AUTHORITIES OF THE DEFENDANT LOCAL GOVERNMENT.

(d) Notwithstanding the other provisions of this section, unless the defendant can affirmatively show that its defense has been prejudiced by lack of required notice, upon motion and for good cause shown the court may entertain the suit even though the required notice was not given.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 635

(House Bill 1378)

AN ACT concerning

Local Government Tort Claims Act – Notice of Claim

FOR the purpose of clarifying certain provisions of law governing the notice of a claim required to be given to a defendant local government under the Local Government Tort Claims Act; repealing redundant language; making stylistic changes; and generally relating to notice of a claim under the Local Government Tort Claims Act.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 5–304
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – Courts and Judicial Proceedings

5–304.

(a) This section does not apply to an action against a nonprofit corporation described in § 5–301(d)(23), (24), (25), (26), or (28) of this subtitle or its employees.

(b) **(1)** Except as provided in subsections (a) and (d) of this section, an action for unliquidated damages may not be brought against a local government or its employees unless the notice of the claim required by this section is given within 180 days after the injury.

(2) THE NOTICE SHALL BE IN WRITING AND SHALL STATE THE TIME, PLACE, AND CAUSE OF THE INJURY.

(c) (1) **[**Except in Anne Arundel County, Baltimore County, Harford County, and Prince George's County, the**]** **THE** notice **REQUIRED UNDER THIS SECTION** shall be given in person or by certified mail, return receipt requested, bearing a postmark from the United States Postal Service, by the claimant or the representative of the claimant**[**, to the county commissioner, county council, or corporate authorities of a defendant local government, or:**]**.

(2) EXCEPT AS OTHERWISE PROVIDED, IF THE DEFENDANT LOCAL GOVERNMENT IS A COUNTY, THE NOTICE REQUIRED UNDER THIS SECTION SHALL BE GIVEN TO THE COUNTY COMMISSIONERS OR COUNTY COUNCIL OF THE DEFENDANT LOCAL GOVERNMENT.

(3) IF THE DEFENDANT LOCAL GOVERNMENT IS:

(i) **[**In**]** Baltimore City, **THE NOTICE SHALL BE GIVEN** to the City Solicitor;

(ii) **[**In**]** Howard County **OR MONTGOMERY COUNTY**, **THE NOTICE SHALL BE GIVEN** to the County Executive; and

(iii) **[**In Montgomery County, to the County Executive.

(2) In**]** Anne Arundel County, Baltimore County, Harford County, **[**and**]** **OR** Prince George's County, the notice shall be given **[**in person or by certified mail, return receipt requested, bearing a postmark from the United States Postal Service, by the claimant or the representative of the claimant,**]** to the county solicitor or county attorney.

[(3) The notice shall be in writing and shall state the time, place, and cause of the injury.**]**

(4) FOR ANY OTHER LOCAL GOVERNMENT, THE NOTICE SHALL BE GIVEN TO THE CORPORATE AUTHORITIES OF THE DEFENDANT LOCAL GOVERNMENT.

(d) Notwithstanding the other provisions of this section, unless the defendant can affirmatively show that its defense has been prejudiced by lack of required notice, upon motion and for good cause shown the court may entertain the suit even though the required notice was not given.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 636

(Senate Bill 989)

AN ACT concerning

Criminal Procedure – Concurrent Court Jurisdiction – Second or Subsequent Offense of Failure to Register with Sex Offender Registry

FOR the purpose of providing that the jurisdiction of the District Court is concurrent with that of the circuit court in a criminal case in which a person is charged with a second or subsequent offense of knowingly failing to register, knowingly

failing to provide a certain notice, or knowingly providing false information of a material fact as required under provisions relating to registration of sexual offenders; and generally relating to criminal court jurisdiction.

BY repealing and reenacting, without amendments,
Article – Criminal Procedure
Section 11–704(a), 11–705(d), (e), and (f), and 11–721
Annotated Code of Maryland
(2008 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 4–301 and 4–302(a) and (d)
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – Criminal Procedure

11–704.

(a) A person shall register with the person's supervising authority if the person is:

(1) a child sexual offender;

(2) an offender;

(3) a sexually violent offender;

(4) a sexually violent predator;

(5) a child sexual offender who, before moving into this State, was required to register in another state or by a federal, military, or Native American tribal court for a crime that occurred before October 1, 1995;

(6) an offender, sexually violent offender, or sexually violent predator who, before moving into this State, was required to register in another state or by a federal, military, or Native American tribal court for a crime that occurred before July 1, 1997; or

(7) a child sexual offender, offender, sexually violent offender, or sexually violent predator who is required to register in another state, who is not a resident of this State, and who enters this State:

(i) to carry on employment;

(ii) to attend a public or private educational institution, including a secondary school, trade or professional institution, or institution of higher education, as a full–time or part–time student; or

(iii) as a transient.

11–705.

(d) A registrant who changes residences shall send written notice of the change to the State registry within 5 days after the change occurs.

(e) (1) A registrant who commences or terminates enrollment as a full–time or part–time student at an institution of higher education in the State shall send written notice to the State registry within 5 days after the commencement or termination of enrollment.

(2) A registrant who commences or terminates carrying on employment at an institution of higher education in the State shall send written notice to the State registry within 5 days after the commencement or termination of employment.

(f) A registrant who is granted a legal change of name by a court shall send written notice of the change to the State registry within 5 days after the change is granted.

11–721.

(a) A registrant may not knowingly fail to register, knowingly fail to provide the written notice required under § 11–705(d), (e), or (f) of this subtitle, or knowingly provide false information of a material fact as required by this subtitle.

(b) A person who violates this section:

(1) for a first offense, is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding $5,000 or both; and

(2) for a second or subsequent offense, is guilty of a felony 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.

Article – Courts and Judicial Proceedings

4–301.

(a) Except as provided in §§ 3–803, 3–8A–03, and 4–302 of this article, the District Court has exclusive original jurisdiction in a criminal case in which a person at least 16 years old or a corporation is charged with violation of the vehicle laws, or the State Boat Act, or regulations adopted pursuant to the vehicle laws or State Boat Act.

(b) Except as provided in § 4–302 of this subtitle, the District Court also has exclusive original jurisdiction in a criminal case in which a person at least 18 years old or a corporation is charged with:

(1) Commission of a common–law or statutory misdemeanor regardless of the amount of money or value of the property involved;

(2) Violation of § 7–104, § 7–105, § 7–107, or § 7–108 of the Criminal Law Article, whether a felony or a misdemeanor;

(3) Violation of a county, municipal, or other ordinance, if the violation is not a felony;

(4) Criminal violation of a State, county, or municipal rule or regulation, if the violation is not a felony;

(5) Doing or omitting to do any act made punishable by a fine, imprisonment, or other penalty as provided by the particular law, ordinance, rule, or regulation defining the violation if the violation is not a felony;

(6) Violation of § 8–103 of the Criminal Law Article, whether a felony or a misdemeanor;

(7) Violation of §§ 8–203 through 8–209 of the Criminal Law Article, whether a felony or misdemeanor;

(8) Forgery or violation of Title 8, Subtitle 6 of the Criminal Law Article, whether a felony or misdemeanor;

(9) Violation of Title 27, Subtitle 4 of the Insurance Article, whether a felony or a misdemeanor;

(10) Violation of § 9–1106 of the Labor and Employment Article;

(11) Violation of § 8–301 of the Criminal Law Article, whether a felony or misdemeanor;

(12) Violation of § 2–209 of the Criminal Law Article;

(13) Violation of Title 2, Subtitle 5 of the Criminal Law Article;

(14) Violation of Title 11, Subtitle 5 of the Financial Institutions Article;

(15) Violation of §§ 10–604 through 10–608 of the Criminal Law Article, whether a felony or misdemeanor;

(16) Violation of Title 7, Subtitle 3, Part III of the Criminal Law Article, whether a felony or misdemeanor;

(17) Violation of § 20–102 of the Transportation Article, whether a felony or misdemeanor;

(18) Violation of § 8–801 of the Criminal Law Article;

(19) Violation of § 8–604 of the Criminal Law Article;

(20) Violation of Title 8, Subtitle 2, Part II of the Criminal Law Article;

(21) Violation of §§ 16–801 through 16–804 of the Election Law Article;

(22) Violation of § 3–203(c) of the Criminal Law Article; **[**or**]**

(23) VIOLATION OF § 11–721 OF THE CRIMINAL PROCEDURE ARTICLE AS A SECOND OR SUBSEQUENT OFFENSE; OR

[(23)**] (24)** Violation of § 11–303(b) of the Criminal Law Article.

4–302.

(a) Except as provided in § 4–301(b)(2), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), (17), (18), (19), (20), (21), (22), **[**and**]** (23)**, AND (24)** of this subtitle, the District Court does not have jurisdiction to try a criminal case charging the commission of a felony.

(d) (1) Except as provided in paragraph (2) of this subsection, the jurisdiction of the District Court is concurrent with that of the circuit court in a criminal case:

(i) In which the penalty may be confinement for 3 years or more or a fine of $2,500 or more; or

(ii) That is a felony, as provided in § 4–301(b)(2), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), (17), (18), (19), (20), (21), (22), [and] (23)**, AND (24)** of this subtitle.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, a circuit court does not have jurisdiction to try a case charging a violation of § 5–601 or § 5–620 of the Criminal Law Article.

(ii) A circuit court does have jurisdiction to try a case charging a violation of § 5–601 or § 5–620 of the Criminal Law Article if the defendant:

1. Properly demands a jury trial;

2. Appeals as provided by law from a final judgment entered in the District Court; or

3. Is charged with another offense arising out of the same circumstances that is within a circuit court's jurisdiction.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 637

(House Bill 376)

AN ACT concerning

Criminal Procedure – Concurrent Court Jurisdiction – Second or Subsequent Offense of Failure to Register with Sex Offender Registry

FOR the purpose of providing that the jurisdiction of the District Court is concurrent with that of the circuit court in a criminal case in which a person is charged with a second or subsequent offense of knowingly failing to register, knowingly failing to provide a certain notice, or knowingly providing false information of a material fact as required under provisions relating to registration of sexual offenders; and generally relating to criminal court jurisdiction.

BY repealing and reenacting, without amendments,
Article – Criminal Procedure
Section 11–704(a), 11–705(d), (e), and (f), and 11–721
Annotated Code of Maryland
(2008 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 4–301 and 4–302(a) and (d)
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – Criminal Procedure

11–704.

(a) A person shall register with the person's supervising authority if the person is:

(1) a child sexual offender;

(2) an offender;

(3) a sexually violent offender;

(4) a sexually violent predator;

(5) a child sexual offender who, before moving into this State, was required to register in another state or by a federal, military, or Native American tribal court for a crime that occurred before October 1, 1995;

(6) an offender, sexually violent offender, or sexually violent predator who, before moving into this State, was required to register in another state or by a federal, military, or Native American tribal court for a crime that occurred before July 1, 1997; or

(7) a child sexual offender, offender, sexually violent offender, or sexually violent predator who is required to register in another state, who is not a resident of this State, and who enters this State:

(i) to carry on employment;

(ii) to attend a public or private educational institution, including a secondary school, trade or professional institution, or institution of higher education, as a full–time or part–time student; or

(iii) as a transient.

11–705.

(d) A registrant who changes residences shall send written notice of the change to the State registry within 5 days after the change occurs.

(e) (1) A registrant who commences or terminates enrollment as a full–time or part–time student at an institution of higher education in the State shall send written notice to the State registry within 5 days after the commencement or termination of enrollment.

(2) A registrant who commences or terminates carrying on employment at an institution of higher education in the State shall send written notice to the State registry within 5 days after the commencement or termination of employment.

(f) A registrant who is granted a legal change of name by a court shall send written notice of the change to the State registry within 5 days after the change is granted.

11–721.

(a) A registrant may not knowingly fail to register, knowingly fail to provide the written notice required under § 11–705(d), (e), or (f) of this subtitle, or knowingly provide false information of a material fact as required by this subtitle.

(b) A person who violates this section:

(1) for a first offense, is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding $5,000 or both; and

(2) for a second or subsequent offense, is guilty of a felony 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.

Article – Courts and Judicial Proceedings

4–301.

(a) Except as provided in §§ 3–803, 3–8A–03, and 4–302 of this article, the District Court has exclusive original jurisdiction in a criminal case in which a person at least 16 years old or a corporation is charged with violation of the vehicle laws, or the State Boat Act, or regulations adopted pursuant to the vehicle laws or State Boat Act.

(b) Except as provided in § 4–302 of this subtitle, the District Court also has exclusive original jurisdiction in a criminal case in which a person at least 18 years old or a corporation is charged with:

(1) Commission of a common–law or statutory misdemeanor regardless of the amount of money or value of the property involved;

(2) Violation of § 7–104, § 7–105, § 7–107, or § 7–108 of the Criminal Law Article, whether a felony or a misdemeanor;

(3) Violation of a county, municipal, or other ordinance, if the violation is not a felony;

(4) Criminal violation of a State, county, or municipal rule or regulation, if the violation is not a felony;

(5) Doing or omitting to do any act made punishable by a fine, imprisonment, or other penalty as provided by the particular law, ordinance, rule, or regulation defining the violation if the violation is not a felony;

(6) Violation of § 8–103 of the Criminal Law Article, whether a felony or a misdemeanor;

(7) Violation of §§ 8–203 through 8–209 of the Criminal Law Article, whether a felony or misdemeanor;

(8) Forgery or violation of Title 8, Subtitle 6 of the Criminal Law Article, whether a felony or misdemeanor;

(9) Violation of Title 27, Subtitle 4 of the Insurance Article, whether a felony or a misdemeanor;

(10) Violation of § 9–1106 of the Labor and Employment Article;

(11) Violation of § 8–301 of the Criminal Law Article, whether a felony or misdemeanor;

(12) Violation of § 2–209 of the Criminal Law Article;

(13) Violation of Title 2, Subtitle 5 of the Criminal Law Article;

(14) Violation of Title 11, Subtitle 5 of the Financial Institutions Article;

(15) Violation of §§ 10–604 through 10–608 of the Criminal Law Article, whether a felony or misdemeanor;

(16) Violation of Title 7, Subtitle 3, Part III of the Criminal Law Article, whether a felony or misdemeanor;

(17) Violation of § 20–102 of the Transportation Article, whether a felony or misdemeanor;

(18) Violation of § 8–801 of the Criminal Law Article;

(19) Violation of § 8–604 of the Criminal Law Article;

(20) Violation of Title 8, Subtitle 2, Part II of the Criminal Law Article;

(21) Violation of §§ 16–801 through 16–804 of the Election Law Article;

(22) Violation of § 3–203(c) of the Criminal Law Article; [or]

(23) VIOLATION OF § 11–721 OF THE CRIMINAL PROCEDURE ARTICLE AS A SECOND OR SUBSEQUENT OFFENSE; OR

[(23)] **(24)** Violation of § 11–303(b) of the Criminal Law Article.

4–302.

(a) Except as provided in § 4–301(b)(2), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), (17), (18), (19), (20), (21), (22), [and] (23)**, AND (24)** of this subtitle, the District Court does not have jurisdiction to try a criminal case charging the commission of a felony.

(d) (1) Except as provided in paragraph (2) of this subsection, the jurisdiction of the District Court is concurrent with that of the circuit court in a criminal case:

(i) In which the penalty may be confinement for 3 years or more or a fine of $2,500 or more; or

(ii) That is a felony, as provided in § 4–301(b)(2), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), (17), (18), (19), (20), (21), (22), [and] (23)**, AND (24)** of this subtitle.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, a circuit court does not have jurisdiction to try a case charging a violation of § 5–601 or § 5–620 of the Criminal Law Article.

(ii) A circuit court does have jurisdiction to try a case charging a violation of § 5–601 or § 5–620 of the Criminal Law Article if the defendant:

1. Properly demands a jury trial;

2. Appeals as provided by law from a final judgment entered in the District Court; or

3. Is charged with another offense arising out of the same circumstances that is within a circuit court's jurisdiction.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 638

(Senate Bill 990)

AN ACT concerning

Education – Reporting Requirement – Class Size

FOR the purpose of requiring the State Department of Education to develop a uniform data collection method to track a certain number of certain students in a classroom teacher's class by the beginning of a certain academic year; requiring a certain data collection method to reflect a certain number of certain students in a certain class as of a certain date; requiring each county board of education to implement a certain data collection method and report the results of this data collection to the Department on or before a certain date; requiring the Department to report to the General Assembly regarding certain data on or before a certain date; defining a certain term; and generally relating to a uniform data collection method to determine the number of students who participate in a classroom teacher's class.

BY adding to
Article – Education
Section 7–119
Annotated Code of Maryland
(2008 Replacement Volume)

Preamble

WHEREAS, All children deserve an opportunity to learn with consideration given to each child's learning style; and

WHEREAS, Children learn best in learning environments that allow the teacher to provide for individualization of the instructional program and quick attention to each child's problems and needs; and

WHEREAS, Research has shown the strong correlation between small class size and increased student achievement, particularly among minority students; and

WHEREAS, Class size data is collected on a random basis, if at all, and most often is recorded as pupil–teacher ratios rather than as actual class size; and

WHEREAS, Accurate and consistent class size data is essential; now, therefore,

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

Article – Education

7–119.

(A) (1) IN THIS SECTION, "CLASSROOM TEACHER" MEANS A TEACHER WHO IS PRIMARILY RESPONSIBLE AND ACCOUNTABLE FOR THE STUDENTS IN THAT CLASS.

(2) "CLASSROOM TEACHER" DOES NOT INCLUDE:

(I) CURRICULUM SPECIALISTS;

(II) GUIDANCE COUNSELORS;

(III) LIBRARIANS;

(IV) MEDIA SPECIALISTS;

(V) INSTRUCTIONAL AIDES;

(VI) ATTENDANCE PERSONNEL;

(VII) HEALTH SERVICES PERSONNEL;

(VIII) PSYCHOLOGISTS;

(IX) SOCIAL WORKERS;

(X) CLERICAL PERSONNEL;

(XI) COMMUNITY COLLEGE STAFF; OR

(XII) ANY OTHER INDIVIDUAL WHOSE JOB DOES NOT REQUIRE SKILL IN THE FIELD OF EDUCATION AND WHO IS NOT RESPONSIBLE FOR THE DAY–TO–DAY INSTRUCTION OF THE SAME GROUP OF STUDENTS.

(B) (1) BY THE BEGINNING OF THE 2012–2013 ACADEMIC YEAR, THE DEPARTMENT SHALL DEVELOP A UNIFORM DATA COLLECTION METHOD TO TRACK THE NUMBER OF STUDENTS WHO REGULARLY PARTICIPATE IN A CLASSROOM TEACHER'S CLASS.

(2) THE UNIFORM DATA COLLECTION METHOD DEVELOPED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL REFLECT THE NUMBER OF STUDENTS WHO PARTICIPATE IN A CLASSROOM TEACHER'S CLASS AS OF SEPTEMBER 30 OF EACH YEAR.

(C) BEGINNING WITH THE 2012–2013 ACADEMIC YEAR, EACH COUNTY BOARD SHALL:

(1) IMPLEMENT THE UNIFORM DATA COLLECTION METHOD DEVELOPED UNDER SUBSECTION (B) OF THIS SECTION; AND

(2) REPORT THE RESULTS OF THE DATA COLLECTION TO THE DEPARTMENT ON OR BEFORE DECEMBER 1 OF EACH YEAR.

(D) ON OR BEFORE JANUARY 31 OF EACH YEAR, THE DEPARTMENT SHALL REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, ON THE DATA OBTAINED UNDER SUBSECTION (C)(2) OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 639

(House Bill 379)

AN ACT concerning

Education – Reporting Requirement – Class Size

FOR the purpose of requiring the State Department of Education to develop a uniform data collection method to track a certain number of certain students in a classroom teacher's class by the beginning of a certain academic year; requiring a certain data collection method to reflect a certain number of certain students in a certain class as of a certain date; requiring each county board of education to implement a certain data collection method and report the results of this data collection to the Department on or before a certain date; requiring the Department to report to the General Assembly regarding certain data on or before a certain date; defining a certain term; and generally relating to a uniform data collection method to determine the number of students who participate in a classroom teacher's class.

BY adding to
Article – Education
Section 7–119
Annotated Code of Maryland
(2008 Replacement Volume)

Preamble

WHEREAS, All children deserve an opportunity to learn with consideration given to each child's learning style; and

WHEREAS, Children learn best in learning environments that allow the teacher to provide for individualization of the instructional program and quick attention to each child's problems and needs; and

WHEREAS, Research has shown the strong correlation between small class size and increased student achievement, particularly among minority students; and

WHEREAS, Class size data is collected on a random basis, if at all, and most often is recorded as pupil–teacher ratios rather than as actual class size; and

WHEREAS, Accurate and consistent class size data is essential; now, therefore,

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

Article – Education

7–119.

(A) (1) IN THIS SECTION, "CLASSROOM TEACHER" MEANS A TEACHER WHO IS PRIMARILY RESPONSIBLE AND ACCOUNTABLE FOR THE STUDENTS IN THAT CLASS.

(2) "CLASSROOM TEACHER" DOES NOT INCLUDE:

(I) CURRICULUM SPECIALISTS;

(II) GUIDANCE COUNSELORS;

(III) LIBRARIANS;

(IV) MEDIA SPECIALISTS;

(V) INSTRUCTIONAL AIDES;

(VI) ATTENDANCE PERSONNEL;

(VII) HEALTH SERVICES PERSONNEL;

(VIII) PSYCHOLOGISTS;

(IX) SOCIAL WORKERS;

(X) CLERICAL PERSONNEL;

(XI) COMMUNITY COLLEGE STAFF; OR

(XII) ANY OTHER INDIVIDUAL WHOSE JOB DOES NOT REQUIRE SKILL IN THE FIELD OF EDUCATION AND WHO IS NOT RESPONSIBLE FOR THE DAY–TO–DAY INSTRUCTION OF THE SAME GROUP OF STUDENTS.

(B) (1) BY THE BEGINNING OF THE 2012–2013 ACADEMIC YEAR, THE DEPARTMENT SHALL DEVELOP A UNIFORM DATA COLLECTION METHOD TO TRACK THE NUMBER OF STUDENTS WHO REGULARLY PARTICIPATE IN A CLASSROOM TEACHER'S CLASS.

(2) THE UNIFORM DATA COLLECTION METHOD DEVELOPED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL REFLECT THE NUMBER OF STUDENTS WHO PARTICIPATE IN A CLASSROOM TEACHER'S CLASS AS OF SEPTEMBER 30 OF EACH YEAR.

(C) BEGINNING WITH THE 2012–2013 ACADEMIC YEAR, EACH COUNTY BOARD SHALL:

(1) IMPLEMENT THE UNIFORM DATA COLLECTION METHOD DEVELOPED UNDER SUBSECTION (B) OF THIS SECTION; AND

(2) REPORT THE RESULTS OF THE DATA COLLECTION TO THE DEPARTMENT ON OR BEFORE DECEMBER 1 OF EACH YEAR.

(D) ON OR BEFORE JANUARY 31 OF EACH YEAR, THE DEPARTMENT SHALL REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, ON THE DATA OBTAINED UNDER SUBSECTION (C)(2) OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 640

(Senate Bill 991)

AN ACT concerning

Business Occupations – Crane Operators – Certificate of Competence

FOR the purpose of prohibiting a person from operating a crane in the State for certain purposes unless the person holds a certain certificate; prohibiting a person from authorizing the operation of a crane in the State for certain purposes unless the crane operator holds a certain certificate; requiring a person who holds a certain certificate to carry the certificate while operating a crane, and to make the certificate available for inspection on request from certain individuals; creating a certain evidentiary presumption related to the certificate; requiring the Commissioner of Labor and Industry~~,~~ or the Commissioner's agent~~, or a law enforcement officer~~ to take certain enforcement action under certain circumstances; authorizing the Commissioner to bring a certain action in a certain court under certain circumstances; establishing certain appeal procedures; making a person who violates certain provisions guilty of a misdemeanor subject, on conviction, to ~~certain penalties~~ a certain penalty; requiring the Commissioner to adopt certain regulations; providing a short title for this Act; declaring the intent of the General Assembly; defining certain terms; and generally relating to the regulation of crane operators in the State.

BY adding to
Article – Business Occupations and Professions
Section 9.5–101 through 9.5–107 to be under the new title "Title 9.5. Crane Operators"
Annotated Code of Maryland

(2004 Replacement Volume and 2008 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

TITLE 9.5. CRANE OPERATORS.

9.5–101.

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

(B) "CERTIFICATE OF COMPETENCE" MEANS CERTIFICATION OBTAINED BY A PERSON THROUGH ANY ORGANIZATION ACCREDITED BY THE AMERICAN NATIONAL STANDARDS INSTITUTE (ANSI), OR THE NATIONAL COMMISSION FOR CERTIFYING AGENCIES (NCCA) THAT STATES THE HOLDER OF THE CERTIFICATE ~~MEETS THE UNITED STATES OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION'S REQUIREMENTS FOR OPERATING A CRANE~~ DEMONSTRATES KNOWLEDGE OF AND TRAINING IN SAFE CRANE OPERATING PROCEDURES.

(C) "COMMISSIONER" MEANS THE COMMISSIONER OF LABOR AND INDUSTRY IN THE DIVISION OF LABOR AND INDUSTRY IN THE DEPARTMENT.

(D) (1) "CRANE" MEANS A ~~HOISTING MACHINE THAT HAS A POWER-OPERATED WINCH, LOAD LINE, AND BOOM THAT MOVE LATERALLY BY THE ROTATION OF THE MACHINE ON A CARRIER, AND THAT HAS A MANUFACTURER-RATED LIFTING CAPACITY OF 10 TONS OR MORE~~ MACHINE FOR LIFTING, LOWERING, AND HORIZONTALLY MOVING A LOAD, THAT HAS A HOISTING MECHANISM THAT IS AN INTEGRAL PART OF THE MACHINE.

(2) "CRANE" INCLUDES TOWER CRANES~~, HYDRAULIC CRANES, AND POWER OPERATED DERRICKS~~.

(3) "CRANE" DOES NOT INCLUDE:

(I) AIRCRAFT;

(II) A BUCKET TRUCK;

(III) A DIGGER DERRICK TRUCK;

(IV) A FORK LIFT;

(V) A KNUCKLE BOOM;

(VI) A TROLLEY BOOM; ~~OR~~

(VII) A HYDRAULIC CRANE;

(VIII) A POWER–OPERATED DERRICK; OR

~~(VII)~~ (IX) A PUBLIC UTILITY COMPANY LINE TRUCK USED BY A PUBLIC UTILITY COMPANY IN THE CONSTRUCTION OR MAINTENANCE OF ITS TRANSMISSION AND DISTRIBUTION LINES.

(E) "CRANE OPERATOR" MEANS A PERSON WHO OPERATES A CRANE.

(F) (1) "OPERATE A CRANE" MEANS TO USE MECHANISMS INSIDE A CRANE TO GUIDE THE MACHINE IN:

(I) THE LIFTING, MOVING, POSITIONING, AND PLACING OF LARGE AND HEAVY OBJECTS, EARTH, OR OTHER MATERIALS; OR

(II) THE DRIVING OF LARGE OBJECTS OR MATERIALS INTO THE GROUND.

(2) "OPERATE A CRANE" INCLUDES:

(I) THE INSPECTION OF A CRANE;

(II) ASSISTING IN THE ERECTION, ADDING TO, OR DISMANTLING OF A CRANE; AND

(III) THE PERFORMANCE OF ROUTINE MAINTENANCE ON A CRANE.

(3) "OPERATE A CRANE" DOES NOT INCLUDE THE MOVEMENT OF A CRANE ON A STATE HIGHWAY FROM ONE LOCATION TO ANOTHER LOCATION.

9.5–102.

NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A PERSON MAY NOT:

(1) OPERATE A CRANE IN THE STATE FOR THE PURPOSE OF CONSTRUCTION WORK OR DEMOLITION WORK UNLESS THE PERSON HOLDS A CERTIFICATE OF COMPETENCE; OR

(2) AUTHORIZE A PERSON TO OPERATE A CRANE IN THE STATE FOR THE PURPOSE OF CONSTRUCTION WORK OR DEMOLITION WORK UNLESS THE OPERATOR HOLDS A CERTIFICATE OF COMPETENCE.

9.5–103.

(A) A CRANE OPERATOR WHO HOLDS A CERTIFICATE OF COMPETENCE SHALL:

(1) CARRY THE CERTIFICATE OF COMPETENCE WHILE OPERATING A CRANE IN THE STATE; AND

(2) MAKE THE CERTIFICATE OF COMPETENCE AVAILABLE FOR INSPECTION ON REQUEST BY THE COMMISSIONER, AN AGENT OF THE COMMISSIONER, OR BY A LAW ENFORCEMENT OFFICER.

(B) THE FAILURE OF A CRANE OPERATOR TO MAKE THE CERTIFICATE OF COMPETENCE AVAILABLE FOR INSPECTION ON REQUEST AS REQUIRED UNDER PARAGRAPH (A)(2) OF THIS SUBSECTION SHALL BE PRESUMPTIVE EVIDENCE THAT THE CRANE OPERATOR DOES NOT HOLD A CERTIFICATE OF COMPETENCE.

9.5–104.

(A) IN ADDITION TO THE POWERS CONFERRED UNDER THIS TITLE, THE COMMISSIONER MAY USE ALL POWERS CONFERRED BY LAW TO THE COMMISSIONER TO IMPLEMENT AND ENFORCE THE PROVISIONS OF THIS TITLE.

(B) (1) THE COMMISSIONER~~,~~ OR AN AGENT OF THE COMMISSIONER~~, OR A LAW ENFORCEMENT OFFICER~~ WHO HAS REASON TO BELIEVE THAT A PERSON IS OR HAS BEEN OPERATING A CRANE IN THE STATE WITHOUT A VALID CERTIFICATE OF COMPETENCE SHALL~~:~~

~~(1)~~ REQUIRE THE CRANE OPERATOR TO PROVIDE PROOF THAT THE CRANE OPERATOR HOLDS A CERTIFICATE OF COMPETENCE~~;~~.

(2) ~~ISSUE A CITATION~~ IF A CRANE OPERATOR FAILS TO PROVIDE PROOF OF A VALID CERTIFICATE OF COMPETENCE UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COMMISSIONER OR THE AGENT OF THE COMMISSIONER SHALL ISSUE A WRITTEN NOTICE TO THE PERSON ~~FOR~~ THAT:

(I) STATES THAT THERE HAS BEEN A VIOLATION OF THIS TITLE, OR REGULATIONS ADOPTED UNDER IT, IF ANY; AND

~~(3)~~ (II) ~~REQUIRE~~ REQUIRES THE OPERATION OF THE CRANE TO CEASE UNLESS OPERATED BY A PERSON HOLDING A VALID CERTIFICATE OF COMPETENCE.

(3) IF A PERSON FAILS TO COMPLY WITH A WRITTEN NOTICE ISSUED UNDER PARAGRAPH (2) OF THIS SUBSECTION, THE COMMISSIONER MAY BRING AN ACTION TO ENFORCE THE WRITTEN NOTICE IN THE COUNTY WHERE THE CRANE BEING OPERATED IS LOCATED OR IN THE CIRCUIT COURT OF BALTIMORE CITY.

(C) (1) A PERSON AGGRIEVED BY A DECISION OF THE COMMISSIONER UNDER THIS SECTION MAY APPEAL TO A COURT OF COMPETENT JURISDICTION IN ACCORDANCE WITH THE MARYLAND RULES.

(2) A DECISION OF THE COMMISSIONER MAY NOT BE STAYED BY THE FILING OF AN APPEAL UNDER THIS SUBSECTION.

9.5–105.

~~(A)~~ A PERSON WHO VIOLATES THIS TITLE OR REGULATIONS ADOPTED UNDER THIS TITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO~~:~~

~~(1)~~ A FINE NOT EXCEEDING~~:~~ $1,000.

~~(I) $3,000 FOR A FIRST VIOLATION;~~

~~(II) $5,000 FOR A SECOND VIOLATION; OR~~

~~(III) $10,000 FOR A THIRD OR SUBSEQUENT VIOLATION;~~

~~(2) IMPRISONMENT NOT EXCEEDING 30 DAYS; OR~~

~~(3) BOTH A FINE AND IMPRISONMENT UNDER ITEMS (1) AND (2) OF THIS SUBSECTION.~~

~~(B) THE TOTAL AMOUNT OF FINES IMPOSED UNDER THIS SECTION MAY NOT EXCEED $50,000.~~

9.5–106.

THE COMMISSIONER SHALL ADOPT REGULATIONS TO IMPLEMENT, ADMINISTER, AND ENFORCE THIS TITLE.

9.5–107.

THIS TITLE SHALL BE KNOWN AS THE "MARYLAND SAFE CRANE OPERATORS ACT".

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that enactment of the requirement that a person hold a Certificate of Competence to operate a crane in this State be in addition to and compatible with any federal and State law regulating crane operators, the operation of cranes, and the movement of cranes along highways and should not be used in any manner to rescind Federal Motor Carrier Safety Regulations adopted by the State or any other State or local law or regulation regarding the movement of oversize or overweight vehicles on State highways.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 641

(Senate Bill 1011)

AN ACT concerning

Department of Transportation – Consolidated Transportation Bonds – Issuance Procedures

FOR the purpose of authorizing the Department of Transportation to sell its consolidated transportation bonds at either a public, competitive sale or a private, negotiated sale, as determined by the Secretary of Transportation in accordance with certain criteria; providing that a public, competitive sale is the preferred method of issuance; providing for the form of notice of a public sale; providing for the publication of the notice of sale in a certain journal; repealing a certain publication requirement; and generally relating to the sale of the Department of Transportation's consolidated transportation bonds.

BY repealing and reenacting, with amendments,
Article – Transportation
Section 3–202 and 3–203
Annotated Code of Maryland
(2008 Replacement Volume)

BY repealing and reenacting, without amendments,
Article – Transportation

Section 3–207
Annotated Code of Maryland
(2008 Replacement Volume)

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

Article – Transportation

3–202.

(a) The Department from time to time may issue its bonds on behalf of this State to finance the cost of any one or more or combination of transportation facilities.

(b) The bonds shall be known as "consolidated transportation bonds" and may be issued in any amount as long as the aggregate outstanding and unpaid principal balance of these bonds and bonds of prior issues does not exceed at any one time the sum of $2.6 billion.

(C) THE PREFERRED METHOD OF ISSUANCE OF THE DEPARTMENT'S CONSOLIDATED TRANSPORTATION BONDS IS BY A PUBLIC, COMPETITIVE SALE.

(D) THE DEPARTMENT MAY ISSUE ITS CONSOLIDATED TRANSPORTATION BONDS AT A PRIVATE, NEGOTIATED SALE PROVIDED THAT:

(1) THE SECRETARY DETERMINES THAT EXTRAORDINARY CREDIT MARKET CONDITIONS EXIST THAT WARRANT THE USE OF THIS METHOD RATHER THAN A PUBLIC, COMPETITIVE SALE; AND

(2) THE SECRETARY DETERMINES THAT THE TERMS AND CONDITIONS, INCLUDING PRICE, INTEREST RATES, AND PAYMENT DATES, THAT CAN BE ACHIEVED BY A PRIVATE NEGOTIATED SALE ARE MORE ADVANTAGEOUS TO THE STATE.

[(c)**] (E)** The maximum outstanding and unpaid principal balance of consolidated transportation bonds and bonds of prior issues as of June 30 for the next fiscal year:

(1) Shall be established each year by the General Assembly in the State budget; and

(2) May not exceed the limit established in subsection (b) of this section.

3–203.

(a) The resolution authorizing the issuance of consolidated transportation bonds shall:

(1) Describe generally the transportation facilities the cost of which is proposed to be financed by the sale of bonds;

(2) State the estimated cost of financing these facilities; and

(3) Determine and specify:

(i) The date or dates of issue;

(ii) The date or dates and amount or amounts of maturities, which need not be in equal principal amounts or consecutive annual installments;

(iii) The rate or rates of interest payable on the bonds, or the manner of determining the rate or rates of interest, and the date or dates of payment of interest;

(iv) The tenor, form or forms, denomination or denominations, manner of execution, and place or places of payment of the principal of and interest on the bonds, which may be at any bank or trust company within or without this State;

(v) Whether the bonds are to be issued in coupon or registered form or both and whether provision is to be made for the registration of the principal only of coupon bonds, for the reconversion of fully registered bonds into coupon form, and for the replacement of bonds that are mutilated, lost, or destroyed;

(vi) **[**The terms and conditions of the public sale of the bonds**]** **WHETHER THE BONDS ARE TO BE SOLD AT A PUBLIC, COMPETITIVE SALE OR A PRIVATE, NEGOTIATED SALE, AS DETERMINED BY THE SECRETARY**;

(vii) **[**The**]** **IF THE BONDS ARE TO BE SOLD AT A PUBLIC SALE, THE** form of notice of sale, which shall outline the terms and conditions of the sale;

(viii) The form of advertisement, which shall be published **[**at least once in a newspaper of general circulation in Baltimore City and, also,**]** at least once in a journal having a circulation among banks and investment bankers, **[**at least one**]** **THE** publication of which shall be made not less than 10 days before the sale of bonds;

(ix) Whether all or any part of the bonds are redeemable before maturity and, if so, the terms, conditions, and prices of redemption; and

(x) Any other matter relating to the form, terms, conditions, issuance, sale, and delivery of the bonds.

(b) (1) The resolution may provide that the Secretary may postpone the time for receipt of proposals for the bonds without republishing the form of advertisement for the bonds.

(2) (i) The Secretary shall provide notice of the new date and time of sale not less than 24 hours prior to the time proposals are to be submitted, which date may not be more than 30 days after the originally scheduled date of sale.

(ii) The notice may be given by Munifacts News Service or a similar service or such other method as the Secretary deems appropriate.

3–207.

Each issue of consolidated transportation bonds shall be approved before sale by resolution of the Board of Public Works.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 642

(House Bill 1425)

AN ACT concerning

Department of Transportation – Consolidated Transportation Bonds – Issuance Procedures

FOR the purpose of authorizing the Department of Transportation to sell its consolidated transportation bonds at either a public, competitive sale or a private, negotiated sale, as determined by the Secretary of Transportation in accordance with certain criteria; providing that a public, competitive sale is the preferred method of issuance; providing for the form of notice of a public sale; providing for the publication of the notice of sale in a certain journal; repealing a certain publication requirement; and generally relating to the sale of the Department of Transportation's consolidated transportation bonds.

BY repealing and reenacting, with amendments,
Article – Transportation
Section 3–202 and 3–203
Annotated Code of Maryland
(2008 Replacement Volume)

BY repealing and reenacting, without amendments,
Article – Transportation
Section 3–207
Annotated Code of Maryland
(2008 Replacement Volume)

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

Article – Transportation

3–202.

(a) The Department from time to time may issue its bonds on behalf of this State to finance the cost of any one or more or combination of transportation facilities.

(b) The bonds shall be known as "consolidated transportation bonds" and may be issued in any amount as long as the aggregate outstanding and unpaid principal balance of these bonds and bonds of prior issues does not exceed at any one time the sum of $2.6 billion.

(C) THE PREFERRED METHOD OF ISSUANCE OF THE DEPARTMENT'S CONSOLIDATED TRANSPORTATION BONDS IS BY A PUBLIC, COMPETITIVE SALE.

(D) THE DEPARTMENT MAY ISSUE ITS CONSOLIDATED TRANSPORTATION BONDS AT A PRIVATE, NEGOTIATED SALE PROVIDED THAT:

(1) THE SECRETARY DETERMINES THAT EXTRAORDINARY CREDIT MARKET CONDITIONS EXIST THAT WARRANT THE USE OF THIS METHOD RATHER THAN A PUBLIC, COMPETITIVE SALE; AND

(2) THE SECRETARY DETERMINES THAT THE TERMS AND CONDITIONS, INCLUDING PRICE, INTEREST RATES, AND PAYMENT DATES, THAT CAN BE ACHIEVED BY A PRIVATE NEGOTIATED SALE ARE MORE ADVANTAGEOUS TO THE STATE.

[(c)**] (E)** The maximum outstanding and unpaid principal balance of consolidated transportation bonds and bonds of prior issues as of June 30 for the next fiscal year:

(1) Shall be established each year by the General Assembly in the State budget; and

(2) May not exceed the limit established in subsection (b) of this section.

3–203.

(a) The resolution authorizing the issuance of consolidated transportation bonds shall:

(1) Describe generally the transportation facilities the cost of which is proposed to be financed by the sale of bonds;

(2) State the estimated cost of financing these facilities; and

(3) Determine and specify:

(i) The date or dates of issue;

(ii) The date or dates and amount or amounts of maturities, which need not be in equal principal amounts or consecutive annual installments;

(iii) The rate or rates of interest payable on the bonds, or the manner of determining the rate or rates of interest, and the date or dates of payment of interest;

(iv) The tenor, form or forms, denomination or denominations, manner of execution, and place or places of payment of the principal of and interest on the bonds, which may be at any bank or trust company within or without this State;

(v) Whether the bonds are to be issued in coupon or registered form or both and whether provision is to be made for the registration of the principal only of coupon bonds, for the reconversion of fully registered bonds into coupon form, and for the replacement of bonds that are mutilated, lost, or destroyed;

(vi) **[**The terms and conditions of the public sale of the bonds**]** **WHETHER THE BONDS ARE TO BE SOLD AT A PUBLIC, COMPETITIVE SALE OR A PRIVATE, NEGOTIATED SALE, AS DETERMINED BY THE SECRETARY**;

(vii) **[**The**]** **IF THE BONDS ARE TO BE SOLD AT A PUBLIC SALE, THE** form of notice of sale, which shall outline the terms and conditions of the sale;

(viii) The form of advertisement, which shall be published **[**at least once in a newspaper of general circulation in Baltimore City and, also,**]** at least once in a journal having a circulation among banks and investment bankers, **[**at least one**]** **THE** publication of which shall be made not less than 10 days before the sale of bonds;

(ix) Whether all or any part of the bonds are redeemable before maturity and, if so, the terms, conditions, and prices of redemption; and

(x) Any other matter relating to the form, terms, conditions, issuance, sale, and delivery of the bonds.

(b) (1) The resolution may provide that the Secretary may postpone the time for receipt of proposals for the bonds without republishing the form of advertisement for the bonds.

(2) (i) The Secretary shall provide notice of the new date and time of sale not less than 24 hours prior to the time proposals are to be submitted, which date may not be more than 30 days after the originally scheduled date of sale.

(ii) The notice may be given by Munifacts News Service or a similar service or such other method as the Secretary deems appropriate.

3–207.

Each issue of consolidated transportation bonds shall be approved before sale by resolution of the Board of Public Works.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 643

(Senate Bill 1019)

AN ACT concerning

State Police Retirement System – Reemployment of Retirees

FOR the purpose of exempting from a certain offset of a retirement allowance certain retirees of the State Police Retirement System who are reemployed as police employees at certain ranks; requiring certain retirees of the State Police Retirement System who are reemployed under certain circumstances to terminate participation in the Deferred Retirement Option Program and receive a certain lump sum payment prior to being reemployed by the Department of State Police; requiring that certain retirees of the State Police Retirement System who are reemployed and injured under certain circumstances receive a certain adjustment to their retirement allowance; requiring that the Board of Trustees for the State Retirement and Pension System pay a certain death benefit under certain circumstances; requiring the Department of State Police to provide the State Retirement Agency with certain information; providing that

certain retirees of the State Police Retirement System may only be reemployed for a certain period of time or until reaching a certain age; requiring the Department of State Police to submit certain reports by a certain date to certain committees; ~~making certain technical changes;~~ providing for the application of this Act; providing for the termination of this Act; and generally relating to the reemployment of retirees in the State Police Retirement System.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 24–405
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,
Article – State Personnel and Pensions
Section 24–405.1
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

BY adding to
Article – State Personnel and Pensions
Section 24–405.2
Annotated Code of Maryland
(2004 Replacement Volume and 2008 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

24–405.

(a) Except as provided in **[**§ 24–405.1 of this subtitle and subject to subsections ~~(b) and (c)~~ **(B), (C), AND (D)** of this section**]** ~~**SUBSECTION (II) OF THIS SECTION**~~, an individual who is receiving a service retirement allowance or vested allowance may accept employment with a participating employer on a temporary **OR CONTRACTUAL** basis, if**[**:

(1) the employment is not in a regularly allocated position; and

(2)**]** the individual immediately notifies the Board of Trustees:

[(i)**]** ~~**(1)**~~ of the individual's intention to accept the employment; and

[(ii)**]** ~~**(2)**~~ of the compensation that the individual will receive.

(b) **(1) THE BOARD OF TRUSTEES SHALL REDUCE THE ALLOWANCE OF AN INDIVIDUAL WHO ACCEPTS EMPLOYMENT AS PROVIDED UNDER SUBSECTION (A) OF THIS SECTION IF:**

(I) THE INDIVIDUAL'S CURRENT EMPLOYER IS ANY UNIT OF STATE GOVERNMENT; AND

(II) THE INDIVIDUAL'S EMPLOYER AT THE TIME OF THE INDIVIDUAL'S LAST SEPARATION FROM EMPLOYMENT WITH THE STATE BEFORE THE INDIVIDUAL COMMENCED RECEIVING A SERVICE RETIREMENT ALLOWANCE OR VESTED ALLOWANCE WAS ALSO A UNIT OF STATE GOVERNMENT.

(2) THE REDUCTION UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL EQUAL THE AMOUNT BY WHICH THE SUM OF THE INDIVIDUAL'S INITIAL ANNUAL BASIC ALLOWANCE AND THE INDIVIDUAL'S ANNUAL COMPENSATION EXCEEDS THE AVERAGE FINAL COMPENSATION USED TO COMPUTE THE BASIC ALLOWANCE.

[(1)**] (3) [**This**] THE REDUCTION UNDER PARAGRAPH (1) OF THIS** subsection does not apply to:

(i) an individual who has been retired for 9 years, beginning on January 1, after the date the individual retires; **[**or**]**

(ii) an individual who participates in the Deferred Retirement Option Program established under § 24–401.1 of this subtitle**; OR**

(III) A RETIREE OF THE STATE POLICE RETIREMENT SYSTEM WHO IS REEMPLOYED BY THE DEPARTMENT OF STATE POLICE ON A CONTRACTUAL BASIS ~~FOR NOT MORE THAN 4 YEARS~~ AS A POLICE EMPLOYEE, AS DEFINED IN § 2–101 OF THE PUBLIC SAFETY ARTICLE, AT A RANK OF ~~SERGEANT OR BELOW~~ TROOPER FIRST CLASS.

[(2) The Board of Trustees shall reduce an individual's allowance by the amount that the sum of the individual's initial annual basic allowance and the individual's annual compensation exceeds the average final compensation used to compute the basic allowance.**]**

(c) For purposes of this section, employment is not on a temporary basis if, in any 12–month period, an individual works:

(1) full time for more than 6 months; or

(2) part time for the equivalent of more than 6 months of full–time work.~~]~~

~~(C)~~ (D) **PRIOR TO COMMENCING REEMPLOYMENT UNDER SUBSECTION (B)(3)(III) OF THIS SECTION, A RETIREE SHALL TERMINATE PARTICIPATION IN THE DEFERRED RETIREMENT OPTION PROGRAM AND RECEIVE ANY LUMP SUM PAYMENT ASSOCIATED WITH THE RETIREE'S PARTICIPATION IN THE DEFERRED RETIREMENT OPTION PROGRAM AS PROVIDED UNDER § 24–401.1(I) OF THIS SUBTITLE.**

(E) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A RETIREE REEMPLOYED UNDER SUBSECTION (B)(3)(III) OF THIS SECTION MAY NOT BE REEMPLOYED FOR MORE THAN 4 YEARS.

(2) A RETIREE REEMPLOYED UNDER SUBSECTION (B)(3)(III) OF THIS SECTION MAY NOT BE REEMPLOYED AFTER BECOMING 60 YEARS OLD.

~~(D) (1) THIS SUBSECTION APPLIES TO A RETIREE WHO:~~

~~(I) WHILE REEMPLOYED UNDER SUBSECTION (B)(3)(III) OF THIS SECTION, IS TOTALLY AND PERMANENTLY INCAPACITATED FOR DUTY IN THE COURSE OF THE ACTUAL PERFORMANCE OF DUTY WITHOUT WILLFUL NEGLIGENCE BY THE RETIREE; AND~~

~~(II) THE MEDICAL BOARD CERTIFIES THAT:~~

~~1. THE RETIREE IS TOTALLY INCAPACITATED, EITHER MENTALLY OR PHYSICALLY, FOR THE FURTHER PERFORMANCE OF DUTY;~~

~~2. THE RETIREE'S INCAPACITY IS LIKELY TO BE PERMANENT; AND~~

~~3. THE RETIREE SHOULD CEASE REEMPLOYMENT.~~

~~(2) THE NORMAL SERVICE RETIREMENT ALLOWANCE THAT A RETIREE DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION IS RECEIVING AT THE TIME THE RETIREE IS DETERMINED TO BE DISABLED UNDER THIS SUBSECTION, SHALL BE READJUSTED TO EQUAL TWO–THIRDS OF THE RETIREE'S AVERAGE FINAL COMPENSATION AT THE TIME THE RETIREE RETIRED, WITH ACCUMULATED COST–OF–LIVING ADJUSTMENTS FROM THE DATE THE RETIREE RETIRED.~~

~~(E) (1) THIS SUBSECTION APPLIES TO A RETIREE WHO:~~

~~(I) DIES WHILE REEMPLOYED UNDER SUBSECTION (B)(3)(III) OF THIS SECTION;~~

~~(II) DIES WITHOUT WILLFUL NEGLIGENCE BY THE RETIREE; AND~~

~~(III) IS KILLED IN THE COURSE OF THE ACTUAL PERFORMANCE OF DUTY.~~

~~(2) WHEN THE BOARD OF TRUSTEES RECEIVES PROOF OF DEATH OF A RETIREE AND FINDS THAT THE DEATH HAS OCCURRED IN THE MANNER DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, THE BOARD OF TRUSTEES SHALL PAY A SPECIAL DEATH BENEFIT ALLOWANCE EQUAL TO TWO–THIRDS OF THE RETIREE'S AVERAGE FINAL COMPENSATION AT THE TIME OF RETIREMENT:~~

~~(I) TO THE SURVIVING SPOUSE;~~

~~(II) IF THERE IS NO SURVIVING SPOUSE OR IF THE SURVIVING SPOUSE DIES BEFORE THE YOUNGEST CHILD OF THE MEMBER IS 18 YEARS OLD, TO ALL CHILDREN UNDER THE AGE OF 18 YEARS; OR~~

~~(III) IF THERE IS NO SURVIVING SPOUSE OR CHILDREN YOUNGER THAN 18 YEARS OF AGE, TO THE MEMBER'S DEPENDENT PARENT TO CONTINUE AS THE BOARD OF TRUSTEES MAY DIRECT FOR THE REST OF THE PARENT'S LIFE.~~

~~(3) ANY BENEFITS UNDER TITLE 21, SUBTITLE 4 OF THIS ARTICLE MAY NOT BE PAID IF A SPECIAL DEATH BENEFIT IS PAID UNDER PARAGRAPH 2.~~

(F) AN INDIVIDUAL WHO IS RECEIVING A SERVICE RETIREMENT ALLOWANCE OR A VESTED ALLOWANCE AND WHO IS REEMPLOYED BY A PARTICIPATING EMPLOYER MAY NOT RECEIVE CREDITABLE SERVICE OR ELIGIBILITY SERVICE DURING THE PERIOD OF REEMPLOYMENT.

(G) THE INDIVIDUAL'S COMPENSATION DURING THE PERIOD OF REEMPLOYMENT MAY NOT BE SUBJECT TO THE EMPLOYER PICKUP PROVISIONS OF § 21–303 OF THIS ARTICLE OR ANY REDUCTION OR DEDUCTION AS A MEMBER CONTRIBUTION FOR PENSION OR RETIREMENT PURPOSES.

(H) THE STATE RETIREMENT AGENCY SHALL INSTITUTE APPROPRIATE REPORTING PROCEDURES WITH THE AFFECTED PAYROLL SYSTEMS TO ENSURE COMPLIANCE WITH THIS SECTION.

(I) (1) IMMEDIATELY ON THE EMPLOYMENT OF A RETIREE WHO IS REHIRED UNDER SUBSECTION (B)(3)(III) OF THIS SECTION, THE DEPARTMENT OF STATE POLICE SHALL NOTIFY THE STATE RETIREMENT AGENCY OF THE TYPE OF EMPLOYMENT AND THE ANTICIPATED EARNINGS OF THE INDIVIDUAL.

(2) AT LEAST ONCE EACH YEAR, IN A FORMAT SPECIFIED BY THE STATE RETIREMENT AGENCY, THE DEPARTMENT OF STATE POLICE SHALL PROVIDE THE STATE RETIREMENT AGENCY WITH A LIST OF ALL EMPLOYEES INCLUDED ON ANY PAYROLL OF THE EMPLOYER, THE SOCIAL SECURITY NUMBERS OF THE EMPLOYEES, AND THEIR EARNINGS FOR THAT YEAR.

~~**(J) AN INDIVIDUAL WHO IS REHIRED UNDER THIS SECTION MAY NOT BE REHIRED WITHIN 45 DAYS OF THE DATE THE INDIVIDUAL RETIRED IF:**~~

~~**(1) THE INDIVIDUAL'S CURRENT EMPLOYER IS A PARTICIPATING EMPLOYER OTHER THAN THE STATE AND IS THE SAME PARTICIPATING EMPLOYER THAT EMPLOYED THE INDIVIDUAL AT THE TIME OF THE INDIVIDUAL'S LAST SEPARATION FROM EMPLOYMENT WITH A PARTICIPATING EMPLOYER BEFORE THE INDIVIDUAL COMMENCED RECEIVING A SERVICE RETIREMENT ALLOWANCE; OR**~~

~~**(2) THE INDIVIDUAL'S CURRENT EMPLOYER IS ANY UNIT OF STATE GOVERNMENT AND THE INDIVIDUAL'S EMPLOYER AT THE TIME OF THE INDIVIDUAL'S LAST SEPARATION FROM EMPLOYMENT WITH THE STATE BEFORE THE INDIVIDUAL COMMENCED RECEIVING A SERVICE RETIREMENT ALLOWANCE WAS ALSO A UNIT OF STATE GOVERNMENT.**~~

~~**(K) THE DEPARTMENT OF STATE POLICE SHALL NOTIFY THE STATE RETIREMENT AGENCY OF ANY RETIREES WHO QUALIFY UNDER SUBSECTION (B)(3)(III) OF THIS SECTION.**~~

~~**(L)**~~ **(J) ON OR BEFORE SEPTEMBER 1 OF EACH YEAR, THE SECRETARY OF STATE POLICE SHALL SUBMIT A REPORT IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE TO THE JOINT COMMITTEE ON PENSIONS THAT PROVIDES:**

(1) THE NUMBER OF REHIRED RETIREES UNDER SUBSECTION (B)(3)(III) OF THIS SECTION;

(2) THE ANNUAL SALARY OF EACH REHIRED RETIREE AT THE TIME OF RETIREMENT AND THE CURRENT ANNUAL SALARY OF EACH REHIRED RETIREE;

(3) THE NUMBER OF POLICE EMPLOYEES HIRED WHO ARE NOT RETIREES; AND

(4) THE ANNUAL SALARY OF EACH POLICE EMPLOYEE WHO IS HIRED.

[24–405.1.

A retiree of the State Police Retirement System who is rehired on a permanent, temporary, or contractual basis may not be rehired within 45 days of the date the individual retired if the individual's current employer is any unit of State government and the individual's employer at the time of the individual's last separation from employment with the State before the individual commenced receiving a service retirement allowance was also a unit of State government.]

24–405.2.

(A) (1) THIS SUBSECTION APPLIES TO A RETIREE WHO:

(I) 1. IS REEMPLOYED UNDER § 24–405(B)(3)(III) OF THIS SUBTITLE; OR

2. IS REEMPLOYED AS A MARYLAND STATE POLICE AVIATION COMMAND HELICOPTER PILOT;

(II) WHILE REEMPLOYED UNDER ITEM (I) OF THIS PARAGRAPH IS TOTALLY AND PERMANENTLY INCAPACITATED FOR DUTY IN THE COURSE OF THE ACTUAL PERFORMANCE OF DUTY WITHOUT WILLFUL NEGLIGENCE BY THE RETIREE; AND

(III) THE MEDICAL BOARD CERTIFIES THAT:

1. THE RETIREE IS TOTALLY INCAPACITATED, EITHER MENTALLY OR PHYSICALLY, FOR THE FURTHER PERFORMANCE OF DUTY;

2. THE RETIREE'S INCAPACITY IS LIKELY TO BE PERMANENT; AND

3. THE RETIREE SHOULD CEASE REEMPLOYMENT.

(2) THE NORMAL SERVICE RETIREMENT ALLOWANCE THAT A RETIREE DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION IS RECEIVING AT THE TIME THE RETIREE IS DETERMINED TO BE DISABLED UNDER THIS SUBSECTION SHALL BE READJUSTED TO EQUAL TWO–THIRDS OF THE

RETIREE'S AVERAGE FINAL COMPENSATION AT THE TIME THE RETIREE RETIRED, WITH ACCUMULATED COST–OF–LIVING ADJUSTMENTS FROM THE DATE THE RETIREE RETIRED.

(B) (1) THIS SUBSECTION APPLIES TO A RETIREE WHO:

(I) 1. DIES WHILE REEMPLOYED UNDER § 24–405(B)(3)(III) OF THIS SUBTITLE; OR

2. DIES WHILE REEMPLOYED AS A MARYLAND STATE POLICE AVIATION COMMAND HELICOPTER PILOT;

(II) DIES WITHOUT WILLFUL NEGLIGENCE BY THE RETIREE; AND

(III) IS KILLED IN THE COURSE OF THE ACTUAL PERFORMANCE OF DUTY.

(2) WHEN THE BOARD OF TRUSTEES RECEIVES PROOF OF DEATH OF A RETIREE AND FINDS THAT THE DEATH HAS OCCURRED IN THE MANNER DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, THE BOARD OF TRUSTEES SHALL PAY *THE BALANCE OF THE RETIREE'S ACCUMULATED CONTRIBUTIONS AND* A SPECIAL DEATH BENEFIT ALLOWANCE EQUAL TO TWO–THIRDS OF THE RETIREE'S AVERAGE FINAL COMPENSATION AT THE TIME OF RETIREMENT, *WITH ACCUMULATED COST–OF–LIVING ADJUSTMENTS FROM THE DATE THE RETIREE RETIRED*:

(I) TO THE SURVIVING SPOUSE;

(II) IF THERE IS NO SURVIVING SPOUSE OR IF THE SURVIVING SPOUSE DIES BEFORE THE YOUNGEST CHILD OF THE MEMBER IS 18 YEARS OLD, TO ALL CHILDREN UNDER THE AGE OF 18 YEARS; OR

(III) IF THERE IS NO SURVIVING SPOUSE OR CHILDREN YOUNGER THAN 18 YEARS OF AGE, TO THE MEMBER'S DEPENDENT PARENT TO CONTINUE AS THE BOARD OF TRUSTEES MAY DIRECT FOR THE REST OF THE PARENT'S LIFE.

(3) ANY BENEFITS UNDER TITLE 21, SUBTITLE 4 OF THIS ARTICLE OR § 24–403 OF THIS SUBTITLE MAY NOT BE PAID IF A SPECIAL DEATH BENEFIT IS PAID UNDER PARAGRAPH (2) OF THIS SUBSECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That § 24–405.2 of the State Personnel and Pensions Article as enacted by this Act shall be construed to apply retroactively and shall be applied to and interpreted to affect any individual who:

(a) was a retiree of the State Police Retirement System; and

(b) on or after July 1, 2008, while reemployed by the Maryland State Police Aviation Command as a helicopter pilot:

(1) died without willful negligence by the individual; and

(2) was killed in the course of the actual performance of duty.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009. It shall remain effective for a period of 5 years and, at the end of June 30, 2014, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 19, 2009.

Chapter 644

(House Bill 1495)

AN ACT concerning

State Police Retirement System – Reemployment of Retirees

FOR the purpose of exempting from a certain offset of a retirement allowance certain retirees of the State Police Retirement System who are reemployed as police employees at certain ranks; requiring certain retirees of the State Police Retirement System who are reemployed under certain circumstances to terminate participation in the Deferred Retirement Option Program and receive a certain lump sum payment prior to being reemployed by the Department of State Police; requiring that certain retirees of the State Police Retirement System who are reemployed and injured under certain circumstances receive a certain adjustment to their retirement allowance; requiring that the Board of Trustees for the State Retirement and Pension System pay a certain death benefit under certain circumstances; requiring the Department of State Police to provide the State Retirement Agency with certain information; providing that certain retirees of the State Police Retirement System may only be reemployed for a certain period of time or until reaching a certain age; requiring the Department of State Police to submit certain reports by a certain date to certain committees; ~~making certain technical changes;~~ providing for the application of

this Act; providing for the termination of this Act; and generally relating to the reemployment of retirees in the State Police Retirement System.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 24–405
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,
Article – State Personnel and Pensions
Section 24–405.1
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

BY adding to
Article – State Personnel and Pensions
Section 24–405.2
Annotated Code of Maryland
(2004 Replacement Volume and 2008 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

24–405.

(a) Except as provided in **[**§ 24–405.1 of this subtitle and subject to subsections ~~(b) and (c)~~ **(B), (C), AND (D)** of this section**]** ~~**SUBSECTION (H) OF THIS SECTION**~~, an individual who is receiving a service retirement allowance or vested allowance may accept employment with a participating employer on a temporary **OR CONTRACTUAL** basis, if**[**:

(1) the employment is not in a regularly allocated position; and

(2)**]** the individual immediately notifies the Board of Trustees:

[(i)**]** ~~**(1)**~~ of the individual's intention to accept the employment; and

[(ii)**]** ~~**(2)**~~ of the compensation that the individual will receive.

(b) **(1) THE BOARD OF TRUSTEES SHALL REDUCE THE ALLOWANCE OF AN INDIVIDUAL WHO ACCEPTS EMPLOYMENT AS PROVIDED UNDER SUBSECTION (A) OF THIS SECTION IF:**

(I) THE INDIVIDUAL'S CURRENT EMPLOYER IS ANY UNIT OF STATE GOVERNMENT; AND

(II) THE INDIVIDUAL'S EMPLOYER AT THE TIME OF THE INDIVIDUAL'S LAST SEPARATION FROM EMPLOYMENT WITH THE STATE BEFORE THE INDIVIDUAL COMMENCED RECEIVING A SERVICE RETIREMENT ALLOWANCE OR VESTED ALLOWANCE WAS ALSO A UNIT OF STATE GOVERNMENT.

(2) THE REDUCTION UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL EQUAL THE AMOUNT BY WHICH THE SUM OF THE INDIVIDUAL'S INITIAL ANNUAL BASIC ALLOWANCE AND THE INDIVIDUAL'S ANNUAL COMPENSATION EXCEEDS THE AVERAGE FINAL COMPENSATION USED TO COMPUTE THE BASIC ALLOWANCE.

[(1)**] (3) [**This**] THE REDUCTION UNDER PARAGRAPH (1) OF THIS** subsection does not apply to:

(i) an individual who has been retired for 9 years, beginning on January 1, after the date the individual retires; **[**or**]**

(ii) an individual who participates in the Deferred Retirement Option Program established under § 24–401.1 of this subtitle**; OR**

(III) A RETIREE OF THE STATE POLICE RETIREMENT SYSTEM WHO IS REEMPLOYED BY THE DEPARTMENT OF STATE POLICE ON A CONTRACTUAL BASIS ~~FOR NOT MORE THAN 4 YEARS~~ AS A POLICE EMPLOYEE, AS DEFINED IN § 2–101 OF THE PUBLIC SAFETY ARTICLE, AT A RANK OF ~~SERGEANT OR BELOW~~ TROOPER FIRST CLASS.

[(2) The Board of Trustees shall reduce an individual's allowance by the amount that the sum of the individual's initial annual basic allowance and the individual's annual compensation exceeds the average final compensation used to compute the basic allowance.**]**

(c) For purposes of this section, employment is not on a temporary basis if, in any 12–month period, an individual works:

(1) full time for more than 6 months; or

(2) part time for the equivalent of more than 6 months of full–time work.~~]~~

~~(C)~~ (D) PRIOR TO COMMENCING REEMPLOYMENT UNDER SUBSECTION (B)(3)(III) OF THIS SECTION, A RETIREE SHALL TERMINATE

PARTICIPATION IN THE DEFERRED RETIREMENT OPTION PROGRAM AND RECEIVE ANY LUMP SUM PAYMENT ASSOCIATED WITH THE RETIREE'S PARTICIPATION IN THE DEFERRED RETIREMENT OPTION PROGRAM AS PROVIDED UNDER § 24–401.1(I) OF THIS SUBTITLE.

(E) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A RETIREE REEMPLOYED UNDER SUBSECTION (B)(3)(III) OF THIS SECTION MAY NOT BE REEMPLOYED FOR MORE THAN 4 YEARS.

(2) A RETIREE REEMPLOYED UNDER SUBSECTION (B)(3)(III) OF THIS SECTION MAY NOT BE REEMPLOYED AFTER BECOMING 60 YEARS OLD.

~~(D) (1) THIS SUBSECTION APPLIES TO A RETIREE WHO:~~

~~(I) WHILE REEMPLOYED UNDER SUBSECTION (B)(3)(III) OF THIS SECTION, IS TOTALLY AND PERMANENTLY INCAPACITATED FOR DUTY IN THE COURSE OF THE ACTUAL PERFORMANCE OF DUTY WITHOUT WILLFUL NEGLIGENCE BY THE RETIREE; AND~~

~~(II) THE MEDICAL BOARD CERTIFIES THAT:~~

~~1. THE RETIREE IS TOTALLY INCAPACITATED, EITHER MENTALLY OR PHYSICALLY, FOR THE FURTHER PERFORMANCE OF DUTY;~~

~~2. THE RETIREE'S INCAPACITY IS LIKELY TO BE PERMANENT; AND~~

~~3. THE RETIREE SHOULD CEASE REEMPLOYMENT.~~

~~(2) THE NORMAL SERVICE RETIREMENT ALLOWANCE THAT A RETIREE DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION IS RECEIVING AT THE TIME THE RETIREE IS DETERMINED TO BE DISABLED UNDER THIS SUBSECTION, SHALL BE READJUSTED TO EQUAL TWO-THIRDS OF THE RETIREE'S AVERAGE FINAL COMPENSATION AT THE TIME THE RETIREE RETIRED, WITH ACCUMULATED COST-OF-LIVING ADJUSTMENTS FROM THE DATE THE RETIREE RETIRED.~~

~~(E) (1) THIS SUBSECTION APPLIES TO A RETIREE WHO:~~

~~(I) DIES WHILE REEMPLOYED UNDER SUBSECTION (B)(3)(III) OF THIS SECTION;~~

~~(II) DIES WITHOUT WILLFUL NEGLIGENCE BY THE RETIREE; AND~~

~~(III) IS KILLED IN THE COURSE OF THE ACTUAL PERFORMANCE OF DUTY.~~

~~(2) WHEN THE BOARD OF TRUSTEES RECEIVES PROOF OF DEATH OF A RETIREE AND FINDS THAT THE DEATH HAS OCCURRED IN THE MANNER DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, THE BOARD OF TRUSTEES SHALL PAY A SPECIAL DEATH BENEFIT ALLOWANCE EQUAL TO TWO–THIRDS OF THE RETIREE'S AVERAGE FINAL COMPENSATION AT THE TIME OF RETIREMENT:~~

~~(I) TO THE SURVIVING SPOUSE;~~

~~(II) IF THERE IS NO SURVIVING SPOUSE OR IF THE SURVIVING SPOUSE DIES BEFORE THE YOUNGEST CHILD OF THE MEMBER IS 18 YEARS OLD, TO ALL CHILDREN UNDER THE AGE OF 18 YEARS; OR~~

~~(III) IF THERE IS NO SURVIVING SPOUSE OR CHILDREN YOUNGER THAN 18 YEARS OF AGE, TO THE MEMBER'S DEPENDENT PARENT TO CONTINUE AS THE BOARD OF TRUSTEES MAY DIRECT FOR THE REST OF THE PARENT'S LIFE.~~

~~(3) ANY BENEFITS UNDER TITLE 21, SUBTITLE 4 OF THIS ARTICLE MAY NOT BE PAID IF A SPECIAL DEATH BENEFIT IS PAID UNDER PARAGRAPH 2.~~

(F) AN INDIVIDUAL WHO IS RECEIVING A SERVICE RETIREMENT ALLOWANCE OR A VESTED ALLOWANCE AND WHO IS REEMPLOYED BY A PARTICIPATING EMPLOYER MAY NOT RECEIVE CREDITABLE SERVICE OR ELIGIBILITY SERVICE DURING THE PERIOD OF REEMPLOYMENT.

(G) THE INDIVIDUAL'S COMPENSATION DURING THE PERIOD OF REEMPLOYMENT MAY NOT BE SUBJECT TO THE EMPLOYER PICKUP PROVISIONS OF § 21–303 OF THIS ARTICLE OR ANY REDUCTION OR DEDUCTION AS A MEMBER CONTRIBUTION FOR PENSION OR RETIREMENT PURPOSES.

(H) THE STATE RETIREMENT AGENCY SHALL INSTITUTE APPROPRIATE REPORTING PROCEDURES WITH THE AFFECTED PAYROLL SYSTEMS TO ENSURE COMPLIANCE WITH THIS SECTION.

(I) (1) IMMEDIATELY ON THE EMPLOYMENT OF A RETIREE WHO IS REHIRED UNDER SUBSECTION (B)(3)(III) OF THIS SECTION, THE DEPARTMENT

OF STATE POLICE SHALL NOTIFY THE STATE RETIREMENT AGENCY OF THE TYPE OF EMPLOYMENT AND THE ANTICIPATED EARNINGS OF THE INDIVIDUAL.

(2) AT LEAST ONCE EACH YEAR, IN A FORMAT SPECIFIED BY THE STATE RETIREMENT AGENCY, THE DEPARTMENT OF STATE POLICE SHALL PROVIDE THE STATE RETIREMENT AGENCY WITH A LIST OF ALL EMPLOYEES INCLUDED ON ANY PAYROLL OF THE EMPLOYER, THE SOCIAL SECURITY NUMBERS OF THE EMPLOYEES, AND THEIR EARNINGS FOR THAT YEAR.

~~(J) AN INDIVIDUAL WHO IS REHIRED UNDER THIS SECTION MAY NOT BE REHIRED WITHIN 45 DAYS OF THE DATE THE INDIVIDUAL RETIRED IF:~~

~~(1) THE INDIVIDUAL'S CURRENT EMPLOYER IS A PARTICIPATING EMPLOYER OTHER THAN THE STATE AND IS THE SAME PARTICIPATING EMPLOYER THAT EMPLOYED THE INDIVIDUAL AT THE TIME OF THE INDIVIDUAL'S LAST SEPARATION FROM EMPLOYMENT WITH A PARTICIPATING EMPLOYER BEFORE THE INDIVIDUAL COMMENCED RECEIVING A SERVICE RETIREMENT ALLOWANCE; OR~~

~~(2) THE INDIVIDUAL'S CURRENT EMPLOYER IS ANY UNIT OF STATE GOVERNMENT AND THE INDIVIDUAL'S EMPLOYER AT THE TIME OF THE INDIVIDUAL'S LAST SEPARATION FROM EMPLOYMENT WITH THE STATE BEFORE THE INDIVIDUAL COMMENCED RECEIVING A SERVICE RETIREMENT ALLOWANCE WAS ALSO A UNIT OF STATE GOVERNMENT.~~

~~(K) THE DEPARTMENT OF STATE POLICE SHALL NOTIFY THE STATE RETIREMENT AGENCY OF ANY RETIREES WHO QUALIFY UNDER SUBSECTION (B)(3)(III) OF THIS SECTION.~~

~~(L)~~ (J) **ON OR BEFORE SEPTEMBER 1 OF EACH YEAR, THE SECRETARY OF STATE POLICE SHALL SUBMIT A REPORT IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE TO THE JOINT COMMITTEE ON PENSIONS THAT PROVIDES:**

(1) THE NUMBER OF REHIRED RETIREES UNDER SUBSECTION (B)(3)(III) OF THIS SECTION;

(2) THE ANNUAL SALARY OF EACH REHIRED RETIREE AT THE TIME OF RETIREMENT AND THE CURRENT ANNUAL SALARY OF EACH REHIRED RETIREE;

(3) THE NUMBER OF POLICE EMPLOYEES HIRED WHO ARE NOT RETIREES; AND

(4) THE ANNUAL SALARY OF EACH POLICE EMPLOYEE WHO IS HIRED.

[24–405.1.

A retiree of the State Police Retirement System who is rehired on a permanent, temporary, or contractual basis may not be rehired within 45 days of the date the individual retired if the individual's current employer is any unit of State government and the individual's employer at the time of the individual's last separation from employment with the State before the individual commenced receiving a service retirement allowance was also a unit of State government.]

24–405.2.

(A) (1) THIS SUBSECTION APPLIES TO A RETIREE WHO:

(I) 1. IS REEMPLOYED UNDER § 24–405(B)(3)(III) OF THIS SUBTITLE; OR

2. IS REEMPLOYED AS A MARYLAND STATE POLICE AVIATION COMMAND HELICOPTER PILOT;

(II) WHILE REEMPLOYED UNDER ITEM (I) OF THIS PARAGRAPH IS TOTALLY AND PERMANENTLY INCAPACITATED FOR DUTY IN THE COURSE OF THE ACTUAL PERFORMANCE OF DUTY WITHOUT WILLFUL NEGLIGENCE BY THE RETIREE; AND

(III) THE MEDICAL BOARD CERTIFIES THAT:

1. THE RETIREE IS TOTALLY INCAPACITATED, EITHER MENTALLY OR PHYSICALLY, FOR THE FURTHER PERFORMANCE OF DUTY;

2. THE RETIREE'S INCAPACITY IS LIKELY TO BE PERMANENT; AND

3. THE RETIREE SHOULD CEASE REEMPLOYMENT.

(2) THE NORMAL SERVICE RETIREMENT ALLOWANCE THAT A RETIREE DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION IS RECEIVING AT THE TIME THE RETIREE IS DETERMINED TO BE DISABLED UNDER THIS SUBSECTION SHALL BE READJUSTED TO EQUAL TWO–THIRDS OF THE RETIREE'S AVERAGE FINAL COMPENSATION AT THE TIME THE RETIREE RETIRED, WITH ACCUMULATED COST–OF–LIVING ADJUSTMENTS FROM THE DATE THE RETIREE RETIRED.

(B) (1) THIS SUBSECTION APPLIES TO A RETIREE WHO:

(I) 1. DIES WHILE REEMPLOYED UNDER § 24–405(B)(3)(III) OF THIS SUBTITLE; OR

2. DIES WHILE REEMPLOYED AS A MARYLAND STATE POLICE AVIATION COMMAND HELICOPTER PILOT;

(II) DIES WITHOUT WILLFUL NEGLIGENCE BY THE RETIREE; AND

(III) IS KILLED IN THE COURSE OF THE ACTUAL PERFORMANCE OF DUTY.

(2) WHEN THE BOARD OF TRUSTEES RECEIVES PROOF OF DEATH OF A RETIREE AND FINDS THAT THE DEATH HAS OCCURRED IN THE MANNER DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, THE BOARD OF TRUSTEES SHALL PAY *THE BALANCE OF THE RETIREE'S ACCUMULATED CONTRIBUTIONS AND* A SPECIAL DEATH BENEFIT ALLOWANCE EQUAL TO TWO–THIRDS OF THE RETIREE'S AVERAGE FINAL COMPENSATION AT THE TIME OF RETIREMENT, *WITH ACCUMULATED COST–OF–LIVING ADJUSTMENTS FROM THE DATE THE RETIREE RETIRED*:

(I) TO THE SURVIVING SPOUSE;

(II) IF THERE IS NO SURVIVING SPOUSE OR IF THE SURVIVING SPOUSE DIES BEFORE THE YOUNGEST CHILD OF THE MEMBER IS 18 YEARS OLD, TO ALL CHILDREN UNDER THE AGE OF 18 YEARS; OR

(III) IF THERE IS NO SURVIVING SPOUSE OR CHILDREN YOUNGER THAN 18 YEARS OF AGE, TO THE MEMBER'S DEPENDENT PARENT TO CONTINUE AS THE BOARD OF TRUSTEES MAY DIRECT FOR THE REST OF THE PARENT'S LIFE.

(3) ANY BENEFITS UNDER TITLE 21, SUBTITLE 4 OF THIS ARTICLE OR § 24–403 OF THIS SUBTITLE MAY NOT BE PAID IF A SPECIAL DEATH BENEFIT IS PAID UNDER PARAGRAPH (2) OF THIS SUBSECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That § 24–405.2 of the State Personnel and Pensions Article as enacted by this Act shall be construed to apply retroactively and shall be applied to and interpreted to affect any individual who:

(a) was a retiree of the State Police Retirement System; and

(b) on or after July 1, 2008, while reemployed by the Maryland State Police Aviation Command as a helicopter pilot:

(1) died without willful negligence by the individual; and

(2) was killed in the course of the actual performance of duty.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009. It shall remain effective for a period of 5 years and, at the end of June 30, 2014, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 19, 2009.

Chapter 645

(Senate Bill 1027)

AN ACT concerning

Real Property – Conservation Easements – Disclosure

FOR the purpose of requiring a vendor of real property encumbered by one or more conservation easements to deliver to each purchaser a certain notice and copies of the conservation easements under certain circumstances; altering the form of the notice required to be delivered by a vendor to a purchaser under certain circumstances; altering the right of a purchaser to rescind a sales contract for property encumbered by a conservation easement under certain circumstances; prohibiting a purchaser who receives a certain notice and copies of conservation easements from rescinding the sales contract under certain circumstances; altering the contents of the notification a purchaser of real property encumbered by a conservation easement is required to give to the owner of the conservation easement under certain circumstances; altering a certain definition; making stylistic changes; and generally relating to the disclosure of conservation easements.

BY repealing and reenacting, with amendments,
Article – Real Property
Section 10–705
Annotated Code of Maryland
(2003 Replacement Volume and 2008 Supplement)

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

Article – Real Property

10–705.

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

(2) "Conservation easement" means an easement, covenant, restriction, or condition on real property, including an amendment to an easement, covenant, restriction, or [condition] **CONDITION,** as provided for in § 2–118 of this article [and] **THAT IS:**

(I) [owned] **OWNED** by:

[(i)] **1.** The Maryland Environmental Trust;

[(ii)] **2.** The Maryland Historical Trust;

[(iii)] **3.** The Maryland Agricultural Land Preservation Foundation;

[(iv)] **4.** The Maryland Department of Natural Resources;

5. A COUNTY OR MUNICIPAL CORPORATION AND IS FUNDED BY THE MARYLAND DEPARTMENT OF NATURAL RESOURCES, THE RURAL LEGACY PROGRAM, OR A LOCAL AGRICULTURAL PRESERVATION PROGRAM; or

[(v)] **6.** A land trust**; OR**

(II) REQUIRED BY A PERMIT ISSUED BY THE DEPARTMENT OF THE ENVIRONMENT.

(3) "Land trust" means an organization that:

(i) Is a qualified organization under § 170(h)(3) of the Internal Revenue Code and regulations adopted under that section; and

(ii) Has executed a cooperative agreement with the Maryland Environmental Trust.

(b) (1) This section applies to the sale of property encumbered by a conservation easement.

(2) This section does not apply to the sale of property in an action to foreclose a mortgage or deed of trust.

(c) [A purchaser has the right to rescind a contract for the sale of property if:

(1) The seller fails to give the purchaser, on or before entering into the contract for the sale of the property, or within 20 calendar days after entering into the contract, a copy of all conservation easements encumbering the property; and

(2) The contract of sale fails to contain a statement in conspicuous type, in a form substantially the same as the following:] **A VENDOR OF REAL PROPERTY ENCUMBERED BY ONE OR MORE CONSERVATION EASEMENTS SHALL, ON OR BEFORE ENTERING INTO A CONTRACT FOR THE SALE OF THE PROPERTY, DELIVER TO EACH PURCHASER:**

(1) THE NOTICE DESCRIBED IN SUBSECTION (D) OF THIS SECTION; AND

(2) A COPY OF ALL CONSERVATION EASEMENTS ENCUMBERING THE PROPERTY.

(D) THE NOTICE REQUIRED UNDER SUBSECTION (C)(1) OF THIS SECTION SHALL BE IN A FORM SUBSTANTIALLY THE SAME AS THE FOLLOWING:

"This property is encumbered by one or more conservation easements or other restrictions limiting or affecting uses of the property [and owned by the Maryland Environmental Trust, the Maryland Historical Trust, the Maryland Agricultural Land Preservation Foundation, the Maryland Department of Natural Resources, or a land trust (the "conservation easements")]. Maryland law requires that the [seller] **VENDOR** deliver to the purchaser copies of all conservation easements on or before the day the contract is entered into[, or within 20 calendar days after entering into the contract]. The purchaser should review all conservation easements carefully to ascertain the purchaser's rights, responsibilities, and obligations under each conservation easement, including any requirement that after the sale the purchaser must inform the owner of the conservation easement of the sale of the property.".

(E) (1) A PURCHASER WHO RECEIVES THE NOTICE AND COPIES OF THE EASEMENTS REQUIRED UNDER SUBSECTION (C) OF THIS SECTION ON OR BEFORE ENTERING INTO A CONTRACT OF SALE DOES NOT HAVE THE RIGHT TO RESCIND THE CONTRACT OF SALE BASED ON THE INFORMATION RECEIVED FROM THE VENDOR.

(2) A PURCHASER WHO DOES NOT RECEIVE THE NOTICE AND COPIES OF THE EASEMENTS REQUIRED UNDER SUBSECTION (C) OF THIS SECTION ON OR BEFORE ENTERING INTO A CONTRACT OF SALE, ON WRITTEN NOTICE TO THE VENDOR OR THE VENDOR'S AGENT:

(I) HAS THE UNCONDITIONAL RIGHT TO RESCIND THE CONTRACT AT ANY TIME BEFORE, OR WITHIN 5 DAYS AFTER, RECEIPT OF THE NOTICE AND COPIES OF THE EASEMENTS; AND

(II) IS ENTITLED TO THE IMMEDIATE RETURN OF ANY DEPOSITS MADE IN ACCORDANCE WITH THE CONTRACT.

[(d)**] (F)** (1) Within 30 calendar days after a sale of property encumbered by a conservation easement, the purchaser shall notify the owner of a conservation easement of the sale.

(2) The notification shall include, to the extent reasonably available:

(i) The name and address of the purchaser;

(ii) The name **[**and forwarding address**]** of the **[**seller**] VENDOR**; **[**and**]**

(iii) **THE ADDRESS OF THE PROPERTY; AND**

(IV) The date of the sale.

[(e)**] (G)** In satisfying the requirements of **[**subsections**] SUBSECTION** (c) **[**and (d)**]** of this section, the **[**seller**] VENDOR** and purchaser shall be entitled to rely on the conservation easement recorded in the land records of the county where the property is located.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 646

(House Bill 754)

AN ACT concerning

Real Property – Conservation Easements – Disclosure

FOR the purpose of requiring a vendor of real property encumbered by one or more conservation easements to deliver to each purchaser a certain notice and copies of the conservation easements under certain circumstances; altering the form of

the notice required to be delivered by a vendor to a purchaser under certain circumstances; altering the right of a purchaser to rescind a sales contract for property encumbered by a conservation easement under certain circumstances; prohibiting a purchaser who receives a certain notice and copies of conservation easements from rescinding the sales contract under certain circumstances; altering the contents of the notification a purchaser of real property encumbered by a conservation easement is required to give to the owner of the conservation easement under certain circumstances; altering a certain definition; making stylistic changes; and generally relating to the disclosure of conservation easements.

BY repealing and reenacting, with amendments,
Article – Real Property
Section 10–705
Annotated Code of Maryland
(2003 Replacement Volume and 2008 Supplement)

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

Article – Real Property

10–705.

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

(2) "Conservation easement" means an easement, covenant, restriction, or condition on real property, including an amendment to an easement, covenant, restriction, or [condition] **CONDITION,** as provided for in § 2–118 of this article [and] **THAT IS:**

(I) [owned] **OWNED** by:

[(i)] **1.** The Maryland Environmental Trust;

[(ii)] **2.** The Maryland Historical Trust;

[(iii)] **3.** The Maryland Agricultural Land Preservation Foundation;

[(iv)] **4.** The Maryland Department of Natural Resources;

5. A COUNTY OR MUNICIPAL CORPORATION AND IS FUNDED BY THE MARYLAND DEPARTMENT OF NATURAL RESOURCES, THE RURAL LEGACY PROGRAM, OR A LOCAL AGRICULTURAL PRESERVATION PROGRAM; or

[(v)] **6.** A land trust**; OR**

(II) REQUIRED BY A PERMIT ISSUED BY THE DEPARTMENT OF THE ENVIRONMENT.

(3) "Land trust" means an organization that:

(i) Is a qualified organization under § 170(h)(3) of the Internal Revenue Code and regulations adopted under that section; and

(ii) Has executed a cooperative agreement with the Maryland Environmental Trust.

(b) (1) This section applies to the sale of property encumbered by a conservation easement.

(2) This section does not apply to the sale of property in an action to foreclose a mortgage or deed of trust.

(c) [A purchaser has the right to rescind a contract for the sale of property if:

(1) The seller fails to give the purchaser, on or before entering into the contract for the sale of the property, or within 20 calendar days after entering into the contract, a copy of all conservation easements encumbering the property; and

(2) The contract of sale fails to contain a statement in conspicuous type, in a form substantially the same as the following:] **A VENDOR OF REAL PROPERTY ENCUMBERED BY ONE OR MORE CONSERVATION EASEMENTS SHALL, ON OR BEFORE ENTERING INTO A CONTRACT FOR THE SALE OF THE PROPERTY, DELIVER TO EACH PURCHASER:**

(1) THE NOTICE DESCRIBED IN SUBSECTION (D) OF THIS SECTION; AND

(2) A COPY OF ALL CONSERVATION EASEMENTS ENCUMBERING THE PROPERTY.

(D) THE NOTICE REQUIRED UNDER SUBSECTION (C)(1) OF THIS SECTION SHALL BE IN A FORM SUBSTANTIALLY THE SAME AS THE FOLLOWING:

"This property is encumbered by one or more conservation easements or other restrictions limiting or affecting uses of the property [and owned by the Maryland Environmental Trust, the Maryland Historical Trust, the Maryland Agricultural Land Preservation Foundation, the Maryland Department of Natural Resources, or a land

trust (the "conservation easements")**]**. Maryland law requires that the **[**seller**]** **VENDOR** deliver to the purchaser copies of all conservation easements on or before the day the contract is entered into**[**, or within 20 calendar days after entering into the contract**]**. The purchaser should review all conservation easements carefully to ascertain the purchaser's rights, responsibilities, and obligations under each conservation easement, including any requirement that after the sale the purchaser must inform the owner of the conservation easement of the sale of the property.".

(E) (1) A PURCHASER WHO RECEIVES THE NOTICE AND COPIES OF THE EASEMENTS REQUIRED UNDER SUBSECTION (C) OF THIS SECTION ON OR BEFORE ENTERING INTO A CONTRACT OF SALE DOES NOT HAVE THE RIGHT TO RESCIND THE CONTRACT OF SALE BASED ON THE INFORMATION RECEIVED FROM THE VENDOR.

(2) A PURCHASER WHO DOES NOT RECEIVE THE NOTICE AND COPIES OF THE EASEMENTS REQUIRED UNDER SUBSECTION (C) OF THIS SECTION ON OR BEFORE ENTERING INTO A CONTRACT OF SALE, ON WRITTEN NOTICE TO THE VENDOR OR THE VENDOR'S AGENT:

(I) HAS THE UNCONDITIONAL RIGHT TO RESCIND THE CONTRACT AT ANY TIME BEFORE, OR WITHIN 5 DAYS AFTER, RECEIPT OF THE NOTICE AND COPIES OF THE EASEMENTS; AND

(II) IS ENTITLED TO THE IMMEDIATE RETURN OF ANY DEPOSITS MADE IN ACCORDANCE WITH THE CONTRACT.

[(d)**] (F)** (1) Within 30 calendar days after a sale of property encumbered by a conservation easement, the purchaser shall notify the owner of a conservation easement of the sale.

(2) The notification shall include, to the extent reasonably available:

(i) The name and address of the purchaser;

(ii) The name **[**and forwarding address**]** of the **[**seller**]** **VENDOR**; **[**and**]**

(iii) **THE ADDRESS OF THE PROPERTY; AND**

(IV) The date of the sale.

[(e)**] (G)** In satisfying the requirements of **[**subsections**]** **SUBSECTION** (c) **[**and (d)**]** of this section, the **[**seller**]** **VENDOR** and purchaser shall be entitled to rely

on the conservation easement recorded in the land records of the county where the property is located.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 647

(Senate Bill 1045)

AN ACT concerning

DHCD – Community Development Administration – Financing Instruments – Mortgage Loans Guaranteed by Government–Sponsored Enterprises

FOR the purpose of authorizing the Community Development Administration of the Department of Housing and Community Development to purchase or issue certain securities that are backed by mortgage loans and guaranteed by government–sponsored enterprises ~~or certain other entities~~; specifying that the securities are to finance community development projects, public purpose projects, or residential mortgage loans; defining a certain term; making a stylistic change; and generally relating to the Community Development Administration.

BY repealing and reenacting, without amendments,
Article – Housing and Community Development
Section 4–101(a) and (b)
Annotated Code of Maryland
(2006 Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Housing and Community Development
Section 4–234 and 4–235(h)
Annotated Code of Maryland
(2006 Volume and 2008 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

4–101.

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

(b) "Administration" means the Community Development Administration.

4–234.

(A) IN THIS SECTION, "GOVERNMENT–SPONSORED ENTERPRISE" MEANS THE FEDERAL NATIONAL MORTGAGE ASSOCIATION, THE FEDERAL HOME LOAN MORTGAGE CORPORATION, THE FEDERAL HOME LOAN BANK, OR OTHER AGENCY OR INSTRUMENTALITY OF OR CHARTERED BY THE FEDERAL GOVERNMENT THAT HAS SIMILAR POWERS.

[(a)**] (B)** **[**For**] TO FINANCE [**a**]** community development **[**project,**]** **PROJECTS, PUBLIC PURPOSE PROJECTS, OR RESIDENTIAL MORTGAGE LOANS,** the Administration may **PURCHASE OR** issue securities **THAT ARE** backed by mortgage loans **AND** guaranteed by the Government National Mortgage Association~~,~~ **OR A GOVERNMENT–SPONSORED ENTERPRISE**~~, OR OTHER ENTITY ACCEPTABLE TO THE ADMINISTRATION~~.

[(b)**] (C)** (1) Notwithstanding inconsistent provisions of this subtitle relating to bonds or notes that the Administration **PURCHASES OR** issues, the issuance, terms, and conditions of a security that the Administration issues under this section may be as the Administration finds necessary or desirable for guaranty by the Government National Mortgage Association~~,~~ **OR A GOVERNMENT–SPONSORED ENTERPRISE**~~, OR OTHER ENTITY ACCEPTABLE TO THE ADMINISTRATION~~.

(2) Except as provided by paragraph (1) of this subsection, the provisions of this subtitle that relate to bonds or notes issued by the Administration apply to securities **PURCHASED OR** issued under this section.

4–235.

(h) The Administration may purchase securities backed by mortgages to provide financial assistance to community development projects and public purpose projects **AND TO FINANCE RESIDENTIAL MORTGAGE LOANS** with the proceeds of the securities or with investment earnings on the securities.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 648

(House Bill 1546)

AN ACT concerning

DHCD – Community Development Administration – Financing Instruments – Mortgage Loans Guaranteed by Government–Sponsored Enterprises

FOR the purpose of authorizing the Community Development Administration of the Department of Housing and Community Development to purchase or issue certain securities that are backed by mortgage loans and guaranteed by government–sponsored enterprises ~~or certain other entities~~; specifying that the securities are to finance community development projects, public purpose projects, or residential mortgage loans; defining a certain term; making a stylistic change; and generally relating to the Community Development Administration.

BY repealing and reenacting, without amendments,
Article – Housing and Community Development
Section 4–101(a) and (b)
Annotated Code of Maryland
(2006 Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Housing and Community Development
Section 4–234 and 4–235(h)
Annotated Code of Maryland
(2006 Volume and 2008 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

4–101.

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

(b) "Administration" means the Community Development Administration.

4–234.

(A) IN THIS SECTION, "GOVERNMENT–SPONSORED ENTERPRISE" MEANS THE FEDERAL NATIONAL MORTGAGE ASSOCIATION, THE FEDERAL HOME LOAN MORTGAGE CORPORATION, THE FEDERAL HOME LOAN BANK, OR

OTHER AGENCY OR INSTRUMENTALITY OF OR CHARTERED BY THE FEDERAL GOVERNMENT THAT HAS SIMILAR POWERS.

[(a)] **(B)** [For] **TO FINANCE** [a] community development [project,] **PROJECTS, PUBLIC PURPOSE PROJECTS, OR RESIDENTIAL MORTGAGE LOANS,** the Administration may **PURCHASE OR** issue securities **THAT ARE** backed by mortgage loans **AND** guaranteed by the Government National Mortgage Association~~,~~ **OR A GOVERNMENT–SPONSORED ENTERPRISE**~~, OR OTHER ENTITY ACCEPTABLE TO THE ADMINISTRATION~~.

[(b)] **(C)** (1) Notwithstanding inconsistent provisions of this subtitle relating to bonds or notes that the Administration **PURCHASES OR** issues, the issuance, terms, and conditions of a security that the Administration issues under this section may be as the Administration finds necessary or desirable for guaranty by the Government National Mortgage Association~~,~~ **OR A GOVERNMENT–SPONSORED ENTERPRISE**~~, OR OTHER ENTITY ACCEPTABLE TO THE ADMINISTRATION~~.

(2) Except as provided by paragraph (1) of this subsection, the provisions of this subtitle that relate to bonds or notes issued by the Administration apply to securities **PURCHASED OR** issued under this section.

4–235.

(h) The Administration may purchase securities backed by mortgages to provide financial assistance to community development projects and public purpose projects **AND TO FINANCE RESIDENTIAL MORTGAGE LOANS** with the proceeds of the securities or with investment earnings on the securities.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 649

(Senate Bill 1060)

AN ACT concerning

General Obligation Bonds – Method of Sale by Board of Public Works

FOR the purpose of stating that it is the policy of the State that the preferred method of sale of general obligation bonds of the State by the Board of Public Works is by public, competitive sale; authorizing the Board of Public Works to sell

general obligation bonds by private, negotiated sale if the Board makes certain determinations; adding ~~tax credit~~ certain forms to the kinds of forms in which State bonds are to be issued; providing for certain determinations by the Board; providing for the construction of this Act; and generally relating to the sale of general obligation bonds of the State.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 8–121(a) and 8–124
Annotated Code of Maryland
(2006 Replacement Volume and 2008 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

8–121.

(a) By resolution, the Board may specify the form in which State bonds are to be issued, including:

(1) a coupon form;

(2) a capital appreciation form;

(3) a variable interest rate form;

(4) ~~A TAX CREDIT FORM~~ **A FORM THAT QUALIFIES FOR TAX CREDITS, INTEREST SUBSIDIES, OR OTHER FEDERAL TAX BENEFITS;**

(5) a form that qualifies as a registered form under §§ **54A,** 103**,** and 149 of the Internal Revenue Code or a regulation proposed or adopted under those sections; and

[(5)**] (6)** any other registered form.

8–124.

(A) SUBJECT TO THE PROVISIONS OF SUBSECTION (B) OF THIS SECTION, IT IS THE POLICY OF THE STATE THAT THE PREFERRED METHOD OF SALE OF GENERAL OBLIGATION BONDS OF THE STATE BY THE BOARD IS BY PUBLIC, COMPETITIVE SALE.

(B) THE BOARD MAY OFFER THE SALE OF GENERAL OBLIGATION BONDS OF THE STATE AT A PRIVATE, NEGOTIATED SALE, BUT ONLY IF THE BOARD DETERMINES THAT:

(1) EXTRAORDINARY CREDIT MARKET CONDITIONS EXIST THAT WARRANT THE USE OF THE METHOD AUTHORIZED BY THIS SUBSECTION INSTEAD OF THE METHOD STATED IN SUBSECTION (A) OF THIS SECTION; AND

(2) THE TERMS AND CONDITIONS FOR THE SALE OF GENERAL OBLIGATION BONDS OF THE STATE, INCLUDING PRICE, INTEREST RATES, AND PAYMENT DATES, ACHIEVED THROUGH A PRIVATE, NEGOTIATED SALE ARE MORE ADVANTAGEOUS TO THE STATE THAN THE TERMS AND CONDITIONS FOR THE SALE THAT CAN BE ACHIEVED BY A PUBLIC, COMPETITIVE SALE.

(C) Whenever the Board receives no bids or rejects all bids for the State bonds offered at a public**, COMPETITIVE** sale, the Board may sell some or all of the State bonds at a private**, NEGOTIATED** sale, on the **[**best**]** terms **AND CONDITIONS, INCLUDING [**for**]** price, interest rates, and payment dates**, THAT THE BOARD DETERMINES TO BE THE MOST ADVANTAGEOUS TO THE STATE**.

(D) ANY DETERMINATION OR FINDING MADE BY THE BOARD PURSUANT TO THIS SECTION SHALL BE CONCLUSIVE.

SECTION 2. AND BE IT FURTHER ENACTED, That nothing in this Act may be construed to affect or impair the validity of any tax credit bond that was issued by the State prior to the effective date of this Act, and the validity of the tax credit bonds issued before the effective date of this Act are hereby ratified, confirmed, and approved.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 650

(Senate Bill 1065)

AN ACT concerning

Standing – Miscellaneous Environmental Protection Proceedings and Judicial Review

FOR the purpose of repealing certain contested case hearing provisions related to permitting decisions by the Department of the Environment; authorizing judicial review of certain permitting and license decisions by the Department or the Board of Public Works at the request of certain persons who meet certain federal standing requirements and participate in a certain public participation process; establishing that under certain circumstances judicial review is available and a contested case hearing is prohibited; providing for the scope of judicial review; requiring a certain petition for judicial review to be filed with a certain circuit court; establishing procedures for filing a petition for judicial review; ~~altering~~ providing for certain temporary stay provisions; establishing the contents of a certain record; requiring a certain extension of certain public comment periods on a certain request; authorizing certain persons who meet certain federal standing requirements to participate in a certain proceeding and certain judicial actions regarding variances to certain Critical Area requirements; providing for the application of this Act; making the provisions of this Act severable; providing for a delayed effective date; making conforming changes; and generally relating to standing in certain environmental protection proceedings and certain judicial actions.

BY repealing and reenacting, without amendments,
Article – Environment
Section 1–101(b) and 16–202(a), (b), and (c)(1)
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Environment
Section 1–601, 1–603(d)(1), 1–605, 5–204, 14–105(b), 14–508(b), 15–810(e), ~~15–813(g),~~ 16–204, ~~and~~ 16–307(d), and 16–309
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

BY repealing
Article – Environment
Section 1–606 and 16–308
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

BY adding to
Article – Environment
Section 1–606
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 8–1808(d)

Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 16–308 of Article – Environment of the Annotated Code of Maryland be repealed.

SECTION ~~1~~ 2. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Environment

1–101.

(b) "Contested case hearing" means an adjudicatory hearing in accordance with the contested case procedures of Subtitle 2 of the Maryland Administrative Procedure Act.

1–601.

(a) Permits issued by the Department under the following sections shall be issued in accordance with this subtitle:

(1) Air quality control permits to construct subject to § 2–404 of this article;

(2) Permits to install, materially alter or materially extend landfill systems, incinerators for public use or rubble landfills subject to § 9–209 of this article;

(3) Permits to discharge pollutants to waters of the State issued pursuant to § 9–323 of this article;

(4) Permits to install, materially alter or materially extend a structure used for storage or distribution of any type of sewage sludge issued, renewed, or amended pursuant to § 9–234.1 or § 9–238 of this article;

(5) Permits to own, operate, establish or maintain a controlled hazardous substance facility issued pursuant to § 7–232 of this article;

(6) Permits to own, operate, or maintain a hazardous material facility issued pursuant to § 7–103 of this article; and

(7) Permits to own, operate, establish or maintain a low–level nuclear waste facility issued pursuant to § 7–233 of this article.

(b) ~~Notwithstanding any other provision of law to the contrary, [the Department is not required to provide an opportunity for] a contested case hearing [to~~

~~any party other than the applicant~~] ~~MAY NOT BE PROVIDED~~ ~~in connection with any permit issued pursuant to this article [except the permits]~~ ~~THAT IS~~ ~~listed in subsection (a) of this section~~ FOR PERMITS LISTED UNDER SUBSECTION (A) OF THIS SECTION, A CONTESTED CASE HEARING MAY NOT OCCUR.

(C) A FINAL DETERMINATION BY THE DEPARTMENT ON THE ISSUANCE, DENIAL, RENEWAL, OR REVISION OF ANY PERMIT LISTED UNDER SUBSECTION (A) OF THIS SECTION IS SUBJECT TO JUDICIAL REVIEW AT THE REQUEST OF ANY PERSON THAT:

(1) MEETS THE THRESHOLD STANDING REQUIREMENTS UNDER FEDERAL LAW ~~RELATING TO FEDERAL ENVIRONMENTAL PERMITS~~; AND

(2) (I) IS THE APPLICANT; OR

(II) PARTICIPATED IN A PUBLIC PARTICIPATION PROCESS THROUGH THE SUBMISSION OF WRITTEN OR ORAL COMMENTS, UNLESS AN OPPORTUNITY FOR PUBLIC PARTICIPATION WAS NOT PROVIDED.

(D) ~~FOR PERMITS LISTED UNDER SUBSECTION (A) OF THIS SECTION, A CONTESTED CASE HEARING MAY NOT OCCUR.~~

~~(E)~~ (1) JUDICIAL REVIEW SHALL BE ON THE ADMINISTRATIVE RECORD BEFORE THE DEPARTMENT AND LIMITED TO OBJECTIONS RAISED DURING THE PUBLIC COMMENT PERIOD, UNLESS THE PETITIONER DEMONSTRATES THAT:

~~(1)~~ (I) THE OBJECTIONS WERE NOT REASONABLY ASCERTAINABLE DURING THE COMMENT PERIOD; OR

~~(2)~~ (II) GROUNDS FOR THE OBJECTIONS AROSE AFTER THE COMMENT PERIOD.

(2) THE COURT SHALL REMAND THE MATTER TO THE DEPARTMENT FOR CONSIDERATION OF OBJECTIONS UNDER PARAGRAPH (1) OF THIS SUBSECTION.

~~(F)~~ (E) UNLESS OTHERWISE REQUIRED BY STATUTE, A PETITION FOR JUDICIAL REVIEW BY A PERSON THAT MEETS THE REQUIREMENTS OF SUBSECTION (C) OF THIS SECTION SHALL BE FILED WITH THE CIRCUIT COURT FOR THE COUNTY WHERE THE APPLICATION FOR THE PERMIT STATES THAT THE PROPOSED ACTIVITY WILL OCCUR.

~~(G) ON MOTION BY A PARTY PETITIONING FOR JUDICIAL REVIEW, THE COURT MAY GRANT A TEMPORARY STAY OF THE ISSUANCE OF THE PERMIT PENDING A FINAL DECISION ON THE PETITION, PROVIDED THAT:~~

~~(1) THE PARTIES TO THE PROCEEDING HAVE BEEN NOTIFIED AND GIVEN AN OPPORTUNITY TO BE HEARD ON A REQUEST FOR THE TEMPORARY STAY;~~

~~(2) THE PARTY REQUESTING THE TEMPORARY STAY SHOWS THAT THERE IS A SUBSTANTIAL LIKELIHOOD OF PREVAILING ON THE MERITS OF ISSUES TO BE PRESENTED IN THEIR PETITION FOR JUDICIAL REVIEW; AND~~

~~(3) THE TEMPORARY STAY WILL NOT ADVERSELY AFFECT THE PUBLIC HEALTH OR SAFETY OR CAUSE SIGNIFICANT, IMMINENT ENVIRONMENTAL HARM TO LAND, AIR, OR WATER RESOURCES.~~

[(c)**]** ~~(H)~~ **(F)** (1) When this article requires more than one public informational meeting**[**,**]** **OR** public hearing**[**, or contested case hearing**]**, the Department may consolidate some or all of the meetings or hearings for the proposed facility with similar meetings or hearings.

(2) The Department shall hold public informational meetings and public hearings at a location in the political subdivision and in close proximity to the location where the individual permit applies.

1–603.

(d) (1) The Department may require the applicant to attend an informational meeting or public **[**or contested case**]** hearing and present information concerning the application.

1–605.

(a) A person **[**may request a contested case hearing to appeal a final determination if the person makes factual allegations**]** **PETITIONING FOR JUDICIAL REVIEW IN ACCORDANCE WITH § 1–601 OF THIS SUBTITLE OR § 5–204 OR § 16–204 OF THIS ARTICLE SHALL** ~~ALLEGE FACTS with sufficient particularity to demonstrate that:~~

~~(1) The person [is aggrieved by the final determination] SATISFIES THE REQUIREMENTS OF § 1–601(C) OF THIS SUBTITLE; and~~

~~(2) The final determination is:~~

~~(i) Legally inconsistent with any provisions of law applicable to the final determination being challenged; or~~

~~(ii) Based upon an incorrect determination of a relevant and material fact~~ **FILE THE PETITION IN ACCORDANCE WITH THE MARYLAND RULES**.

(b) **[**(1)**]** A party **[**requesting a contested case hearing**]** **SUBMITTING A PETITION FOR JUDICIAL REVIEW** shall **[**submit a written request for adjudication**]** **FILE THE PETITION** within ~~15~~ **30** days after publication of a notice of final determination.

[(2) The Department shall transmit a request for a contested case hearing to the Office of Administrative Hearings within 5 business days after the Department receives the request.**]**

(c) ~~The [request for adjudication] **PETITION** shall set forth the basis for the request with sufficient particularity to assure that the issues to be raised are within the scope of subsection (a) of this section [and that the person is aggrieved by the final determination]~~ **AN ACTION FOR JUDICIAL REVIEW BROUGHT IN ACCORDANCE WITH § 1–601 OF THIS SUBTITLE OR § 5–204 OR § 16–204 OF THIS ARTICLE, SHALL BE CONDUCTED IN ACCORDANCE WITH THE MARYLAND RULES**.

(d) A party **TO THE JUDICIAL REVIEW ACTION** may not**[**, in a contested case hearing,**]** challenge a facility's compliance with zoning and land use requirements or conformity with a county plan issued under Title 9, Subtitle 5 of this article. However, nothing in this subtitle shall prevent a party from challenging whether the Department has complied with §§ 2–404(b)(1)(ii) and 9–210(a)(3) of this article, when applicable, nor does this subtitle prevent a party from contesting the compliance of the facility with zoning and land use or county plan requirements in any proceeding brought in accordance with and under any applicable local laws.

[(e) A contested case hearing shall be conducted in accordance with Subtitle 2 of Title 10 of the State Government Article.

(f) (1) The contested case hearing shall be concluded, and the record shall be closed:

(i) Within 6 months following receipt of the request for a contested case hearing by the Office of Administrative Hearings; or

(ii) If a motion is filed under § 1–606(a) of this subtitle, within 8 months following receipt of the request for a contested case hearing by the Office of Administrative Hearings.

(2) The deadlines in this subsection may be extended by agreement of the parties and with the concurrence of the administrative law judge.

(g) (1) The administrative law judge shall issue the proposed decision within 90 days following the close of the record in the contested case hearing.

(2) The deadline in this subsection may be extended, at the discretion of the administrative law judge, for an additional period not to exceed 30 days.

(h) (1) Once a proposed decision is issued by the administrative law judge if an exception is not filed with the Department, the proposed decision shall become final upon expiration of the time period for filing an exception.

(2) Once a proposed decision is issued by the administrative law judge if an exception is filed with the Department, the final decision shall be rendered within 120 days following issuance of the proposed decision.

(i) The deadlines in this section shall be considered mandatory and not directory.**]**

[1–606.

(a) Upon motion of any party, the administrative law judge shall dismiss all or any part of a request for a contested case hearing if the administrative law judge determines that the person making the request has failed to make the demonstration required by § 1–605 of this subtitle, including the failure to make factual allegations with sufficient particularity to demonstrate that the person is aggrieved by the final determination.

(b) (1) The administrative law judge shall rule on any motion filed under subsection (a) of this section within 60 days following receipt of the motion.

(2) The deadline in this subsection may be extended by agreement of the parties and with the concurrence of the administrative law judge.

(c) A decision under subsection (a) of this section that dismisses fewer than all of the issues in an action, or that adjudicates issues concerning fewer than all of the parties to an action is not immediately appealable unless the administrative law judge determines that there is no just reason for delay, and directs the entry of a decision as to one or more, but fewer than all of the issues or parties.

(d) Except as provided under subsection (c) of this section, a decision by the administrative law judge on a motion in accordance with subsection (a) of this section is a final agency decision and shall be appealable in the same manner as a final decision by the Department after a contested case hearing.

(e) The deadlines in this section shall be considered mandatory and not directory.**]**

1–606.

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

(2) "BOARD" MEANS THE BOARD OF PUBLIC WORKS.

(3) "LICENSE" MEANS A LICENSE UNDER § 16–202 OF THIS ARTICLE.

(B) THIS SECTION APPLIES TO:

(1) A PERMIT LISTED UNDER § 1–601(A) OF THIS SUBTITLE;

(2) A PERMIT LISTED UNDER § 5–204(F) OF THIS ARTICLE; OR

(3) A LICENSE ISSUED UNDER ~~§ 16–204~~ § 16–202 OF THIS ARTICLE.

~~(B)~~ (C) ANY JUDICIAL REVIEW OF A ~~DEPARTMENT PERMIT DECISION~~ DETERMINATION PROVIDED FOR IN ACCORDANCE WITH § 1–601 OF THIS SUBTITLE OR § 5–204 OR § 16–204 OF THIS ARTICLE SHALL BE LIMITED TO A RECORD COMPILED BY THE DEPARTMENT ~~AND SHALL CONSIST~~ OR BOARD, CONSISTING OF:

(1) ANY PERMIT OR LICENSE APPLICATION AND ANY DATA SUBMITTED TO THE DEPARTMENT OR BOARD IN SUPPORT OF THE APPLICATION;

(2) ANY DRAFT PERMIT OR LICENSE ISSUED BY THE DEPARTMENT OR BOARD;

(3) ANY NOTICE OF INTENT FROM THE DEPARTMENT OR BOARD TO DENY THE APPLICATION OR TO TERMINATE THE PERMIT OR LICENSE;

(4) A STATEMENT OR FACT SHEET EXPLAINING THE BASIS FOR THE DETERMINATION BY THE DEPARTMENT OR BOARD;

(5) ALL DOCUMENTS REFERENCED IN THE STATEMENT OR FACT SHEET EXPLAINING THE BASIS FOR THE DETERMINATION BY THE DEPARTMENT OR BOARD;

(6) ALL DOCUMENTS, EXCEPT DOCUMENTS FOR WHICH DISCLOSURE IS PRECLUDED BY LAW OR THAT ARE SUBJECT TO PRIVILEGE, CONTAINED IN THE SUPPORTING FILE FOR ANY DRAFT PERMIT OR LICENSE;

(7) ALL COMMENTS SUBMITTED TO THE DEPARTMENT OR BOARD DURING THE PUBLIC COMMENT PERIOD, INCLUDING COMMENTS MADE ON THE DRAFT APPLICATION;

(8) ANY TAPE OR TRANSCRIPT OF ANY PUBLIC HEARINGS HELD ON THE APPLICATION; AND

(9) ANY RESPONSE TO ANY COMMENTS SUBMITTED TO THE DEPARTMENT OR BOARD.

~~(C)~~ (D) (1) WHEN A DRAFT PERMIT OR LICENSE OR TENTATIVE DETERMINATION IS ISSUED ~~BY THE DEPARTMENT~~, THE DEPARTMENT OR BOARD SHALL:

(I) MAKE AVAILABLE FOR INSPECTION AND COPYING NO LATER THAN THE DATE THE PERMIT, DRAFT LICENSE, OR TENTATIVE DETERMINATION IS ISSUED:

1. ALL PERMIT OR LICENSE APPLICATIONS;

2. DOCUMENTS SUBMITTED WITH A PERMIT OR LICENSE APPLICATION; ~~AND~~

3. ALL DOCUMENTS RELIED ON ~~BY THE DEPARTMENT~~ IN MAKING THE TENTATIVE DETERMINATION; AND

4. A PRIVILEGE LOG THAT IDENTIFIES ALL DOCUMENTS NOT PRODUCED FOR INSPECTION IN ACCORDANCE WITH SUBSECTION (C)(6) OF THIS SECTION AND STATES THE REASONS FOR WITHHOLDING EACH DOCUMENT; AND

(II) EXTEND ~~ANY EXISTING~~ THE PUBLIC COMMENT PERIOD BY 60 DAYS ON REQUEST BY A PERSON.

(2) A REQUEST SUBMITTED TO THE DEPARTMENT OR BOARD UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION SHALL BE:

(I) SUBMITTED IN WRITING ~~TO THE DEPARTMENT~~; AND

(II) MADE BEFORE THE EXPIRATION OF THE ORIGINAL COMMENT PERIOD.

(3) A PUBLIC COMMENT PERIOD MAY NOT BE EXTENDED MORE THAN ONCE UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION.

5–204.

(a) (1) It is the intent of the General Assembly to establish consolidated procedures and notice and hearing requirements for Title 5, Subtitles 5 and 9 and Titles 14, 15, and 16 of this article in order to ensure efficient review and consistent decision making.

(2) Notwithstanding any provision of the State Government Article, public notice on pending applications provided in accordance with the provisions of this section shall be the only notice required by law.

(b) (1) Applicants shall ascertain the names and addresses of all current owners of property contiguous to the parcel upon which the proposed activity will occur and personally or by certified mail serve notice upon each owner.

(2) Applicants shall serve personally or by certified mail appropriate local officials.

(3) Applicants shall provide the Department with certification that notice has been served on all contiguous property owners and appropriate local officials.

(4) Upon substantial completion of an application the Department shall draft a public notice that includes:

(i) The name and address of the applicant;

(ii) A description of the location and nature of the activity for which application has been made;

(iii) The name, address, and telephone number of the office within the Department from which information about the application may be obtained;

(iv) A statement that any further notices about actions on the application will be provided only by mail to those persons on a mailing list of interested persons;

(v) A description of how persons may submit information or comments about the application, request a public informational hearing, or request to be included on the mailing list of interested persons; and

(vi) A deadline for the close of the public comment period by which information, comments, or requests must be received by the Department.

(5) The Department shall prepare a public notice to be published for at least 1 business day in a newspaper of general circulation in the area where the proposed activity would occur. At its discretion, the Department shall:

(i) Publish the public notice; or

(ii) Direct the applicant to publish the public notice.

(6) The applicant shall bear the cost of the newspaper notice.

(7) The Department shall mail public notices to a general subscription mailing list.

(8) Comments on an application or requests for a public informational hearing must be forwarded in writing to the Department prior to the close of the public comment period specified in the public notice.

(9) The Department shall compile an interested persons list containing the names of all contiguous property owners, appropriate local officials, and individuals that comment on, request hearings, or make inquiries about an application during any phase of the Department's review.

(10) No further notice will be provided except to persons on the interested persons list.

(c) The Department shall hold a public informational hearing if it receives a timely written request in accordance with the following provisions:

(1) The request shall be received prior to the close of the public comment period.

(2) A public informational hearing shall be held within 45 calendar days of the close of the public comment period.

(3) The Department shall specify the date, time, and location of the public hearing.

(4) The Department shall mail notice of the date, time, and location of any public informational hearing on an application to those persons on the interested persons list no later than 14 calendar days prior to the hearing.

(5) The Department may extend the official record of a public informational hearing.

(d) Following the application review and comment period and within 30 calendar days after the close of the public informational hearing record, the Department shall issue, modify, or deny the permit or license unless extenuating circumstances justify an extension of time.

(e) The Department shall mail notice of a decision to issue, modify, or deny a permit or license to the applicant and to those persons on the interested persons list.

[(f) When opportunity for a contested case hearing on the Department's decision to issue, modify, or deny a permit or license is provided by law, the Department shall provide all persons on the interested persons list and the applicant an opportunity to make a written request for a contested case hearing within 14 calendar days of the mailing date of the notice of decision.

(g) Upon written request the Department shall grant a contested case hearing if it determines that:

(1) The requester has a specific right, duty, privilege, or interest which is or may be adversely affected by the permit determination or license decision and which is different from that held by the general public;

(2) The requester raises adjudicable issues which are within the scope of the permit authority; and

(3) The request is timely.**]**

(F) (1) A FINAL ~~DECISION~~ DETERMINATION BY THE DEPARTMENT ON THE ISSUANCE, DENIAL, RENEWAL, OR REVISION OF ANY PERMIT ISSUED UNDER TITLE 5, SUBTITLE 5 OR SUBTITLE 9, § 14–105, ~~§ 15–810, § 15–813~~ § 14–508, § 15–808, OR § 16–307 OF THIS ARTICLE IS SUBJECT TO JUDICIAL REVIEW AT THE REQUEST OF ANY PERSON THAT:

(I) MEETS THE THRESHOLD STANDING REQUIREMENTS UNDER FEDERAL LAW ~~PERTAINING TO FEDERAL ENVIRONMENTAL PERMITS~~; AND

(II) 1. IS THE APPLICANT; OR

2. PARTICIPATED IN A PUBLIC PARTICIPATION PROCESS THROUGH THE SUBMISSION OF WRITTEN OR ORAL COMMENTS, UNLESS AN OPPORTUNITY FOR PUBLIC PARTICIPATION WAS NOT PROVIDED.

(2) FOR PERMITS LISTED UNDER PARAGRAPH (1) OF THIS SUBSECTION, A CONTESTED CASE HEARING MAY NOT OCCUR.

(G) A PERSON PETITIONING FOR JUDICIAL REVIEW IN ACCORDANCE WITH THIS SECTION SHALL ~~ALLEGE FACTS WITH SUFFICIENT PARTICULARITY TO DEMONSTRATE THAT:~~

~~(1) THE PERSON SATISFIES THE REQUIREMENTS OF SUBSECTION (F)(1) OF THIS SECTION; AND~~

~~(2) THE FINAL DETERMINATION IS:~~

~~(I) LEGALLY INCONSISTENT WITH ANY PROVISIONS OF LAW APPLICABLE TO THE FINAL DETERMINATION BEING CHALLENGED; OR~~

~~(II) BASED ON AN INCORRECT DETERMINATION OF A RELEVANT AND MATERIAL FACT~~ FILE THE PETITION IN ACCORDANCE WITH THE MARYLAND RULES.

(H) (1) JUDICIAL REVIEW SHALL BE ON THE ADMINISTRATIVE RECORD BEFORE THE DEPARTMENT AND LIMITED TO OBJECTIONS RAISED DURING THE PUBLIC COMMENT PERIOD, UNLESS THE PETITIONER DEMONSTRATES THAT:

~~(1)~~ (I) THE OBJECTIONS WERE NOT REASONABLY ASCERTAINABLE DURING THE COMMENT PERIOD; OR

~~(2)~~ (II) GROUNDS FOR THE OBJECTIONS AROSE AFTER THE COMMENT PERIOD.

(2) THE COURT SHALL REMAND THE MATTER TO THE DEPARTMENT FOR CONSIDERATION OF OBJECTIONS UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(I) (1) UNLESS OTHERWISE REQUIRED BY STATUTE, A PETITION FOR JUDICIAL REVIEW BY A PERSON WHO MEETS THE REQUIREMENTS OF SUBSECTION (F) OF THIS SECTION SHALL BE FILED WITH THE CIRCUIT COURT FOR THE COUNTY WHERE THE APPLICATION FOR THE PERMIT STATES THAT THE PROPOSED ACTIVITY WILL OCCUR.

(2) A PETITION FOR JUDICIAL REVIEW FILED UNDER THIS SECTION SHALL BE FILED IN ACCORDANCE WITH TITLE 1, SUBTITLE 6 OF THIS ARTICLE.

~~[(h)] (J) Upon motion by a party [to a contested case hearing] PETITIONING FOR JUDICIAL REVIEW, the [Department] COURT may grant a~~

~~temporary stay of the issuance of the permit pending a final decision [in the contested case] **ON THE PETITION**, provided that:~~

~~(1) The parties to the proceeding have been notified and given an opportunity to be heard on a request for the temporary stay;~~

~~(2) The party requesting the temporary stay shows that there is a substantial likelihood of prevailing on the merits of issues to be presented [during the contested case proceeding;] **IN THE PARTY'S PETITION FOR JUDICIAL REVIEW; AND**~~

~~(3) The temporary stay will not adversely affect the public health or safety or cause significant, imminent environmental harm to land, air, or water resources[; and~~

~~(4) The conditions and criteria for granting a temporary stay as provided in regulations for contested case hearings adopted by the Department have been met].~~

14–105.

(b) The Department shall provide public notice, public informational hearings, and [contested case hearings] **JUDICIAL REVIEW** in accordance with the provisions of § 5–204 of this article.

14–508.

(b) (1) The Secretary shall adopt regulations as provided in this subsection.

(2) Procedural regulations adopted under this subsection shall:

(i) Provide for notice to interested persons of any decision to issue or deny a permit; **AND**

(ii) Permit a person to **FILE A PETITION FOR JUDICIAL REVIEW IN ACCORDANCE WITH THE PROVISIONS OF § 5–204 OF THIS ARTICLE** [request a hearing under Title 10, Subtitle 2 of the State Government Article (Administrative Procedure Act – Contested Cases), if the person makes factual allegations with sufficient particularity to demonstrate that:

1. The person is aggrieved by the decision; and

2. The decision is:

A. Legally inconsistent with any provision of law applicable to the decision being challenged; or

B. Based upon an incorrect determination of a relevant and material fact;

(iii) Provide the Secretary with discretionary authority to stay the effectiveness of the decision pending the outcome of the hearing; and

(iv) Provide that, if a request for a hearing is granted, the Secretary's decision on the application shall be based on the record made in the hearing, including the proposed findings of fact and conclusions of law recommended to the Secretary by the presiding officer**]**.

15–810.

(e) Public notice, informational hearings, and **[**contested case hearings**]** **JUDICIAL REVIEW** shall be conducted in accordance with the provisions of § 5–204 of this article.

~~15–813.~~

~~(g) The Department shall provide opportunity for [a contested case hearing] JUDICIAL REVIEW in accordance with the provisions of § 5–204 of this article.~~

16–202.

(a) A person may not dredge or fill on State wetlands without a license.

(b) The Secretary shall assist the Board in determining whether to issue a license to dredge or fill State wetlands. The Secretary shall submit a report indicating whether the license should be granted and, if so, the terms, conditions, and consideration required after consultation with any interested federal, State, and local unit, and after issuing public notice, holding any requested hearing, and taking any evidence the Secretary thinks advisable.

(c) (1) Upon receipt of a report by the Secretary, the Board shall decide if issuance of the license is in the best interest of the State, taking into account the varying ecological, economic, developmental, recreational, and aesthetic values each application presents. If the Board decides to issue the license, the issuance of the license shall be for consideration and on terms and conditions the Board determines. Every license shall be in writing.

16–204.

(A) Any **[**party to the proceedings aggrieved by the decision of the Board,**]** **PERSON THAT SATISFIES SUBSECTION (B) OF THIS SECTION** may petition the circuit court in the county where the land is located within 30 days after receiving the

decision **OF THE BOARD**. The appeal shall be heard on the record compiled before the Board.

(B) A PARTY HAS STANDING TO FILE A PETITION UNDER SUBSECTION (A) OF THIS SECTION IF THE PARTY:

(1) MEETS THE THRESHOLD STANDING REQUIREMENTS UNDER FEDERAL LAW ~~RELATING TO FEDERAL ENVIRONMENTAL PERMITS~~; AND

(2) (I) IS THE APPLICANT; OR

(II) PARTICIPATED IN A PUBLIC PARTICIPATION PROCESS THROUGH THE SUBMISSION OF WRITTEN OR ORAL COMMENTS, UNLESS AN OPPORTUNITY FOR PUBLIC PARTICIPATION WAS NOT PROVIDED.

(C) (1) A CONTESTED CASE HEARING MAY NOT OCCUR ON A DECISION OF THE BOARD IN ACCORDANCE WITH § 16–202 OF THIS SUBTITLE.

(2) JUDICIAL REVIEW UNDER THIS SECTION SHALL BE CONDUCTED IN ACCORDANCE WITH TITLE 1, SUBTITLE 6 OF THIS ARTICLE.

16–307.

(d) The Secretary shall provide opportunity for **[**a contested case hearing**]** **JUDICIAL REVIEW** in accordance with the provisions of § **[**5–204(f) through (h)**]** **5–204** of this article.

16–309.

The court may order the State to pay court costs of any appeal in accordance with the provisions of § 16–306 **[**or § 16–308**]** of this subtitle if the court finds that the financial situation of the person appealing warrants this action.

Article – Natural Resources

8–1808.

(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) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE PROVISIONS OF THIS PARAGRAPH SHALL APPLY TO A PROCEEDING THAT INVOLVES A VARIANCE FOR A DEVELOPMENT ACTIVITY IN THE BUFFER UNDER THE REQUIREMENTS OF:**

1. THIS SUBTITLE;

2. A REGULATION ADOPTED UNDER THE AUTHORITY OF THIS SUBTITLE; OR

3. AN APPROVED PROGRAM.

(II) IF A PERSON MEETS THE THRESHOLD STANDING REQUIREMENTS UNDER FEDERAL LAW ~~RELATING TO FEDERAL ENVIRONMENTAL PERMITS~~, THE PERSON SHALL HAVE STANDING TO PARTICIPATE AS A PARTY IN A LOCAL ADMINISTRATIVE PROCEEDING.

(III) A PERSON THAT HAS STANDING UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH MAY:

1. PARTICIPATE AS A PARTY IN AN ADMINISTRATIVE PROCEEDING AT A BOARD OF APPEALS EVEN IF THE PERSON WAS NOT A PARTY TO THE ORIGINAL ADMINISTRATIVE PROCEEDING; AND

2. PETITION FOR JUDICIAL REVIEW AND PARTICIPATE AS A PARTY EVEN IF THE PERSON WAS NOT A PARTY TO THE ACTION WHICH IS THE SUBJECT OF THE PETITION.

(3) (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.

(iii) If the variance request is based on conditions or circumstances that are the result of actions by the applicant, a local jurisdiction shall consider that fact.

[(3)**] (4)** (i) An applicant has the burden of proof and the burden of persuasion to overcome the presumption established under paragraph **[**(2)(ii)**] (3)(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)**] (3)(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)**] (5)** 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)**] (6)** (i) Within 10 working days after a written decision regarding a variance application is issued, the Commission shall receive a copy of the decision from a local jurisdiction.

(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)**] (7)** (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 issues a notice of violation, including assessment of an administrative or civil penalty, for the violation.

(iii) If 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 approval to the requested variance.

[(7)**] (8)** 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.

[(8)**] (9)** 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.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That, for purposes related to the processing of an application for a variance under § 8–1808(d) of the Natural Resources Article, as enacted under Section ~~1~~ 2 of this Act, the provisions of this Act may not be construed to have any effect on or application to a variance application filed with a local Critical Area program before January 1, 2010.

SECTION ~~3.~~ 4. AND BE IT FURTHER ENACTED, That, it is the intent of the General Assembly that references in this Act to "threshold standing requirements under federal law," be construed:

(a) In accordance with requirements for individual and associational standing under Article III of the U.S. Constitution and pertinent case law;

(b) In accordance with the ruling in Hunt v. Washington State Apple Advertising Commission, 432 U.S. 333 (1977), which established the essential elements of an association for the purposes of standing; ~~and~~

(c) In the context of the entire body of federal case law regarding standing, as that case law exists on the effective date of this Act and as it may evolve in future rulings; and

(d) To assure that challenges to environmental determinations brought in State court and participation in proceedings under § 8–1808(d) of the Natural Resources Article, as enacted under Section 2 of this Act, are subject to the same standing requirements as applied to similar challenges to federal environmental permits filed in federal courts.

SECTION 5. AND BE IT FURTHER ENACTED, That when considering a motion for a stay in an action brought for judicial review as enacted under Section 2 of this Act, the court shall examine:

(a) The likelihood the plaintiff will succeed on the merits;

(b) The balance of convenience determined by whether greater injury would be done to the defendant by granting the stay than would result from its refusal;

(c) Whether the plaintiff will suffer irreparable injury unless its stay is granted; and

(d) The public interest in granting the stay.

SECTION ~~4.~~ 6. 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.~~ 7. AND BE IT FURTHER ENACTED, That this Act shall take effect January 1, 2010.

Approved by the Governor, May 19, 2009.

Chapter 651

(House Bill 1569)

AN ACT concerning

Standing – Miscellaneous Environmental Protection Proceedings and Judicial Review

FOR the purpose of repealing certain contested case hearing provisions related to permitting decisions by the Department of the Environment; authorizing judicial review of certain permitting and license decisions by the Department or the Board of Public Works at the request of certain persons who meet certain federal standing requirements and participate in a certain public participation process; establishing that under certain circumstances judicial review is available and a contested case hearing is prohibited; providing for the scope of judicial review; requiring a certain petition for judicial review to be filed with a certain circuit court; establishing procedures for filing a petition for judicial review; ~~altering~~ providing for certain temporary stay provisions; establishing the contents of a certain record; requiring a certain extension of certain public comment periods on a certain request; authorizing certain persons who meet certain federal standing requirements to participate in a certain proceeding and certain judicial actions regarding variances to certain Critical Area requirements; providing for the application of this Act; making the provisions of this Act severable; providing for a delayed effective date; making conforming changes; and generally relating to standing in certain environmental protection proceedings and certain judicial actions.

BY repealing and reenacting, without amendments,
Article – Environment
Section 1–101(b) and 16–202(a), (b), and (c)(1)
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Environment
Section 1–601, 1–603(d)(1), 1–605, 5–204, 14–105(b), 14–508(b), 15–810(e), ~~15–813(g),~~ 16–204, ~~and~~ 16–307(d), and 16–309
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

BY repealing
Article – Environment
Section 1–606 and 16–308
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

BY adding to
Article – Environment
Section 1–606
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 8–1808(d)

Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 16–308 of Article – Environment of the Annotated Code of Maryland be repealed.

SECTION ~~1~~ 2. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Environment

1–101.

(b) "Contested case hearing" means an adjudicatory hearing in accordance with the contested case procedures of Subtitle 2 of the Maryland Administrative Procedure Act.

1–601.

(a) Permits issued by the Department under the following sections shall be issued in accordance with this subtitle:

(1) Air quality control permits to construct subject to § 2–404 of this article;

(2) Permits to install, materially alter or materially extend landfill systems, incinerators for public use or rubble landfills subject to § 9–209 of this article;

(3) Permits to discharge pollutants to waters of the State issued pursuant to § 9–323 of this article;

(4) Permits to install, materially alter or materially extend a structure used for storage or distribution of any type of sewage sludge issued, renewed, or amended pursuant to § 9–234.1 or § 9–238 of this article;

(5) Permits to own, operate, establish or maintain a controlled hazardous substance facility issued pursuant to § 7–232 of this article;

(6) Permits to own, operate, or maintain a hazardous material facility issued pursuant to § 7–103 of this article; and

(7) Permits to own, operate, establish or maintain a low–level nuclear waste facility issued pursuant to § 7–233 of this article.

(b) ~~Notwithstanding any other provision of law to the contrary, [the Department is not required to provide an opportunity for] a contested case hearing [to~~

~~any party other than the applicant~~**]** ~~**MAY NOT BE PROVIDED** in connection with any permit issued pursuant to this article **[**except the permits**]** **THAT IS** listed in subsection (a) of this section~~ **FOR PERMITS LISTED UNDER SUBSECTION (A) OF THIS SECTION, A CONTESTED CASE HEARING MAY NOT OCCUR**.

(C) A FINAL DETERMINATION BY THE DEPARTMENT ON THE ISSUANCE, DENIAL, RENEWAL, OR REVISION OF ANY PERMIT LISTED UNDER SUBSECTION (A) OF THIS SECTION IS SUBJECT TO JUDICIAL REVIEW AT THE REQUEST OF ANY PERSON THAT:

(1) MEETS THE THRESHOLD STANDING REQUIREMENTS UNDER FEDERAL LAW ~~**RELATING TO FEDERAL ENVIRONMENTAL PERMITS**~~**; AND**

(2) (I) IS THE APPLICANT; OR

(II) PARTICIPATED IN A PUBLIC PARTICIPATION PROCESS THROUGH THE SUBMISSION OF WRITTEN OR ORAL COMMENTS, UNLESS AN OPPORTUNITY FOR PUBLIC PARTICIPATION WAS NOT PROVIDED.

(D) ~~**FOR PERMITS LISTED UNDER SUBSECTION (A) OF THIS SECTION, A CONTESTED CASE HEARING MAY NOT OCCUR.**~~

~~**(E)**~~ **(1) JUDICIAL REVIEW SHALL BE ON THE ADMINISTRATIVE RECORD BEFORE THE DEPARTMENT AND LIMITED TO OBJECTIONS RAISED DURING THE PUBLIC COMMENT PERIOD, UNLESS THE PETITIONER DEMONSTRATES THAT:**

~~**(1)**~~ **(I) THE OBJECTIONS WERE NOT REASONABLY ASCERTAINABLE DURING THE COMMENT PERIOD; OR**

~~**(2)**~~ **(II) GROUNDS FOR THE OBJECTIONS AROSE AFTER THE COMMENT PERIOD.**

(2) THE COURT SHALL REMAND THE MATTER TO THE DEPARTMENT FOR CONSIDERATION OF OBJECTIONS UNDER PARAGRAPH (1) OF THIS SUBSECTION.

~~**(F)**~~ **(E) UNLESS OTHERWISE REQUIRED BY STATUTE, A PETITION FOR JUDICIAL REVIEW BY A PERSON THAT MEETS THE REQUIREMENTS OF SUBSECTION (C) OF THIS SECTION SHALL BE FILED WITH THE CIRCUIT COURT FOR THE COUNTY WHERE THE APPLICATION FOR THE PERMIT STATES THAT THE PROPOSED ACTIVITY WILL OCCUR.**

~~(G) ON MOTION BY A PARTY PETITIONING FOR JUDICIAL REVIEW, THE COURT MAY GRANT A TEMPORARY STAY OF THE ISSUANCE OF THE PERMIT PENDING A FINAL DECISION ON THE PETITION, PROVIDED THAT:~~

~~(1) THE PARTIES TO THE PROCEEDING HAVE BEEN NOTIFIED AND GIVEN AN OPPORTUNITY TO BE HEARD ON A REQUEST FOR THE TEMPORARY STAY;~~

~~(2) THE PARTY REQUESTING THE TEMPORARY STAY SHOWS THAT THERE IS A SUBSTANTIAL LIKELIHOOD OF PREVAILING ON THE MERITS OF ISSUES TO BE PRESENTED IN THEIR PETITION FOR JUDICIAL REVIEW; AND~~

~~(3) THE TEMPORARY STAY WILL NOT ADVERSELY AFFECT THE PUBLIC HEALTH OR SAFETY OR CAUSE SIGNIFICANT, IMMINENT ENVIRONMENTAL HARM TO LAND, AIR, OR WATER RESOURCES.~~

[(c)**]** ~~(H)~~ **(F)** (1) When this article requires more than one public informational meeting**[**,**]** **OR** public hearing**[**, or contested case hearing**]**, the Department may consolidate some or all of the meetings or hearings for the proposed facility with similar meetings or hearings.

(2) The Department shall hold public informational meetings and public hearings at a location in the political subdivision and in close proximity to the location where the individual permit applies.

1–603.

(d) (1) The Department may require the applicant to attend an informational meeting or public **[**or contested case**]** hearing and present information concerning the application.

1–605.

(a) A person **[**may request a contested case hearing to appeal a final determination if the person makes factual allegations**]** **PETITIONING FOR JUDICIAL REVIEW IN ACCORDANCE WITH § 1–601 OF THIS SUBTITLE OR § 5–204 OR § 16–204 OF THIS ARTICLE SHALL** ~~ALLEGE FACTS with sufficient particularity to demonstrate that:~~

~~(1) The person [is aggrieved by the final determination] SATISFIES THE REQUIREMENTS OF § 1–601(C) OF THIS SUBTITLE; and~~

~~(2) The final determination is:~~

~~(i) Legally inconsistent with any provisions of law applicable to the final determination being challenged; or~~

~~(ii) Based upon an incorrect determination of a relevant and material fact~~ **FILE THE PETITION IN ACCORDANCE WITH THE MARYLAND RULES**.

(b) **[**(1)**]** A party **[**requesting a contested case hearing**]** **SUBMITTING A PETITION FOR JUDICIAL REVIEW** shall **[**submit a written request for adjudication**]** **FILE THE PETITION** within ~~15~~ **30** days after publication of a notice of final determination.

[(2) The Department shall transmit a request for a contested case hearing to the Office of Administrative Hearings within 5 business days after the Department receives the request.**]**

(c) ~~The [request for adjudication] **PETITION** shall set forth the basis for the request with sufficient particularity to assure that the issues to be raised are within the scope of subsection (a) of this section [and that the person is aggrieved by the final determination]~~ **AN ACTION FOR JUDICIAL REVIEW BROUGHT IN ACCORDANCE WITH § 1–601 OF THIS SUBTITLE OR § 5–204 OR § 16–204 OF THIS ARTICLE, SHALL BE CONDUCTED IN ACCORDANCE WITH THE MARYLAND RULES**.

(d) A party **TO THE JUDICIAL REVIEW ACTION** may not**[**, in a contested case hearing,**]** challenge a facility's compliance with zoning and land use requirements or conformity with a county plan issued under Title 9, Subtitle 5 of this article. However, nothing in this subtitle shall prevent a party from challenging whether the Department has complied with §§ 2–404(b)(1)(ii) and 9–210(a)(3) of this article, when applicable, nor does this subtitle prevent a party from contesting the compliance of the facility with zoning and land use or county plan requirements in any proceeding brought in accordance with and under any applicable local laws.

[(e) A contested case hearing shall be conducted in accordance with Subtitle 2 of Title 10 of the State Government Article.

(f) (1) The contested case hearing shall be concluded, and the record shall be closed:

(i) Within 6 months following receipt of the request for a contested case hearing by the Office of Administrative Hearings; or

(ii) If a motion is filed under § 1–606(a) of this subtitle, within 8 months following receipt of the request for a contested case hearing by the Office of Administrative Hearings.

(2) The deadlines in this subsection may be extended by agreement of the parties and with the concurrence of the administrative law judge.

(g) (1) The administrative law judge shall issue the proposed decision within 90 days following the close of the record in the contested case hearing.

(2) The deadline in this subsection may be extended, at the discretion of the administrative law judge, for an additional period not to exceed 30 days.

(h) (1) Once a proposed decision is issued by the administrative law judge if an exception is not filed with the Department, the proposed decision shall become final upon expiration of the time period for filing an exception.

(2) Once a proposed decision is issued by the administrative law judge if an exception is filed with the Department, the final decision shall be rendered within 120 days following issuance of the proposed decision.

(i) The deadlines in this section shall be considered mandatory and not directory.**]**

[1–606.

(a) Upon motion of any party, the administrative law judge shall dismiss all or any part of a request for a contested case hearing if the administrative law judge determines that the person making the request has failed to make the demonstration required by § 1–605 of this subtitle, including the failure to make factual allegations with sufficient particularity to demonstrate that the person is aggrieved by the final determination.

(b) (1) The administrative law judge shall rule on any motion filed under subsection (a) of this section within 60 days following receipt of the motion.

(2) The deadline in this subsection may be extended by agreement of the parties and with the concurrence of the administrative law judge.

(c) A decision under subsection (a) of this section that dismisses fewer than all of the issues in an action, or that adjudicates issues concerning fewer than all of the parties to an action is not immediately appealable unless the administrative law judge determines that there is no just reason for delay, and directs the entry of a decision as to one or more, but fewer than all of the issues or parties.

(d) Except as provided under subsection (c) of this section, a decision by the administrative law judge on a motion in accordance with subsection (a) of this section is a final agency decision and shall be appealable in the same manner as a final decision by the Department after a contested case hearing.

(e) The deadlines in this section shall be considered mandatory and not directory.**]**

1–606.

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

(2) "BOARD" MEANS THE BOARD OF PUBLIC WORKS.

(3) "LICENSE" MEANS A LICENSE UNDER § 16–202 OF THIS ARTICLE.

(B) THIS SECTION APPLIES TO:

(1) A PERMIT LISTED UNDER § 1–601(A) OF THIS SUBTITLE;

(2) A PERMIT LISTED UNDER § 5–204(F) OF THIS ARTICLE; OR

(3) A LICENSE ISSUED UNDER ~~§ 16–204~~ § 16–202 OF THIS ARTICLE.

~~(B)~~ (C) ANY JUDICIAL REVIEW OF A ~~DEPARTMENT PERMIT DECISION~~ DETERMINATION PROVIDED FOR IN ACCORDANCE WITH § 1–601 OF THIS SUBTITLE OR § 5–204 OR § 16–204 OF THIS ARTICLE SHALL BE LIMITED TO A RECORD COMPILED BY THE DEPARTMENT ~~AND SHALL CONSIST~~ OR BOARD, CONSISTING OF:

(1) ANY PERMIT OR LICENSE APPLICATION AND ANY DATA SUBMITTED TO THE DEPARTMENT OR BOARD IN SUPPORT OF THE APPLICATION;

(2) ANY DRAFT PERMIT OR LICENSE ISSUED BY THE DEPARTMENT OR BOARD;

(3) ANY NOTICE OF INTENT FROM THE DEPARTMENT OR BOARD TO DENY THE APPLICATION OR TO TERMINATE THE PERMIT OR LICENSE;

(4) A STATEMENT OR FACT SHEET EXPLAINING THE BASIS FOR THE DETERMINATION BY THE DEPARTMENT OR BOARD;

(5) ALL DOCUMENTS REFERENCED IN THE STATEMENT OR FACT SHEET EXPLAINING THE BASIS FOR THE DETERMINATION BY THE DEPARTMENT OR BOARD;

(6) ALL DOCUMENTS, EXCEPT DOCUMENTS FOR WHICH DISCLOSURE IS PRECLUDED BY LAW OR THAT ARE SUBJECT TO PRIVILEGE, CONTAINED IN THE SUPPORTING FILE FOR ANY DRAFT PERMIT OR LICENSE;

(7) ALL COMMENTS SUBMITTED TO THE DEPARTMENT OR BOARD DURING THE PUBLIC COMMENT PERIOD, INCLUDING COMMENTS MADE ON THE DRAFT APPLICATION;

(8) ANY TAPE OR TRANSCRIPT OF ANY PUBLIC HEARINGS HELD ON THE APPLICATION; AND

(9) ANY RESPONSE TO ANY COMMENTS SUBMITTED TO THE DEPARTMENT OR BOARD.

~~(C)~~ (D) (1) WHEN A DRAFT PERMIT OR LICENSE OR TENTATIVE DETERMINATION IS ISSUED ~~BY THE DEPARTMENT~~, THE DEPARTMENT OR BOARD SHALL:

(I) MAKE AVAILABLE FOR INSPECTION AND COPYING NO LATER THAN THE DATE THE PERMIT, DRAFT LICENSE, OR TENTATIVE DETERMINATION IS ISSUED:

1. ALL PERMIT OR LICENSE APPLICATIONS;

2. DOCUMENTS SUBMITTED WITH A PERMIT OR LICENSE APPLICATION; ~~AND~~

3. ALL DOCUMENTS RELIED ON ~~BY THE DEPARTMENT~~ IN MAKING THE TENTATIVE DETERMINATION; AND

4. A PRIVILEGE LOG THAT IDENTIFIES ALL DOCUMENTS NOT PRODUCED FOR INSPECTION IN ACCORDANCE WITH SUBSECTION (C)(6) OF THIS SECTION AND STATES THE REASONS FOR WITHHOLDING EACH DOCUMENT; AND

(II) EXTEND ~~ANY EXISTING~~ THE PUBLIC COMMENT PERIOD BY 60 DAYS ON REQUEST BY A PERSON.

(2) A REQUEST SUBMITTED TO THE DEPARTMENT OR BOARD UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION SHALL BE:

(I) SUBMITTED IN WRITING ~~TO THE DEPARTMENT~~; AND

(II) MADE BEFORE THE EXPIRATION OF THE ORIGINAL COMMENT PERIOD.

(3) A PUBLIC COMMENT PERIOD MAY NOT BE EXTENDED MORE THAN ONCE UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION.

5–204.

(a) (1) It is the intent of the General Assembly to establish consolidated procedures and notice and hearing requirements for Title 5, Subtitles 5 and 9 and Titles 14, 15, and 16 of this article in order to ensure efficient review and consistent decision making.

(2) Notwithstanding any provision of the State Government Article, public notice on pending applications provided in accordance with the provisions of this section shall be the only notice required by law.

(b) (1) Applicants shall ascertain the names and addresses of all current owners of property contiguous to the parcel upon which the proposed activity will occur and personally or by certified mail serve notice upon each owner.

(2) Applicants shall serve personally or by certified mail appropriate local officials.

(3) Applicants shall provide the Department with certification that notice has been served on all contiguous property owners and appropriate local officials.

(4) Upon substantial completion of an application the Department shall draft a public notice that includes:

(i) The name and address of the applicant;

(ii) A description of the location and nature of the activity for which application has been made;

(iii) The name, address, and telephone number of the office within the Department from which information about the application may be obtained;

(iv) A statement that any further notices about actions on the application will be provided only by mail to those persons on a mailing list of interested persons;

(v) A description of how persons may submit information or comments about the application, request a public informational hearing, or request to be included on the mailing list of interested persons; and

(vi) A deadline for the close of the public comment period by which information, comments, or requests must be received by the Department.

(5) The Department shall prepare a public notice to be published for at least 1 business day in a newspaper of general circulation in the area where the proposed activity would occur. At its discretion, the Department shall:

(i) Publish the public notice; or

(ii) Direct the applicant to publish the public notice.

(6) The applicant shall bear the cost of the newspaper notice.

(7) The Department shall mail public notices to a general subscription mailing list.

(8) Comments on an application or requests for a public informational hearing must be forwarded in writing to the Department prior to the close of the public comment period specified in the public notice.

(9) The Department shall compile an interested persons list containing the names of all contiguous property owners, appropriate local officials, and individuals that comment on, request hearings, or make inquiries about an application during any phase of the Department's review.

(10) No further notice will be provided except to persons on the interested persons list.

(c) The Department shall hold a public informational hearing if it receives a timely written request in accordance with the following provisions:

(1) The request shall be received prior to the close of the public comment period.

(2) A public informational hearing shall be held within 45 calendar days of the close of the public comment period.

(3) The Department shall specify the date, time, and location of the public hearing.

(4) The Department shall mail notice of the date, time, and location of any public informational hearing on an application to those persons on the interested persons list no later than 14 calendar days prior to the hearing.

(5) The Department may extend the official record of a public informational hearing.

(d) Following the application review and comment period and within 30 calendar days after the close of the public informational hearing record, the Department shall issue, modify, or deny the permit or license unless extenuating circumstances justify an extension of time.

(e) The Department shall mail notice of a decision to issue, modify, or deny a permit or license to the applicant and to those persons on the interested persons list.

[(f) When opportunity for a contested case hearing on the Department's decision to issue, modify, or deny a permit or license is provided by law, the Department shall provide all persons on the interested persons list and the applicant an opportunity to make a written request for a contested case hearing within 14 calendar days of the mailing date of the notice of decision.

(g) Upon written request the Department shall grant a contested case hearing if it determines that:

(1) The requester has a specific right, duty, privilege, or interest which is or may be adversely affected by the permit determination or license decision and which is different from that held by the general public;

(2) The requester raises adjudicable issues which are within the scope of the permit authority; and

(3) The request is timely.**]**

(F) (1) A FINAL ~~DECISION~~ DETERMINATION BY THE DEPARTMENT ON THE ISSUANCE, DENIAL, RENEWAL, OR REVISION OF ANY PERMIT ISSUED UNDER TITLE 5, SUBTITLE 5 OR SUBTITLE 9, § 14–105, ~~§ 15–810, § 15–813~~ § 14–508, § 15–808, OR § 16–307 OF THIS ARTICLE IS SUBJECT TO JUDICIAL REVIEW AT THE REQUEST OF ANY PERSON THAT:

(I) MEETS THE THRESHOLD STANDING REQUIREMENTS UNDER FEDERAL LAW ~~PERTAINING TO FEDERAL ENVIRONMENTAL PERMITS~~; AND

(II) 1. IS THE APPLICANT; OR

2. PARTICIPATED IN A PUBLIC PARTICIPATION PROCESS THROUGH THE SUBMISSION OF WRITTEN OR ORAL COMMENTS, UNLESS AN OPPORTUNITY FOR PUBLIC PARTICIPATION WAS NOT PROVIDED.

(2) FOR PERMITS LISTED UNDER PARAGRAPH (1) OF THIS SUBSECTION, A CONTESTED CASE HEARING MAY NOT OCCUR.

(G) A PERSON PETITIONING FOR JUDICIAL REVIEW IN ACCORDANCE WITH THIS SECTION SHALL ~~ALLEGE FACTS WITH SUFFICIENT PARTICULARITY TO DEMONSTRATE THAT:~~

~~(1) THE PERSON SATISFIES THE REQUIREMENTS OF SUBSECTION (F)(1) OF THIS SECTION; AND~~

~~(2) THE FINAL DETERMINATION IS:~~

~~(I) LEGALLY INCONSISTENT WITH ANY PROVISIONS OF LAW APPLICABLE TO THE FINAL DETERMINATION BEING CHALLENGED; OR~~

~~(II) BASED ON AN INCORRECT DETERMINATION OF A RELEVANT AND MATERIAL FACT~~ FILE THE PETITION IN ACCORDANCE WITH THE MARYLAND RULES.

(H) (1) JUDICIAL REVIEW SHALL BE ON THE ADMINISTRATIVE RECORD BEFORE THE DEPARTMENT AND LIMITED TO OBJECTIONS RAISED DURING THE PUBLIC COMMENT PERIOD, UNLESS THE PETITIONER DEMONSTRATES THAT:

~~(1)~~ (I) THE OBJECTIONS WERE NOT REASONABLY ASCERTAINABLE DURING THE COMMENT PERIOD; OR

~~(2)~~ (II) GROUNDS FOR THE OBJECTIONS AROSE AFTER THE COMMENT PERIOD.

(2) THE COURT SHALL REMAND THE MATTER TO THE DEPARTMENT FOR CONSIDERATION OF OBJECTIONS UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(I) (1) UNLESS OTHERWISE REQUIRED BY STATUTE, A PETITION FOR JUDICIAL REVIEW BY A PERSON WHO MEETS THE REQUIREMENTS OF SUBSECTION (F) OF THIS SECTION SHALL BE FILED WITH THE CIRCUIT COURT FOR THE COUNTY WHERE THE APPLICATION FOR THE PERMIT STATES THAT THE PROPOSED ACTIVITY WILL OCCUR.

(2) A PETITION FOR JUDICIAL REVIEW FILED UNDER THIS SECTION SHALL BE FILED IN ACCORDANCE WITH TITLE 1, SUBTITLE 6 OF THIS ARTICLE.

~~[(h)] (J) Upon motion by a party [to a contested case hearing] PETITIONING FOR JUDICIAL REVIEW, the [Department] COURT may grant a~~

~~temporary stay of the issuance of the permit pending a final decision [in the contested case] **ON THE PETITION**, provided that:~~

~~(1) The parties to the proceeding have been notified and given an opportunity to be heard on a request for the temporary stay;~~

~~(2) The party requesting the temporary stay shows that there is a substantial likelihood of prevailing on the merits of issues to be presented [during the contested case proceeding;] **IN THE PARTY'S PETITION FOR JUDICIAL REVIEW; AND**~~

~~(3) The temporary stay will not adversely affect the public health or safety or cause significant, imminent environmental harm to land, air, or water resources[; and~~

~~(4) The conditions and criteria for granting a temporary stay as provided in regulations for contested case hearings adopted by the Department have been met].~~

14–105.

(b) The Department shall provide public notice, public informational hearings, and [contested case hearings] **JUDICIAL REVIEW** in accordance with the provisions of § 5–204 of this article.

14–508.

(b) (1) The Secretary shall adopt regulations as provided in this subsection.

(2) Procedural regulations adopted under this subsection shall:

(i) Provide for notice to interested persons of any decision to issue or deny a permit;

(ii) Permit a person to **FILE A PETITION FOR JUDICIAL REVIEW IN ACCORDANCE WITH THE PROVISIONS OF § 5–204 OF THIS ARTICLE** [request a hearing under Title 10, Subtitle 2 of the State Government Article (Administrative Procedure Act – Contested Cases), if the person makes factual allegations with sufficient particularity to demonstrate that:

1. The person is aggrieved by the decision; and

2. The decision is:

A. Legally inconsistent with any provision of law applicable to the decision being challenged; or

B. Based upon an incorrect determination of a relevant and material fact;

(iii) Provide the Secretary with discretionary authority to stay the effectiveness of the decision pending the outcome of the hearing; and

(iv) Provide that, if a request for a hearing is granted, the Secretary's decision on the application shall be based on the record made in the hearing, including the proposed findings of fact and conclusions of law recommended to the Secretary by the presiding officer**]**.

15–810.

(e) Public notice, informational hearings, and **[**contested case hearings**]** **JUDICIAL REVIEW** shall be conducted in accordance with the provisions of § 5–204 of this article.

~~15–813.~~

~~(g) The Department shall provide opportunity for [a contested case hearing] JUDICIAL REVIEW in accordance with the provisions of § 5–204 of this article.~~

16–202.

(a) A person may not dredge or fill on State wetlands without a license.

(b) The Secretary shall assist the Board in determining whether to issue a license to dredge or fill State wetlands. The Secretary shall submit a report indicating whether the license should be granted and, if so, the terms, conditions, and consideration required after consultation with any interested federal, State, and local unit, and after issuing public notice, holding any requested hearing, and taking any evidence the Secretary thinks advisable.

(c) (1) Upon receipt of a report by the Secretary, the Board shall decide if issuance of the license is in the best interest of the State, taking into account the varying ecological, economic, developmental, recreational, and aesthetic values each application presents. If the Board decides to issue the license, the issuance of the license shall be for consideration and on terms and conditions the Board determines. Every license shall be in writing.

16–204.

(A) Any **[**party to the proceedings aggrieved by the decision of the Board,**]** **PERSON THAT SATISFIES SUBSECTION (B) OF THIS SECTION** may petition the circuit court in the county where the land is located within 30 days after receiving the

decision **OF THE BOARD**. The appeal shall be heard on the record compiled before the Board.

(B) A PARTY HAS STANDING TO FILE A PETITION UNDER SUBSECTION (A) OF THIS SECTION IF THE PARTY:

(1) MEETS THE THRESHOLD STANDING REQUIREMENTS UNDER FEDERAL LAW ~~RELATING TO FEDERAL ENVIRONMENTAL PERMITS~~; AND

(2) (I) IS THE APPLICANT; OR

(II) PARTICIPATED IN A PUBLIC PARTICIPATION PROCESS THROUGH THE SUBMISSION OF WRITTEN OR ORAL COMMENTS, UNLESS AN OPPORTUNITY FOR PUBLIC PARTICIPATION WAS NOT PROVIDED.

(C) (1) A CONTESTED CASE HEARING MAY NOT OCCUR ON A DECISION OF THE BOARD IN ACCORDANCE WITH § 16–202 OF THIS SUBTITLE.

(2) JUDICIAL REVIEW UNDER THIS SECTION SHALL BE CONDUCTED IN ACCORDANCE WITH TITLE 1, SUBTITLE 6 OF THIS ARTICLE.

16–307.

(d) The Secretary shall provide opportunity for **[**a contested case hearing**]** **JUDICIAL REVIEW** in accordance with the provisions of § **[**5–204(f) through (h)**]** **5–204** of this article.

16–309.

The court may order the State to pay court costs of any appeal in accordance with the provisions of § 16–306 **[**or § 16–308**]** of this subtitle if the court finds that the financial situation of the person appealing warrants this action.

Article – Natural Resources

8–1808.

(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) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE PROVISIONS OF THIS PARAGRAPH SHALL APPLY TO A PROCEEDING THAT INVOLVES A VARIANCE FOR A DEVELOPMENT ACTIVITY IN THE BUFFER UNDER THE REQUIREMENTS OF:**

1. THIS SUBTITLE;

2. A REGULATION ADOPTED UNDER THE AUTHORITY OF THIS SUBTITLE; OR

3. AN APPROVED PROGRAM.

(II) IF A PERSON MEETS THE THRESHOLD STANDING REQUIREMENTS UNDER FEDERAL LAW ~~RELATING TO FEDERAL ENVIRONMENTAL PERMITS~~, THE PERSON SHALL HAVE STANDING TO PARTICIPATE AS A PARTY IN A LOCAL ADMINISTRATIVE PROCEEDING.

(III) A PERSON THAT HAS STANDING UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH MAY:

1. PARTICIPATE AS A PARTY IN AN ADMINISTRATIVE PROCEEDING AT A BOARD OF APPEALS EVEN IF THE PERSON WAS NOT A PARTY TO THE ORIGINAL ADMINISTRATIVE PROCEEDING; AND

2. PETITION FOR JUDICIAL REVIEW AND PARTICIPATE AS A PARTY EVEN IF THE PERSON WAS NOT A PARTY TO THE ACTION WHICH IS THE SUBJECT OF THE PETITION.

(3) (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.

(iii) If the variance request is based on conditions or circumstances that are the result of actions by the applicant, a local jurisdiction shall consider that fact.

[(3)**] (4)** (i) An applicant has the burden of proof and the burden of persuasion to overcome the presumption established under paragraph **[**(2)(ii)**] (3)(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)**] (3)(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)**] (5)** 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)**] (6)** (i) Within 10 working days after a written decision regarding a variance application is issued, the Commission shall receive a copy of the decision from a local jurisdiction.

(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)**] (7)** (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 issues a notice of violation, including assessment of an administrative or civil penalty, for the violation.

(iii) If 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 approval to the requested variance.

[(7)**] (8)** 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.

[(8)**] (9)** 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.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That, for purposes related to the processing of an application for a variance under § 8–1808(d) of the Natural Resources Article, as enacted under Section ~~1~~ *2* of this Act, the provisions of this Act may not be construed to have any effect on or application to a variance application filed with a local Critical Area program before January 1, 2010.

SECTION ~~3.~~ 4. AND BE IT FURTHER ENACTED, That, it is the intent of the General Assembly that references in this Act to "threshold standing requirements under federal law," be construed:

(a) In accordance with requirements for individual and associational standing under Article III of the U.S. Constitution and pertinent case law;

(b) In accordance with the ruling in Hunt v. Washington State Apple Advertising Commission, 432 U.S. 333 (1977), which established the essential elements of an association for the purposes of standing; ~~and~~

(c) In the context of the entire body of federal case law regarding standing, as that case law exists on the effective date of this Act and as it may evolve in future rulings; and

(d) To assure that challenges to environmental determinations brought in State court and participation in proceedings under § 8–1808(d) of the Natural Resources Article, as enacted under Section ~~1~~ *2* of this Act, are subject to the same standing requirements as applied to similar challenges to federal environmental permits filed in federal courts.

SECTION 5. AND BE IT FURTHER ENACTED, That when considering a motion for a stay in an action brought for judicial review as enacted under Section 2 of this Act, the court shall ~~require the party requesting a stay to make a showing that there is a substantial likelihood that the party will prevail on the merits of the issues raised~~ *examine:*

(a) the likelihood the plaintiff will succeed on the merits;

(b) the balance of convenience determined by whether greater injury would be done to the defendant by granting the stay than would result from its refusal;

(c) whether the plaintiff will suffer irreparable injury unless the stay is granted; and

(d) the public interest in granting the stay.

SECTION ~~4.~~ 6. 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.~~ 7. AND BE IT FURTHER ENACTED, That this Act shall take effect January 1, 2010.

Approved by the Governor, May 19, 2009.

Chapter 652

(House Bill 26)

AN ACT concerning

Public Schools – Children with Anaphylactic Allergies – Reduction of Risk

FOR the purpose of requiring*, in consultation with a school health professional,* principals of public schools that have children attending the schools who have been identified as having certain allergies to take certain actions to reduce certain risks; ~~requiring school principals or their designees to monitor certain files; requiring the monitoring of certain individualized health plans;~~ authorizing public schools to revoke the authority of certain children to self–administer certain medications; granting certain immunity to certain individuals under certain circumstances; authorizing local county boards of education to require parents or guardians to sign certain statements; defining certain terms; and generally relating to the reduction of risk to the health of children with anaphylactic allergies in public schools.

BY adding to
Article – Education
Section 7–426.1
Annotated Code of Maryland
(2008 Replacement Volume)

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

Article – Education

7–426.1.

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

(2) "ANAPHYLACTIC ALLERGY" MEANS A FOOD ALLERGY THAT CAUSES A SEVERE, SYSTEMATIC REACTION RESULTING IN CIRCULATORY COLLAPSE OR SHOCK THAT MAY BE FATAL.

(3) "EMPLOYEE" MEANS AN INDIVIDUAL WHO IS EMPLOYED BY A LOCAL BOARD OF EDUCATION, INCLUDING PART–TIME EMPLOYEES, CERTIFIED AND NONCERTIFIED SUBSTITUTE TEACHERS EMPLOYED BY THE LOCAL BOARD OF EDUCATION FOR AT LEAST 7 DAYS EACH SCHOOL YEAR, MAINTENANCE WORKERS, AND ADMINISTRATIVE STAFF.

(4) "SELF–ADMINISTER" MEANS THE APPLICATION OR CONSUMPTION OF MEDICATIONS IN A MANNER PRESCRIBED BY A HEALTH PRACTITIONER WHO IS LICENSED, CERTIFIED, OR OTHERWISE AUTHORIZED UNDER THE HEALTH OCCUPATIONS ARTICLE TO PRESCRIBE MEDICATIONS AND MEDICATION DELIVERY DEVICES BY THE INDIVIDUAL FOR WHOM THE

MEDICATION WAS PRESCRIBED WITHOUT ADDITIONAL ASSISTANCE OR DIRECTION.

(B) ~~THE~~ *IN CONSULTATION WITH A SCHOOL HEALTH PROFESSIONAL, THE* PRINCIPAL OF A PUBLIC SCHOOL THAT HAS A CHILD ATTENDING THE SCHOOL WHO HAS BEEN IDENTIFIED TO THE SCHOOL AS HAVING AN ANAPHYLACTIC ALLERGY SHALL:

(1) MONITOR THE STRATEGIES DEVELOPED IN ACCORDANCE WITH THE MARYLAND STATE SCHOOL HEALTH SERVICE GUIDELINES TO REDUCE THE RISK OF EXPOSURE TO ANAPHYLACTIC CAUSATIVE AGENTS IN CLASSROOMS AND COMMON AREAS;

~~(2) DISSEMINATE INFORMATION ON LIFE–THREATENING ALLERGIES TO PARENTS, GUARDIANS, PUPILS, AND EMPLOYEES OF THE SCHOOL, INCLUDING NOTICE IN A CONSPICUOUS PLACE AT EACH POINT OF ENTRY AND IN THE CAFETERIA STATING THAT A STUDENT IN THE SCHOOL HAS A SEVERE FOOD ALLERGY;~~

~~(3)~~ *(2)* DESIGNATE A PEANUT– AND TREE NUT–FREE TABLE IN THE CAFETERIA; AND

~~(4) IN CONSULTATION WITH APPROPRIATE PROFESSIONAL MEDICAL ORGANIZATIONS, REQUIRE TRAINING REGARDING LIFE–THREATENING ALLERGIES FOR EMPLOYEES AND OTHER INDIVIDUALS WHO ARE IN DIRECT CONTACT WITH THESE STUDENTS ON A REGULAR BASIS.~~

~~(C) (1) A SCHOOL PRINCIPAL OR THE PRINCIPAL'S DESIGNEE SHALL MONITOR FOR EACH CHILD WITH AN ANAPHYLACTIC ALLERGY A ROUTINELY UPDATED FILE THAT CONTAINS:~~

~~(I) CURRENT TREATMENT GUIDELINES;~~

~~(II) COPIES OF ANY PRESCRIPTIONS AND INSTRUCTIONS FROM A PHYSICIAN OR NURSE; AND~~

~~(III) A CURRENT EMERGENCY CONTACT LIST.~~

~~(2) IT IS THE RESPONSIBILITY OF THE PARENT OR GUARDIAN OF THE CHILD TO ENSURE THAT THE INFORMATION IN THE FILE IS CURRENT.~~

~~(D) (1) A SCHOOL PRINCIPAL OR THE PRINCIPAL'S DESIGNEE, IN CONSULTATION WITH THE PARENT OR GUARDIAN OF THE CHILD, THE CHILD'S PHYSICIAN, ANY HEALTH CARE PROFESSIONAL EMPLOYED BY THE SCHOOL,~~

~~AND, IF APPROPRIATE, THE CHILD, SHALL MONITOR AN INDIVIDUALIZED HEALTH PLAN FOR THE CHILD.~~

~~(2) EMPLOYEES OF THE SCHOOL SHALL HAVE ACCESS TO THE PLAN AT ALL TIMES.~~

~~(E) AN INDIVIDUALIZED HEALTH PLAN SHALL:~~

~~(1) ESTABLISH PROCEDURES FOR NOTIFYING EMPLOYEES WHO ARE IN DIRECT CONTACT WITH THE CHILD ON A REGULAR BASIS ABOUT INFORMATION REGARDING THE TYPE OF ALLERGY, MONITORING AND AVOIDANCE STRATEGIES, AND APPROPRIATE TREATMENT;~~

~~(2) ESTABLISH A READILY ACCESSIBLE EMERGENCY RESPONSE PLAN FOR THE CHILD, INCLUDING:~~

~~(I) EMERGENCY CONTACT INFORMATION, UPDATED AT LEAST ANNUALLY, WITH CURRENT CONTACT NAMES AND PHONE NUMBERS;~~

~~(II) SIGNS AND SYMPTOMS FOR WHICH EMERGENCY CARE MAY BE NEEDED THAT ARE SPECIFIC TO THE CHILD'S HEALTH CONDITION;~~

~~(III) EMERGENCY INTERVENTION NEEDED, INCLUDING MEDICATIONS PRESCRIBED, DOSAGES, AND MODE OF ADMINISTRATION;~~

~~(IV) PROCEDURES FOR THE PLACEMENT OF A CHILD'S PRESCRIBED EMERGENCY MEDICATION IN A SAFE AND SECURE LOCATION EASILY ACCESSED TO ENSURE IMMEDIATE ACCESSIBILITY AT SCHOOL, ON A FIELD TRIP, ON A SCHOOL BUS OR OTHER SCHOOL-COORDINATED TRANSPORTATION, OR AT A SCHOOL-SPONSORED ACTIVITY OR EVENT; AND~~

~~(V) EACH LOCATION OF THE EMERGENCY MEDICATION;~~

~~(3) INCLUDE PRECISE INSTRUCTIONS REGARDING THE STORAGE OF EPINEPHRINE AUTO-INJECTORS; AND~~

~~(4)~~ *(3)* ~~MEET THE NEEDS OF THE CHILD, INCLUDING ESTABLISHING~~ ***ESTABLISH*** **PROCEDURES FOR SELF-ADMINISTRATION OF MEDICATION BY THE CHILD IF THE CHILD IS DETERMINED TO BE CAPABLE OF AND RESPONSIBLE FOR SELF-ADMINISTRATION BY THE PRINCIPAL, PARENT OR GUARDIAN OF THE CHILD, AND PHYSICIAN OF THE CHILD.**

~~(F)~~ *(C)* A SCHOOL MAY REVOKE THE AUTHORITY OF A CHILD TO SELF–ADMINISTER MEDICATION IF THE CHILD ENDANGERS HIMSELF OR HERSELF OR ANOTHER CHILD THROUGH MISUSE OF THE MEDICATION.

~~(G)~~ *(D)* EXCEPT FOR ANY WILLFUL OR GROSSLY NEGLIGENT ACT, AN EMPLOYEE WHO RESPONDS IN GOOD FAITH TO THE ANAPHYLACTIC REACTION OF A CHILD IN ACCORDANCE WITH THIS SECTION IS IMMUNE FROM CIVIL LIABILITY FOR ANY ACT OR OMISSION IN THE COURSE OF RESPONDING TO THE REACTION.

~~(H)~~ *(E)* IF A CHILD HAS AUTHORITY TO SELF–ADMINISTER MEDICATION IN ACCORDANCE WITH SUBSECTION (E) OF THIS SECTION, A LOCAL COUNTY BOARD MAY REQUIRE THE PARENT OR GUARDIAN OF THE CHILD TO SIGN A STATEMENT ACKNOWLEDGING THAT~~:~~

~~(1)~~ ~~THE~~ *THE* SCHOOL *OR ITS EMPLOYEE* INCURS NO LIABILITY AS A RESULT OF INJURY ARISING FROM SELF–ADMINISTRATION BY THE CHILD~~;~~ ~~AND~~.

~~(2) THE PARENT OR GUARDIAN SHALL INDEMNIFY AND HOLD HARMLESS AN EMPLOYEE OF THE SCHOOL AGAINST ANY CLAIMS ARISING FROM SELF–ADMINISTRATION BY THE CHILD.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 653

(House Bill 32)

AN ACT concerning

Health Insurance – Limitations on Preexisting Condition Provisions – ~~Applicability~~ Individual Health Benefit Plans

FOR the purpose of ~~expanding the applicability of certain provisions of law that limit the imposition of certain preexisting condition provisions by certain carriers to a policy or certificate issued to an individual in accordance with certain provisions of law; altering a certain definition;~~ prohibiting certain application forms from containing inquiries about certain conditions, illnesses, diseases, or medical procedures; prohibiting an insurer or nonprofit health service plan from

attaching an exclusionary rider to an individual health benefit plan unless the insurer or nonprofit health service plan obtains the prior written consent of the policyholder; authorizing an insurer or nonprofit health service plan to impose a preexisting condition exclusion or limitation on an individual for a certain condition under certain circumstances; prohibiting the imposition of a preexisting condition exclusion or limitation on a certain individual under certain circumstances; defining certain terms; making a conforming change; providing for the application of this Act; and generally relating to preexisting condition limitations.

BY repealing and reenacting, with amendments,
Article – Insurance
Section ~~15–508~~ 12–205
Annotated Code of Maryland
(~~2006~~ 2003 Replacement Volume and 2008 Supplement)

BY adding to
Article – Insurance
Section 15–508.1
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – Insurance

12–205.

(a) (1) The Commissioner shall disapprove a form or withdraw the previous approval of a form filed under § 12–203 of this subtitle if the form does not meet the requirements of subsection (b) of this section.

(2) The order of disapproval or withdrawal of approval shall inform the insurer of:

(i) a statutory or regulatory basis for the disapproval or withdrawal of approval; and

(ii) an explanation of the application of the statutory or regulatory basis for the disapproval or withdrawal of approval.

(b) A form may not:

(1) in any respect violate or fail to comply with this article;

(2) contain or incorporate by reference, if the incorporation is otherwise permissible, any inconsistent, ambiguous, or misleading clauses, or exceptions and conditions that deceptively affect the risk purported to be assumed in the general coverage of the contract;

(3) have a title, heading, or other indication of its provisions that is likely to mislead the policyholder or certificate holder;

(4) contain an inequitable provision of insurance without substantial benefit to the policyholder;

(5) be printed or otherwise reproduced so as to make a provision of the form substantially illegible;

(6) provide benefits in a health insurance policy that are unreasonable in relation to the premium charged;

(7) contain, irrespective of the premium charged, a benefit that is not sufficient to be of real economic value to the insured;

(8) fail to provide minimum benefits or coverages that the Commissioner considers necessary to meet the minimum needs of the insured; or

(9) in a health insurance application form **OR A NONPROFIT HEALTH SERVICE PLAN APPLICATION FORM**, contain inquiries about:

(i) a preexisting condition, illness, or disease for which the applicant has not received medical care or advice from a licensed health care provider**:**

1. during the 7 years immediately before the date of **[**the**]** application; or

2. FOR AN APPLICATION FOR AN INDIVIDUAL HEALTH BENEFIT PLAN THAT IS SUBJECT TO § 15–508.1 OF THIS ARTICLE, DURING THE 5 YEARS IMMEDIATELY BEFORE THE DATE OF APPLICATION; OR

(ii) medical screening, testing, monitoring, or any other similar medical procedure that the Commissioner specifies and that the applicant received**:**

1. more than 7 years before the date of application**; OR**

2. FOR AN APPLICATION FOR AN INDIVIDUAL HEALTH BENEFIT PLAN THAT IS SUBJECT TO § 15–508.1 OF THIS ARTICLE, MORE THAN 5 YEARS BEFORE THE DATE OF APPLICATION.

15–508.1.

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

(2) "CARRIER" MEANS AN INSURER OR A NONPROFIT HEALTH SERVICE PLAN.

(3) "CREDITABLE COVERAGE" HAS THE MEANING STATED IN § 15–1301 OF THIS TITLE.

(4) "EXCLUSIONARY RIDER" MEANS AN ENDORSEMENT TO AN INDIVIDUAL HEALTH BENEFIT PLAN THAT EXCLUDES BENEFITS FOR ONE OR MORE NAMED CONDITIONS THAT ARE DISCOVERED BY A CARRIER DURING THE UNDERWRITING PROCESS.

(5) "HEALTH BENEFIT PLAN" HAS THE MEANING STATED IN § 15–1301 OF THIS TITLE.

(6) "INDIVIDUAL HEALTH BENEFIT PLAN" MEANS A HEALTH BENEFIT PLAN ISSUED BY A CARRIER THAT INSURES:

(I) ONLY ONE INDIVIDUAL; OR

(II) ONE INDIVIDUAL AND ONE OR MORE ~~DEPENDENTS~~ *FAMILY MEMBERS* OF THE INDIVIDUAL.

(B) A CARRIER MAY NOT ATTACH AN EXCLUSIONARY RIDER TO AN INDIVIDUAL HEALTH BENEFIT PLAN UNLESS THE CARRIER OBTAINS THE PRIOR WRITTEN CONSENT OF THE POLICYHOLDER.

(C) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, A CARRIER MAY IMPOSE A PREEXISTING CONDITION EXCLUSION OR LIMITATION ON AN INDIVIDUAL FOR A CONDITION THAT WAS NOT DISCOVERED DURING THE UNDERWRITING PROCESS FOR AN INDIVIDUAL HEALTH BENEFIT PLAN ONLY IF THE EXCLUSION OR LIMITATION:

(1) RELATES TO A CONDITION OF THE INDIVIDUAL, REGARDLESS OF ITS CAUSE, FOR WHICH MEDICAL ADVICE, DIAGNOSIS, CARE, OR TREATMENT WAS RECOMMENDED OR RECEIVED WITHIN THE 12–MONTH PERIOD IMMEDIATELY PRECEDING THE EFFECTIVE DATE OF THE INDIVIDUAL'S COVERAGE;

(2) EXTENDS FOR A PERIOD OF NOT MORE THAN 12 MONTHS AFTER THE EFFECTIVE DATE OF THE INDIVIDUAL'S COVERAGE; AND

(3) IS REDUCED BY THE AGGREGATE OF ANY APPLICABLE PERIODS OF CREDITABLE COVERAGE.

(D) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A CARRIER MAY NOT IMPOSE A PREEXISTING CONDITION EXCLUSION OR LIMITATION ON AN INDIVIDUAL WHO, AS OF THE LAST DAY OF THE 30–DAY PERIOD BEGINNING WITH THE DATE OF THE INDIVIDUAL'S BIRTH, IS COVERED UNDER ANY CREDITABLE COVERAGE.

(2) THE LIMITATION ON THE IMPOSITION OF A PREEXISTING CONDITION EXCLUSION OR LIMITATION UNDER PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY AFTER THE END OF THE FIRST 63–DAY PERIOD DURING ALL OF WHICH THE INDIVIDUAL WAS NOT COVERED UNDER ANY CREDITABLE COVERAGE.

~~15–508.~~

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

~~(2) "Carrier" has the meaning stated in § 15–1301 of this title.~~

~~(3) "Enrollment date" has the meaning stated in § 15–1301 of this title.~~

~~(4) "Policy or certificate" means any [group] **INDIVIDUAL, GROUP,** or blanket health insurance contract or policy that is issued or delivered in the State by an insurer or nonprofit health service plan that provides hospital, medical, or surgical benefits on an expense–incurred basis.~~

~~(5) "Preexisting condition provision" has the meaning stated in § 15–1301 of this title.~~

~~(6) "Late enrollee" has the meaning stated in § 15–1401 of this title.~~

~~(b) This section does not apply to a policy or certificate issued to a small employer in accordance with Subtitle 12 of this title[, or to an individual in accordance with Subtitle 13 of this title].~~

~~(c) Except as otherwise provided in subsection (d) of this section, a carrier may impose a preexisting condition provision only if it:~~

~~(1) relates to a condition, regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the 6–month period ending on the enrollment date;~~

~~(2) extends for a period of not more than 12 months after the enrollment date or 18 months in the case of a late enrollee; and~~

~~(3) is reduced by the aggregate of the periods of creditable coverage, as defined in Subtitle 14 of this title.~~

~~(d) (1) Subject to paragraph (4) of this subsection, a carrier may not impose any preexisting condition provision on an individual who, as of the last day of the 30–day period beginning with the date of birth, is covered under creditable coverage.~~

~~(2) Subject to paragraph (4) of this subsection, a carrier may not impose any preexisting condition provisions on a child who:~~

~~(i) is adopted or placed for adoption before attaining 18 years of age; and~~

~~(ii) as of the last day of the 30–day period beginning on the date of adoption or placement for adoption, is covered under creditable coverage.~~

~~(3) A carrier may not impose any preexisting condition provisions relating to pregnancy.~~

~~(4) Paragraphs (1) and (2) of this subsection do not apply to an individual after the end of the first 63–day period during all of which the individual was not covered under any creditable coverage.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all policies ~~and contracts~~, contracts, and health benefit plans issued, delivered, or renewed in the State on or after October 1, 2009.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 654

(House Bill 39)

AN ACT concerning

Health Insurance – Out–of–State Association Contracts – Regulation

FOR the purpose of requiring certain carriers that offer certain out–of–state association contracts to Maryland residents ~~also to offer certain individual health insurance contracts to Maryland residents; requiring the carriers~~ to make certain disclosures to a Maryland resident applying for coverage under an out–of–state association contract; requiring the carriers to disclose certain information on the enrollment application for coverage under an out–of–state association contract under certain circumstances; authorizing the Maryland Insurance Commissioner to require the carriers to make a certain report in a certain manner on or before a certain date of each year; defining certain terms; providing for the application of this Act; and generally relating to out–of–state association contracts.

BY adding to
Article – Insurance
Section 15–1105 to be under the amended subtitle "Subtitle 11. Miscellaneous Health Insurance Policies and Contracts and Health Benefit Plans"
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – Insurance

Subtitle 11. Miscellaneous Health Insurance Policies **AND CONTRACTS AND HEALTH BENEFIT PLANS**.

15–1105.

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

(2) "CARRIER" MEANS:

(I) AN INSURER; OR

(II) A NONPROFIT HEALTH SERVICE PLAN.

(3) "ELIGIBLE INDIVIDUAL" MEANS A MARYLAND RESIDENT WHO HAS MEMBERSHIP IN AN ASSOCIATION.

(4) "EVIDENCE OF INDIVIDUAL INSURABILITY" MEANS MEDICAL OR OTHER INFORMATION THAT INDICATES HEALTH STATUS, USED TO DETERMINE WHETHER COVERAGE OF AN INDIVIDUAL IS TO BE:

(I) ISSUED OR DENIED; OR

(II) ISSUED WITH OR WITHOUT AN EXCLUSIONARY RIDER.

(5) "HEALTH BENEFIT PLAN" HAS THE MEANING STATED IN § 15–1301 OF THIS TITLE.

(6) "HEALTH STATUS–RELATED FACTOR" HAS THE MEANING STATED IN § 15–1201 OF THIS TITLE.

(7) "INDIVIDUAL HEALTH INSURANCE CONTRACT" MEANS A HEALTH BENEFIT PLAN THAT IS ISSUED OR DELIVERED IN THE STATE TO AN INDIVIDUAL.

(8) "MEMBER" MEANS AN ELIGIBLE INDIVIDUAL WHO PURCHASES COVERAGE UNDER AN OUT–OF–STATE ASSOCIATION CONTRACT.

(9) "OUT–OF–STATE ASSOCIATION CONTRACT" MEANS A HEALTH BENEFIT PLAN THAT IS ISSUED OR DELIVERED TO AN ASSOCIATION OUTSIDE THE STATE.

(B) THIS SECTION APPLIES TO A CARRIER THAT REQUIRES EVIDENCE OF INDIVIDUAL INSURABILITY FOR COVERAGE UNDER AN OUT–OF–STATE ASSOCIATION CONTRACT.

~~**(C) A CARRIER THAT OFFERS AN OUT–OF–STATE ASSOCIATION CONTRACT TO MARYLAND RESIDENTS ALSO SHALL OFFER AN INDIVIDUAL HEALTH INSURANCE CONTRACT TO MARYLAND RESIDENTS.**~~

~~**(D)**~~ **(C) A CARRIER SHALL DISCLOSE TO A MARYLAND RESIDENT APPLYING FOR COVERAGE UNDER AN OUT–OF–STATE ASSOCIATION CONTRACT:**

(1) THAT COVERAGE IS CONDITIONED ON MEMBERSHIP IN THE ASSOCIATION THAT HOLDS THE OUT–OF–STATE ASSOCIATION CONTRACT;

(2) ALL COSTS RELATED TO JOINING AND MAINTAINING MEMBERSHIP IN THE ASSOCIATION;

(3) THAT MEMBERSHIP FEES OR DUES ARE IN ADDITION TO THE PREMIUM FOR COVERAGE UNDER THE OUT–OF–STATE ASSOCIATION CONTRACT;

(4) THAT THE TERMS AND CONDITIONS OF COVERAGE UNDER THE OUT–OF–STATE ASSOCIATION CONTRACT ARE DETERMINED BY THE ASSOCIATION AND THE CARRIER;

(5) THE MANDATED BENEFITS REQUIRED UNDER SUBTITLE 8 OF THIS TITLE THAT ARE NOT INCLUDED IN THE OUT–OF–STATE ASSOCIATION CONTRACT;

~~(6) THAT THE MARYLAND RESIDENT MAY PURCHASE DIRECTLY FROM THE CARRIER AN INDIVIDUAL HEALTH INSURANCE CONTRACT THAT INCLUDES THE MANDATED BENEFITS REQUIRED UNDER SUBTITLE 8 OF THIS TITLE THAT ARE NOT INCLUDED IN THE OUT–OF–STATE ASSOCIATION CONTRACT;~~

(6) THAT THE MARYLAND RESIDENT MAY PURCHASE AN INDIVIDUAL HEALTH BENEFIT PLAN THAT INCLUDES THE MANDATED BENEFITS UNDER SUBTITLE 8 OF THIS TITLE THAT ARE NOT INCLUDED IN THE OUT–OF–STATE ASSOCIATION CONTRACT FROM A CARRIER LICENSED AND AUTHORIZED TO DO BUSINESS IN THE STATE;

(7) THAT BENEFITS OFFERED UNDER THE OUT–OF–STATE ASSOCIATION CONTRACT ARE NOT REGULATED BY THE COMMISSIONER; AND

(8) THAT THE TERMS AND CONDITIONS OF COVERAGE UNDER THE OUT–OF–STATE ASSOCIATION CONTRACT MAY BE CHANGED BY AGREEMENT OF THE ASSOCIATION AND THE CARRIER WITHOUT THE CONSENT OF A MEMBER.

~~(E) A CARRIER MAY SATISFY THE DISCLOSURE REQUIREMENT UNDER SUBSECTION (D)(6) OF THIS SECTION BY PROVIDING TO A MARYLAND RESIDENT, AT THE TIME APPLICATION IS MADE TO THE CARRIER FOR COVERAGE UNDER AN OUT–OF–STATE ASSOCIATION CONTRACT, INFORMATION ABOUT:~~

~~(1) HOW TO APPLY FOR COVERAGE UNDER AN INDIVIDUAL HEALTH INSURANCE CONTRACT OFFERED BY THE CARRIER THAT IS NOT CONDITIONED ON ASSOCIATION MEMBERSHIP; AND~~

~~(2) THE PREMIUM FOR THE COVERAGE.~~

(D) (1) THE COMMISSIONER MAY REQUIRE A CARRIER THAT OFFERS COVERAGE UNDER AN OUT–OF–STATE ASSOCIATION CONTRACT TO REPORT, ON OR BEFORE MARCH 1 OF EACH YEAR, THE NUMBER OF MARYLAND RESIDENTS COVERED IN THE PRECEDING CALENDAR YEAR UNDER THE OUT–OF–STATE ASSOCIATION CONTRACT.

(2) THE DATA REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE REPORTED IN A MANNER DETERMINED BY THE COMMISSIONER.

~~(F)~~ (E) **IF A CARRIER COLLECTS MEMBERSHIP FEES OR DUES ON BEHALF OF AN ASSOCIATION, THE CARRIER SHALL DISCLOSE ON THE ENROLLMENT APPLICATION FOR AN OUT–OF–STATE ASSOCIATION CONTRACT THAT THE CARRIER BILLS AND COLLECTS MEMBERSHIP FEES AND DUES ON BEHALF OF THE ASSOCIATION.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all policies, contracts, and health benefit plans issued, delivered, or renewed on or after October 1, 2009.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 655

(House Bill 66)

AN ACT concerning

Criminal Law – Theft – Penalties

FOR the purpose of altering certain penalties for a conviction of theft of property or services with a value at or over a certain value; making conforming changes; and generally relating to theft of property or services.

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 7–104(g)(1), (2), and (4) and 7–108(a)
Annotated Code of Maryland
(2002 Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,
Article – Criminal Law
Section 7–104(g)~~(2),~~ (3)~~, and (4)~~
Annotated Code of Maryland
(2002 Volume and 2008 Supplement)

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

Article – Criminal Law

7–104.

(g) (1) A person convicted of theft of property or services with a value of**:**

(I) AT LEAST ~~$500~~ **$1,000** **[**or more**] BUT LESS THAN $10,000** is guilty of a felony and:

[(i)**]** **1.** is subject to imprisonment not exceeding **[**15**] 10** years or a fine not exceeding **[**$25,000**] $10,000** or both; and

[(ii)**]** **2.** shall restore the property taken to the owner or pay the owner the value of the property or services**;** ~~**OR**~~

(II) AT LEAST $10,000 ~~**OR MORE**~~ **BUT LESS THAN $100,000 IS GUILTY OF A FELONY AND:**

1. IS SUBJECT TO IMPRISONMENT NOT EXCEEDING ~~**25**~~ **15 YEARS OR A FINE NOT EXCEEDING** ~~**$100,000**~~ **$15,000 OR BOTH; AND**

2. SHALL RESTORE THE PROPERTY TAKEN TO THE OWNER OR PAY THE OWNER THE VALUE OF THE PROPERTY OR SERVICES; OR

(III) $100,000 OR MORE IS GUILTY OF A FELONY AND:

1. IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 25 YEARS OR A FINE NOT EXCEEDING $25,000 OR BOTH; AND

2. SHALL RESTORE THE PROPERTY TAKEN TO THE OWNER OR PAY THE OWNER THE VALUE OF THE PROPERTY OR SERVICES.

(2) Except as provided in paragraphs (3) and (4) of this subsection, a person convicted of theft of property or services with a value of less than ~~$500~~ **$1,000**, is guilty of a misdemeanor and:

(i) is subject to imprisonment not exceeding 18 months or a fine not exceeding $500 or both; and

(ii) shall restore the property taken to the owner or pay the owner the value of the property or services.

(3) A person convicted of theft of property or services with a value of less than $100 is guilty of a misdemeanor and:

(i) is subject to imprisonment not exceeding 90 days or a fine not exceeding $500 or both; and

(ii) shall restore the property taken to the owner or pay the owner the value of the property or services.

(4) Subject to paragraph (5) of this subsection, a person who has two or more prior convictions under this subtitle and who is convicted of theft of property or services with a value of less than ~~$500~~ **$1,000** under paragraph (2) of this subsection is guilty of a misdemeanor and:

(i) is subject to imprisonment not exceeding 5 years or a fine not exceeding $5,000 or both; and

(ii) shall restore the property taken to the owner or pay the owner the value of the property or services.

7–108.

(a) An indictment, information, warrant, or other charging document for theft under this part, other than for taking a motor vehicle under § 7–105 of this part, is sufficient if it substantially states:

"(name of defendant) on (date) in (county) stole (property or services stolen) of (name of victim), having a value of ([less than $500, or $500 or more] ~~LESS THAN $100,~~ **LESS THAN $1,000, AT LEAST $1,000 BUT LESS THAN $10,000, AT LEAST $10,000 BUT LESS THAN $100,000, OR $100,000 OR MORE**) in violation of § 7–104 of the Criminal Law Article, against the peace, government, and dignity of the State.".

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 656

(House Bill 70)

AN ACT concerning

Department of Health and Mental Hygiene – Commissions, Programs, and Reports – Revision

FOR the purpose of repealing provisions establishing the Community Services Advisory Commission; repealing the reporting requirement for the Department

of Health and Mental Hygiene regarding the Substance Abuse Treatment Outcomes Partnership Fund; repealing the reporting requirement for certain facilities regarding the status of mentally ill individuals admitted to the facilities; repealing the reporting requirement for certain facilities regarding the release of mentally ill individuals from the facilities; repealing the reporting requirement for the Developmental Disabilities Administration regarding the implementation of community residential mental health programs for children and adolescents; repealing the reporting requirement for the State Advisory Council on Arthritis and Related Diseases; altering the reporting requirement for the Oral Health Safety Net Program; altering the reporting requirement for the Department regarding money held in trust from certain managed care organizations; repealing the reporting requirement for the Maryland Medical Advisory Committee; repealing the reporting requirement for the Department regarding the status of a certain waiver application; repealing a certain provision regarding eligibility for home– and community–based services for impaired individuals under Medicaid; repealing the reporting requirement for the Department regarding the status of an application for certain federal matching funds; repealing the reporting requirement for the Department regarding the status of an application for a certain federal grant; repealing the community choice program; codifying certain provisions relating to the review and reporting of certain fee–for–service rates; repealing the reporting requirement of the Department regarding the Oral Health Program; repealing the requirement for a certain panel regarding off–label drug use; repealing the reporting requirement for the Department regarding the off–label drug use panel's recommendations; altering certain reporting requirements for the Department regarding fee–for–service rates; repealing certain reporting requirements for the Department regarding fee–for–service rates; repealing the reporting requirement of the Department regarding the results of certain hospital death record reviews; repealing a certain reporting requirement of the Department regarding dental services under the Maryland Medical Assistance Program; repealing the reporting requirement for the Department regarding the status of certain Family Investment Program recipients; repealing provisions establishing the Osteoporosis Prevention and Education Task Force; repealing the provisions establishing the State Advisory Council on Medical Privacy and Confidentiality; making technical corrections; and generally relating to the revision of commissions, programs, and reports of the Department of Health and Mental Hygiene.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 4–307(k)(1)(vi), 8–6C–03, 10–923(d), 10–925(c), 13–509, 13–2504, 15–102.4, 15–103(b)(27)(iv), 15–132(j), 15–133, and 24–1105(b)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing
Article – Health – General

Section 7–204, 10–711, 10–810, 15–130(f), 15–132(i) and (k), 15–141, and 18–803
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY adding to
Article – Health – General
Section 15–103.5
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Insurance
Section 15–804
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

BY repealing
Chapter 280 of the Acts of the General Assembly of 2005
Section 11

BY repealing
Chapter 702 of the Acts of the General Assembly of 2001, as amended by Chapter 464 of the Acts of the General Assembly of 2002
Section 1

BY repealing
Chapter 1 of the Acts of the General Assembly of 1998
Section 2

BY repealing
Chapter 2 of the Acts of the General Assembly of 1998
Section 2

BY repealing
Chapter 113 of the Acts of the General Assembly of 1998
Section 6

BY repealing
Chapter 593 of the Acts of the General Assembly of 1997
Section 16

BY repealing
Article – Health – General
Section 4–3A–01 through 4–3A–05 and the subtitle "Subtitle 3A. State Advisory Council on Medical Privacy and Confidentiality"; and 13–1901 through

13–1906 and the subtitle "Subtitle 19. Osteoporosis Prevention and Education Task Force"
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY renumbering
Article – Health – General
Section 7–205 through 7–207, 10–712 through 10–714, and 10–811 through 10–813, respectively
to be Section 7–204 through 7–206, 10–711 through 10–713, and 10–810 through 10–812, respectively
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

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

Article – Health – General

4–307.

(k) (1) A health care provider shall disclose a medical record without the authorization of a person in interest:

(vi) In the event of the death of a recipient, to the office of the medical examiner as authorized under § 5–309 or **[**§ 10–714**]** **§ 10–713** of this article.

[7–204.

(a) To advance the public interest, it is the policy of this State:

(1) To eliminate over a 5–year period the number of mentally retarded and nonretarded developmentally disabled individuals who are on the waiting list for appropriate community services and programs; and

(2) To develop alternative ways and means to finance and expand existing services and programs within this time period.

(b) (1) There is a Community Services Advisory Commission within the Administration.

(2) The Commission consists of:

(i) 1 member of the Senate of Maryland, appointed by the President of the Senate, and 1 member of the House of Delegates, appointed by the Speaker of the House;

(ii) The Secretary or a designee;

(iii) The Director;

(iv) The Secretary of the Department of Budget and Management or a designee;

(v) 1 representative from the State Department of Education; and

(vi) 2 representatives from organizations that provide community program services, 2 representatives from the financial community, 2 representatives from advocacy–related organizations, and 1 member of the general public, appointed by the Governor.

(c) The Commission shall:

(1) Develop a systematic 5–year plan for:

(i) Identifying alternative funding mechanisms, including uses of State excess properties and proceeds derived from any sales or leases of the properties, which enable community programs to serve all eligible mentally retarded and nonretarded developmentally disabled individuals;

(ii) Providing incentives to facilitate the establishment of new service providers for purposes consistent with this title;

(iii) Assuring appropriate levels of program accountability, monitoring, and quality control;

(iv) Evaluating appropriate personnel–related issues including compensation, recruitment, retention, professional training, and development; and

(v) Determining the effectiveness of any cost reimbursement system implemented by the Department and evaluating the need to maintain or modify the funding level in subsequent years;

(2) Monitor any implementation of the 5–year plan and make recommendations on how to facilitate further implementation; and

(3) Review Administration activities related to its services and programs.

(d) By July 1 of each year, the Commission shall:

(1) Update the systematic plan; and

(2) Report any findings and recommendations resulting from the annual update, the monitoring of plan implementation, and the review of Administration activities to the Governor, appropriate State agencies, and, subject to § 2–1246 of the State Government Article, the Legislative Policy Committee.**]**

8–6C–03.

[(a)**]** The Department shall adopt regulations to:

(1) Establish timelines and procedures for requests for Partnership funding, consistent with this subtitle;

(2) Establish guidelines that require programs to bill third–party insurers; and

(3) Manage the Fund and authorize distribution of money from the Fund in accordance with this subtitle.

[(b) On or before December 1 of each year, the Department shall issue a report to the Governor and, subject to § 2–1246 of the State Government Article, to the General Assembly evaluating the results of funded partnerships using the performance and outcome indicators adopted by the Department and the Task Force to Study Increasing the Availability of Substance Abuse Programs.**]**

[10–711.

(a) Each facility that admits an individual under this title shall report to the Department on the status of the individual:

(1) At least once a year and, if requested by the Department, more often; and

(2) When the admission status of the individual changes.

(b) A status report shall:

(1) Be in the form that the Department requires; and

(2) Contain the information that the Department requires.**]**

[10–810.

(a) Each facility shall give the Department notice of the release of an individual who has been admitted to the facility under this title.

(b) The report shall:

(1) Be on the form that the Department requires; and

(2) Contain the information that the Department requires.]

10–923.

(d) Within 60 days after the Director receives an application for placement of a child or adolescent in a private therapeutic group home, the Director or the county health officer shall:

(1) Determine whether the child or adolescent meets the requirements for placement under this section; and

(2) If so:

(i) Approve the application for placement in a private therapeutic group home; and

(ii) Determine the date of placement in a private therapeutic group home in accordance with the [report] **PLAN** submitted under § 10–925 of this subtitle.

10–925.

(c) The Director shall:

(1) Implement §§ 10–920 through 10–924 and 10–926 of this subtitle upon completion of the plan to be submitted under this section; **AND**

(2) Review and revise periodically the plan submitted under this section[; and

(3) Submit an annual report to the Governor and, subject to § 2–1246 of the State Government Article, the President of the Senate and the Speaker of the House on the activities of the Administration to implement the plan, including any revision of the plan].

13–509.

In addition to the powers and duties set forth elsewhere in this subtitle, the Advisory Council has the following powers and duties:

(1) To advise the Department on the implementation of the Program; **AND**

(2) To provide assistance to the Department in the development of the Program by:

(i) Recommending an integrated State program of education and applied research in gerontology and geriatrics;

(ii) Developing and coordinating programs in vocational rehabilitation and industry designed to assist individuals with arthritis to remain productive members of the State's workforce;

(iii) Coordinating the development of a strategic plan of patient education throughout the State, involving State and local health departments, private agencies, pharmaceutical companies, medical schools, and related professional organizations;

(iv) Addressing gaps in the delivery of State service and to make recommendations designed to contain costs associated with arthritis prevention, treatment, and vocational training;

(v) Coordinating the activities of public and private agencies, medical schools, and related professional groups to improve the quality of life for individuals with arthritis and their families; and

(vi) Making any other recommendations for carrying out the purposes of the Program as provided in § 13–504 of this subtitle**[**; and

(3) To submit a report annually to the Governor on the work of the Advisory Council**]**.

13–2504.

(a) (1) The Office of Oral Health shall conduct an annual evaluation of the Program.

(2) The evaluation required under this subsection shall include:

(i) Data on any progress resulting from each grant awarded under this subtitle;

(ii) Data on any progress of the overall Program;

(iii) Data demonstrating any increase in the use of restorative dental care among underserved populations; and

(iv) Data from any statewide survey conducted by the Department that demonstrates any progress of the Program.

(b) The **DEPARTMENT, IN CONJUNCTION WITH THE** Office of Oral **[**Health**] HEALTH,** shall report to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly on or before September 30 of each year on**:**

(1) **[**the**] THE** results of the Program**;**

(2) FINDINGS AND RECOMMENDATIONS FOR THE ORAL HEALTH PROGRAM AND ANY OTHER ORAL HEALTH PROGRAMS ESTABLISHED UNDER TITLE 18, SUBTITLE 8 OF THIS ARTICLE;

(3) THE AVAILABILITY AND ACCESSIBILITY OF DENTISTS THROUGHOUT THE STATE PARTICIPATING IN THE MARYLAND MEDICAL ASSISTANCE PROGRAM;

(4) THE OUTCOMES THAT MANAGED CARE ORGANIZATIONS AND DENTAL MANAGED CARE ORGANIZATIONS UNDER THE MARYLAND MEDICAL ASSISTANCE PROGRAM ACHIEVE CONCERNING THE UTILIZATION OF TARGETS REQUIRED BY THE FIVE YEAR ORAL HEALTH CARE PLAN, INCLUDING:

(I) LOSS RATIOS THAT THE MANAGED CARE ORGANIZATIONS AND DENTAL MANAGED CARE ORGANIZATIONS EXPERIENCE FOR PROVIDING DENTAL SERVICES; AND

(II) CORRECTIVE ACTION BY MANAGED CARE ORGANIZATIONS AND DENTAL MANAGED CARE ORGANIZATIONS TO ACHIEVE THE UTILIZATION TARGETS; AND

(5) THE ALLOCATION AND USE OF FUNDS AUTHORIZED FOR DENTAL SERVICES UNDER THE MARYLAND MEDICAL ASSISTANCE PROGRAM.

15–102.4.

(a) (1) Each managed care organization shall be actuarially sound.

(2) (i) Except as otherwise provided in this section, the surplus that a managed care organization is required to have shall be paid in full.

(ii) A managed care organization shall have an initial surplus that exceeds the liabilities of the managed care organization by at least $1,500,000.

(b) (1) In consultation with the Secretary, the Insurance Commissioner may adjust the initial surplus requirement for a managed care organization that is not licensed as a health maintenance organization. In determining whether to make an adjustment under this paragraph, the Commissioner shall consider:

(i) The proposed capitation level that would be received by the managed care organization under a contract with the Department under this subtitle;

(ii) The proposed range of benefits to be provided under a contract with the Department under this subtitle;

(iii) The existence of any commitment by the Secretary to designate funds over and above the proposed capitation where the designated funds:

1. Are equivalent to the difference between the requirements of § 19–710 of this article and any lower requirements determined by the Commissioner under this subparagraph; and

2. Would be available in case of the impairment or insolvency of the managed care organization; and

(iv) The availability of the money held in trust by the Secretary to pay claims in case of impairment or insolvency of the managed care organization.

(2) Notwithstanding subsection (a)(2)(ii) of this section, a managed care organization shall have an initial surplus that exceeds liabilities by at least $1,250,000. If a managed care organization has an initial surplus that is at least $1,250,000 but less than $1,500,000, prior to approval, the Department shall designate funds under paragraph (1)(iii) of this subsection sufficient to provide an initial surplus of at least $1,500,000.

(c) (1) (i) Each managed care organization shall maintain a surplus that exceeds the liabilities of the managed care organization in the amount that is at least equal to the greater of $750,000 or 5 percent of the subscription charges earned during the prior calendar year as recorded in the annual report filed by the managed care organization with the Commissioner.

(ii) No managed care organization shall be required to maintain a surplus in excess of a value of $3,000,000.

(2) (i) For the protection of the managed care organization's enrollees and creditors, the applicant shall deposit and maintain in trust with the State Treasurer $100,000 in cash or government securities of the type described in § 5–701(b) of the Insurance Article.

(ii) 1. The deposits shall be accepted and held in trust by the State Treasurer in accordance with the provisions of Title 5, Subtitle 7 of the Insurance Article.

2. For the purpose of applying this subparagraph, a managed care organization shall be treated as an insurer.

(d) Each managed care organization shall comply with risk based capital standards in accordance with regulations adopted by the Insurance Commissioner under § 4–311 of the Insurance Article.

(e) [On] **IF THERE IS MONEY HELD IN TRUST UNDER THIS SECTION, ON** or before June 1 of each year, the Secretary shall submit to the General Assembly, in accordance with § 2–1246 of the State Government Article, a report on:

(1) The number of managed care organizations for which the Secretary has designated money to be held in trust under this section; and

(2) The amount of money held in trust by the Secretary that has been paid out in cases of insolvency or impairment of managed care organizations.

15–103.

(b) (27) (iv) In addition to any duties imposed by federal law and regulation, the Committee shall:

1. Advise the Secretary on the implementation, operation, and evaluation of managed care programs under this section;

2. Review and make recommendations on the regulations developed to implement managed care programs under this section;

3. Review and make recommendations on the standards used in contracts between the Department and managed care organizations;

4. Review and make recommendations on the Department's oversight of quality assurance standards;

5. Review data collected by the Department from managed care organizations participating in the Program and data collected by the Maryland Health Care Commission;

6. Promote the dissemination of managed care organization performance information, including loss ratios, to enrollees in a manner that facilitates quality comparisons and uses layman's language;

7. Assist the Department in evaluating the enrollment process; **AND**

8. Review reports of the ombudsmen[; and

9. Publish and submit an annual report to the Governor and, subject to § 2–1246 of the State Government Article, the General Assembly].

15–103.5.

(A) FOR THE CALENDAR YEAR PRIOR TO THE REPORT DATE UNDER SUBSECTION (B) OF THIS SECTION, THE DEPARTMENT SHALL REVIEW THE RATES PAID TO PROVIDERS UNDER THE FEDERAL MEDICARE FEE SCHEDULE AND COMPARE THE RATES UNDER THE MEDICARE FEE SCHEDULE TO THE FEE–FOR–SERVICE RATES PAID TO SIMILAR PROVIDERS FOR THE SAME SERVICES UNDER THE MARYLAND MEDICAL ASSISTANCE PROGRAM AND THE RATES PAID TO MANAGED CARE ORGANIZATION PROVIDERS FOR THE SAME SERVICES UNDER THE MARYLAND MEDICAL ASSISTANCE PROGRAM.

(B) ON OR BEFORE JANUARY 1, 2010, AND EACH JANUARY 1 THEREAFTER, THE DEPARTMENT SHALL 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:

(1) THE REVIEW AND COMPARISON UNDER SUBSECTION (A) OF THIS SECTION;

(2) WHETHER THE FEE–FOR–SERVICE RATES AND MANAGED CARE ORGANIZATION PROVIDER RATES WILL EXCEED THE RATES PAID UNDER THE MEDICARE FEE SCHEDULE FOR THE PERIOD COVERED BY THE REVIEW REQUIRED UNDER SUBSECTION (A) OF THIS SECTION;

(3) AN ANALYSIS OF THE FEE–FOR–SERVICE REIMBURSEMENT RATES PAID IN OTHER STATES AND HOW THOSE RATES COMPARE WITH THOSE IN THE STATE;

(4) A SCHEDULE FOR BRINGING THE STATE'S FEE–FOR–SERVICE REIMBURSEMENT RATES TO A LEVEL THAT ASSURES THAT ALL HEALTH CARE PROVIDERS ARE REIMBURSED ADEQUATELY TO PROVIDE ACCESS TO CARE; AND

(5) AN ANALYSIS OF THE ESTIMATED COSTS OF IMPLEMENTING THE SCHEDULE AND ANY PROPOSED CHANGES TO THE FEE–FOR–SERVICE REIMBURSEMENT RATES FOR THE MARYLAND MEDICAL ASSISTANCE PROGRAM AND THE MARYLAND CHILDREN'S HEALTH PROGRAM.

15–130.

[(f) Subject to § 2–1246 of the State Government Article, the Department shall report to the General Assembly every 6 months concerning the status of the Department's applications under subsection (b) of this section.**]**

15–132.

[(i) The proportion of individuals who qualify for medical assistance eligibility under the waiver under subsection (b) of this section who are residents of areas of the State described in § 15–141(b)(3) of this subtitle prior to implementation of the Program described in § 15–141 of this subtitle shall remain the same after implementation of the Program described in § 15–141 of this subtitle.]

[(j)] **(I)** The Department, in consultation with representatives of the affected industry and advocates for waiver candidates, and with the approval of the Department of Aging, shall adopt regulations to implement this section within 180 days of receipt of approval of the amended waiver application from the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services.

[(k) Subject to § 2–1246 of the State Government Article, the Department shall report to the General Assembly every 6 months concerning the status of the Department's application under subsections (b) and (d) of this section.]

15–133.

(a) The State shall apply to the Health Care Financing Administration of the United States Department of Health and Human Services for grants to assist states in improving home and community–based service systems, including:

(1) Real choice system change grants;

(2) Nursing facility transition grants and "access housing" grants; and

(3) Community–based attendant services with consumer control grants.

(b) The Department shall seek input from eligible individuals, the individuals' representatives, and service providers in developing and implementing the Program.

(c) On or before July 1, 2001, the Department shall notify the Health Care Financing Administration of the United States Department of Health and Human Services of Maryland's intent to expand the current Medicaid home– and community–based waiver for adults with physical disabilities, under § 1915(c) of the federal Social Security Act to redirect funds to develop appropriate funding for this Program.

[(d) Subject to § 2–1246 of the State Government Article, the Department shall report to the General Assembly every 3 months concerning the status of the

Department's applications under subsections (a) and (c) of this section, including the number of individuals budgeted for the Medicaid home– and community–services based waiver for adults with physical disabilities.**]**

[15–141.

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

(2) "Community care organization" means an organization approved by the Department that arranges for health care services with the goal of promoting the delivery of services in the most appropriate, cost–effective setting.

(3) "Community choice program" means a program that delivers services in accordance with the waiver developed under this section.

(b) (1) On or before November 1, 2004, the Department shall apply for a waiver under the federal Social Security Act.

(2) As permitted by federal law or waiver, the Secretary may establish a program under which Maryland Medical Assistance Program recipients are required to enroll in community care organizations.

(3) Consistent with the federal waiver under paragraph (1) of this subsection, if the Secretary establishes a program under paragraph (2) of this subsection, the program may not operate in more than two areas of the State.

(c) Any waiver developed under this section shall include the following goals and objectives:

(1) Increasing participant satisfaction;

(2) Allowing participants to age in place;

(3) Reducing Medicaid expenditures by encouraging the most appropriate utilization of high quality services; and

(4) Enhancing compliance with the federal Americans with Disabilities Act by offering cost–effective community–based services in the most appropriate high quality and least restrictive setting.

(d) (1) The benefits provided by the community choice program shall include those services available under the Medicaid State Plan and services covered under home and community–based services waivers.

(2) Except when services are limited or excluded from the community choice program by the Secretary, the community care organization shall provide all the services established in regulation and required by the Secretary.

(3) The Secretary may exclude specific populations.

(4) The Secretary shall include a definition of "medical necessity" in its quality and access standards.

(5) Nothing in the community choice program may preclude a nursing home from utilizing an institutional pharmacy of its own choice for the provision of institutional pharmacy services and benefits for waiver enrollees in the nursing home.

(e) Community choice program recipients served by the program developed under this section shall be allowed to choose among at least two community care organizations that have demonstrated a network capacity sufficient to meet the needs of the population.

(f) (1) On an annual basis or for cause, an enrollee may choose to disenroll from a community care organization and enroll in another community care organization.

(2) Each enrollee receiving services in a nursing home, an assisted living facility, an adult day care facility, a psychiatric rehabilitation program, or a residential rehabilitation program shall have the option of remaining in the nursing home, assisted living facility, adult day care facility, psychiatric rehabilitation program, or residential rehabilitation program.

(3) An enrollee of the program who qualifies for nursing level care may choose to receive services in a nursing home or in the community, if the community placement is cost–effective.

(4) The community choice program shall ensure that all enrollees in the program maintain access to pharmacy benefits, including all classes of drugs, that are comparable to the benefits provided in the Maryland Medical Assistance Program.

(g) (1) Each community care organization shall provide for the benefits described in subsection (d) of this section.

(2) This section may not be construed to prevent a community care organization from providing additional benefits that are not covered by a capitated rate.

(3) (i) The Department shall make capitation payments to each community care organization as provided in this paragraph.

(ii) The Secretary shall set capitation payments at a level that is actuarially adjusted for the benefits provided.

(iii) The Secretary shall adjust capitation payments to reflect the relative risk assumed by the community care organization.

(h) The Department shall require community care organizations to be certified to accept capitated payments from the federal Medicare program for individuals who are dually eligible.

(i) The community choice program shall include:

(1) Adults who are dually eligible;

(2) Adult Maryland Medical Assistance Program recipients who meet the nursing home level of care standard; and

(3) Maryland Medical Assistance Program recipients over 65 years of age.

(j) (1) Individuals eligible for the community choice program shall have the right to elect to receive services under the community choice program or an approved program of all–inclusive care for the elderly.

(2) If an individual eligible for the community choice program requires hospice care, the individual shall elect to receive hospice care from a licensed hospice program under a separate arrangement and payment for hospice care provided to the individual shall be made directly to the hospice program by the Department under the Medicaid–established rate for hospice care reimbursement.

(3) If an individual eligible for the community choice program requires specialty mental health services, the individual shall elect to receive specialty mental health services from an approved mental health provider under a separate arrangement, and payment for specialty mental health services provided to the individual shall be made directly to the mental health provider by the Department under the Medicaid–established rate for specialty mental health services.

(k) (1) Each community care organization shall meet all requirements for certification by the Department.

(2) Each community care organization shall:

(i) Have a quality assurance program, subject to approval by the Secretary, which shall:

1. Provide for an enrollee grievance system, including an enrollee hotline;

2. Provide for a provider grievance system, including a provider hotline;

3. Provide for an enrollee satisfaction survey; and

4. Provide for a consumer advisory board to receive regular input from enrollees and submit an annual report of the advisory board to the Secretary;

(ii) Submit service–specific data in a format specified by the Secretary;

(iii) Include provisions for consumer direction of personal assistance services;

(iv) Ensure necessary provider capacity in all geographic regions where the community care organization is approved to operate;

(v) Be accountable, and hold its subcontractors accountable, for meeting all requirements, standards, criteria, or other directives of the Department and upon failure to meet those standards, be subject to one or more of the following penalties:

1. Fines;

2. Suspension of further enrollment;

3. Withholding of all or part of a capitation payment;

4. Termination of a contract;

5. Disqualification from future participation; and

6. Any other penalties that may be imposed by the Secretary;

(vi) Meet the solvency and capital requirements for HealthChoice managed care organizations under the Insurance Article;

(vii) To the extent practicable, allow waiver enrollees, who meet the nursing home level of care, to select a nursing home, assisted living facility, or adult day care facility provided that the nursing home, assisted living facility, or adult day care facility is licensed by the Department and the provider meets the Department–approved credentialing requirements of the community care organization;

(viii) Submit to the Department utilization and outcome reports as directed by the Department;

(ix) Provide timely access to, and continuity of, health and long–term care services for enrollees;

(x) Demonstrate organizational capacity to provide special population services, including outreach, case management, and home visiting, designed to meet the individual needs of all enrollees;

(xi) Provide assistance to enrollees in securing necessary health and long–term care services; and

(xii) Comply with all relevant provisions of the federal Balanced Budget Act of 1997 (P.L. 105–33).

(l) A community care organization may not have face–to–face or telephone contact or otherwise solicit an individual for the purpose of enrollment under the program.

(m) (1) In arranging for the benefits required under subsection (d) of this section, the community care organization shall:

(i) 1. Reimburse nursing homes not less than the Medicaid–established rate based on the waiver recipient's medical condition plus allowable ancillary services, as established by the Department based on its nursing home Medicaid rate setting methodology; or

2. For waiver recipients that would have been paid by the Medicare program for services provided, reimburse nursing homes not less than the applicable reimbursement rate payable by Medicare for that waiver recipient;

(ii) Reimburse nursing homes in accordance with the Department's policy on leave of absence as provided under § 15–117 of this subtitle;

(iii) Reimburse adult day care facilities not less than the rate determined by the Department for the Maryland Medical Assistance Program;

(iv) Reimburse hospitals in accordance with the rates established by the Health Services Cost Review Commission;

(v) For enrollees with complex, long–term care needs, use a comprehensive care and support management team, including the primary care provider, nurse manager, case manager, and others as appropriate; and

(vi) Reimburse a hospital emergency facility and provider for:

1. Health care services that meet the definition of emergency services under § 19–701 of this article;

2. Medical screening services rendered to meet the requirements of the federal Emergency Medical Treatment and Active Labor Act;

3. Medically necessary services if the community care organization authorized, referred, or otherwise allowed the enrollee to use the emergency facility and the medically necessary services are related to the condition for which the enrollee was allowed to use the emergency facility; and

4. Medically necessary services that relate to the condition presented and that are provided by the provider in the emergency facility to the enrollee if the community care organization fails to provide 24–hour access to a physician as required by the Department.

(2) A provider may not be required to obtain prior authorization or approval for payment from a community care organization in order to obtain reimbursement under paragraph (1)(vi) of this subsection.

(3) Nothing in this subsection prohibits a community care organization from providing a bonus or incentive for quality improvements.

(n) Savings from the program developed under this section shall be used to:

(1) Assist medically and functionally impaired individuals in the community, or when discharged from a hospital, to receive home– and community–based waiver services;

(2) Increase reimbursement rates to community providers; and

(3) Develop a statewide single point–of–entry system consisting of a designated entity in each county and Baltimore City to:

(i) Accept applications;

(ii) Make all eligibility determinations;

(iii) Enroll individuals in the program; and

(iv) Provide coordinated services, including:

1. Level–of–care determinations;

2. Financial determinations;

3. Plan of care determinations;

4. Case management services; and

5. Other services as needed.

(o) In developing the waiver application and regulations under this section, the Department shall solicit input from, and consult with, representatives of interested and affected parties, including:

(1) Legislators;

(2) Affected State agencies;

(3) Providers with expertise in dementia, geriatrics, end–of–life care, and mental health;

(4) Long–term care providers;

(5) Managed care organizations;

(6) Acute care providers;

(7) Lay care givers;

(8) Advocates for waiver–eligible candidates; and

(9) Consumers.

(p) In developing the waiver application under this section, the Department shall:

(1) Determine whether it is in the best interest of waiver enrollees to provide for a standard prescription drug formulary and drug utilization review for medically necessary drugs for waiver and nonwaiver recipients in nursing homes; and

(2) Consider maintaining the same nursing home prescription drug benefit and utilization review for all nursing home residents until federal implementation of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003.

(q) The Department shall, prior to applying to the Centers for Medicare and Medicaid Services for the waiver under this section, submit the proposed waiver to the Legislative Policy Committee for its review and comment.**]**

[18–803.

On or before December 1 of each year, the Secretary shall submit a report on its findings and recommendations to the Governor and, subject to § 2–1246 of the State Government Article, the General Assembly on the oral health programs established under this subtitle.**]**

24–1105.

(b) In accordance with an appropriation approved by the General Assembly in the State budget, the Comptroller shall transfer the investment earnings of:

(1) The Developmental Disabilities Administration account of the Trust Fund into the Waiting List Equity Fund established under **[**§ 7–206**]** **§ 7–205** of this article; and

(2) The Mental Hygiene Administration account of the Trust Fund into the Mental Hygiene Community–Based Services Fund established under § 10–208 of this article.

Article – Insurance

15–804.

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

(2) "Medical literature" means scientific studies published in a peer–reviewed national professional medical journal.

(3) "Off–label use" means the prescription of a drug for a treatment other than those treatments stated in the labeling approved by the federal Food and Drug Administration.

(4) "Standard reference compendia" means:

(i) the United States Pharmacopeia Drug Information;

(ii) the American Medical Association Drug Evaluations; and

(iii) the American Hospital Formulary Service Drug Information.

(b) This section does not:

(1) alter any law that limits the coverage of drugs that have not been approved by the federal Food and Drug Administration;

(2) require coverage of a drug if the federal Food and Drug Administration has determined use of the drug to be contraindicated; or

(3) require coverage of experimental drugs not approved for any indication by the federal Food and Drug Administration.

(c) (1) This subsection applies to each health insurance policy or contract that is delivered or issued for delivery in the State to an employer or individual on a group or individual basis, including a contract issued by a health maintenance organization.

(2) A policy or contract subject to this subsection that provides coverage for drugs may not exclude coverage of a drug for an off–label use of the drug if the drug is recognized for treatment in any of the standard reference compendia or in the medical literature.

(3) Coverage of a drug required by this subsection also includes medically necessary services associated with the administration of the drug.

(d) The Commissioner may direct a person, including a health maintenance organization, that issues a health insurance policy or contract to make payments required by this section.

[(e) (1) The Secretary of Health and Mental Hygiene shall appoint a panel of medical experts to review the off–label use of drugs not included in any of the standard reference compendia or in the medical literature and to advise the Secretary whether a particular off–label use of a drug is medically appropriate.

(2) The panel consists of:

(i) three medical oncologists chosen by the State Medical Oncology Association;

(ii) two specialists in the management of AIDS patients chosen by the State AIDS medical provider organizations;

(iii) one specialist in heart disease appointed by the University of Maryland Medical System; and

(iv) one physician chosen by the Medical and Chirurgical Faculty.

(3) The panel shall make recommendations periodically and whenever the Secretary of Health and Mental Hygiene is notified of a particular dispute about payment for an off–label use of a drug.

(4) Within 30 days after the panel's recommendations, the Secretary shall submit a written report on the recommendations to the Commissioner.**]**

Chapter 280 of the Acts of 2005

[SECTION 11. AND BE IT FURTHER ENACTED, That:

(a) For the calendar year prior to the report date under subsection (b) of this section, the Department of Health and Mental Hygiene shall review the rates paid to providers under the federal Medicare fee schedule and compare the rates under the Medicare fee schedule to the fee–for–service rates paid to similar providers for the same services under the Medical Assistance Program and the rates paid to managed care organization providers for the same services under the Medical Assistance Program.

(b) On or before January 1, 2006, and each January 1 thereafter, the Department shall report to the Senate Finance Committee and the House Health and Government Operations Committee on:

(1) the review and comparison under subsection (a) of this section; and

(2) whether the fee–for–service rates and managed care organization provider rates will exceed the rates paid under the Medicare fee schedule for the period covered by the report required under subsection (a) of this section.]

Chapter 702 of the Acts of 2001, as amended by Chapter 464 of the Acts of 2002

[SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(a) The Department of Health and Health and Mental Hygiene shall:

(1) establish a process to annually set the fee–for–service reimbursement rates for the Maryland Medical Assistance Program and the Maryland Children's Health Program in a manner that ensures participation of providers; and

(2) in developing the process required under item (1) of this subsection, consider:

(i) a reimbursement system that reflects reimbursement fee–for–service rates paid in the community as well as annual medical inflation; or

(ii) the current Resource Based Relative Value Scale system used in the federal Medicare program or the American Dental Association CDT–3 Codes.

(b) On or before September 1 of each year, the Department shall submit a report to the Governor and, in accordance with § 2–1246 of the State Government Article, to the Senate Finance Committee, the Senate Budget and Taxation Committee, the House Environmental Matters Committee, and the House Appropriations Committee on:

(1) its progress in complying with subsection (a) of this section;

(2) an analysis of the fee–for–service reimbursement rates paid in other states and how those rates compare with those in Maryland;

(3) its schedule for bringing Maryland's fee–for–service reimbursement rates to a level that assures that all health care providers are reimbursed adequately to provide access to care; and

(4) an analysis on the estimated costs of implementing the schedule and any proposed changes to the fee–for–service reimbursement rates for the Maryland Medical Assistance Program and the Maryland Children's Health Program.**]**

Chapter 1 of the Acts of 1998

[SECTION 2. AND BE IT FURTHER ENACTED, That the Secretary of Health and Mental Hygiene shall report to the General Assembly on or before January 1 of each year, in accordance with § 2–1246 of the State Government Article, on the results of hospital death record reviews conducted under § 19–310(l) of the Health – General Article.**]**

Chapter 2 of the Acts of 1998

[SECTION 2. AND BE IT FURTHER ENACTED, That the Secretary of Health and Mental Hygiene shall report to the General Assembly on or before January 1 of each year, in accordance with § 2–1246 of the State Government Article, on the results of hospital death record reviews conducted under § 19–310(l) of the Health – General Article.**]**

Chapter 113 of the Acts of 1998

[SECTION 6. AND BE IT FURTHER ENACTED, That the Department of Health and Mental Hygiene, subject to § 2–1246 of the State Government Article, shall submit a report to the General Assembly annually concerning:

(1) the availability and accessibility of dentists throughout the State participating in the Maryland Medical Assistance Program;

(2) the outcomes that managed care organizations and dental managed care organizations under the Maryland Medical Assistance Program achieve concerning the utilization targets required by Section 2 of this Act, including:

(i) loss ratios that the managed care organizations and dental managed care organizations experience for providing dental services; and

(ii) corrective action by managed care organizations and dental managed care organizations to achieve the utilization targets; and

(3) the allocation and use of funds authorized by this Act.]

Chapter 593 of the Acts of 1997

[SECTION 16. AND BE IT FURTHER ENACTED, That the Secretary of Health and Mental Hygiene shall report quarterly, subject to § 2–1312 of the State Government Article, to the Senate Finance Committee and the House Appropriations Committee on the status of Family Investment Program recipients referred to substance abuse treatment as a result of this Act.]

SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 4–3A–01 through 4–3A–05 and the subtitle "Subtitle 3A. State Advisory Council on Medical Privacy and Confidentiality"; and 13–1901 through 13–1906 and the subtitle "Subtitle 19. Osteoporosis Prevention and Education Task Force" of Article – Health – General of the Annotated Code of Maryland be repealed.

SECTION 3. AND BE IT FURTHER ENACTED, That Section(s) 7–205 through 7–207, 10–712 through 10–714, and 10–811 through 10–813, respectively, of Article – Health – General of the Annotated Code of Maryland be renumbered to be Section(s) 7–204 through 7–206, 10–711 through 10–713, and 10–810 through 10–812, respectively.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 657

(House Bill 96)

AN ACT concerning

Public Safety – Offender Registry – Frequency of Photograph

FOR the purpose of altering the time requirement for an updated photograph to be included in the registration of offenders, child sexual offenders, sexually violent offenders, and sexually violent predators in the Offender Registry; clarifying that certain photographs are to be updated; and generally relating to the registration of offenders.

BY repealing and reenacting, with amendments,
Article – Criminal Procedure
Section 11–707(a), 11–708(b)(1) and (c), and 11–709(a)

Annotated Code of Maryland
(2008 Replacement Volume)

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

Article – Criminal Procedure

11–707.

(a) (1) (i) A child sexual offender shall register in person every 6 months with a local law enforcement unit for the term provided under paragraph (4) of this subsection.

(ii) Registration shall include a photograph that shall be updated **[**at least once each year**]** **EVERY 6 MONTHS**.

(2) (i) An offender and a sexually violent offender shall register in person every 6 months with a local law enforcement unit for the term provided under paragraph (4) of this subsection.

(ii) Registration shall include a photograph that shall be updated **[**at least once each year**]** **EVERY 6 MONTHS**.

(3) (i) A sexually violent predator shall register in person every 3 months for the term provided under paragraph (4)(ii) of this subsection.

(ii) Registration shall include a photograph that shall be updated **[**at least once each year**]** **EVERY ~~3~~ 6 MONTHS**.

(4) The term of registration is:

(i) 10 years; or

(ii) life, if:

1. the registrant is a sexually violent predator;

2. the registrant has been convicted of a sexually violent offense;

3. the registrant has been convicted of a violation of § 3–602 of the Criminal Law Article for commission of a sexual act involving penetration of a child under the age of 12 years; or

4. the registrant has been convicted of a prior crime as a child sexual offender, an offender, or a sexually violent offender.

(5) A registrant who is not a resident of the State shall register for the appropriate time specified in this subsection or until the registrant's employment, student enrollment, or transient status in the State ends.

11–708.

(b) (1) The supervising authority shall obtain **[**a**]** **AN UPDATED** photograph and fingerprints of the registrant and attach the **UPDATED** photograph and fingerprints to the registration statement.

(c) (1) Within 5 days after obtaining a registration statement, the supervising authority shall send a copy of the registration statement with the attached fingerprints and **UPDATED** photograph of the registrant to the local law enforcement unit in the county where the registrant will reside or where a registrant who is not a resident is a transient or will work or attend school.

(2) (i) If the registrant is enrolled in or carries on employment at, or is expecting to enroll in or carry on employment at, an institution of higher education in the State, within 5 days after obtaining a registration statement, the supervising authority shall send a copy of the registration statement with the attached fingerprints and **UPDATED** photograph of the registrant to the campus police agency of the institution of higher education.

(ii) If an institution of higher education does not have a campus police agency, the copy of the registration statement with the attached fingerprints and **UPDATED** photograph of the registrant shall be provided to the local law enforcement agency having primary jurisdiction for the campus.

11–709.

(a) (1) (i) Every 3 months within 5 days after a sexually violent predator completes the registration requirements of § 11–707(a) of this subtitle, a local law enforcement unit shall send notice of the sexually violent predator's quarterly registration to the Department.

(ii) Every 6 months within 5 days after a child sexual offender completes the registration requirements of § 11–707(a) of this subtitle, a local law enforcement unit shall send notice of the child sexual offender's biannual registration to the Department.

(2) **[**Each year, a**]** **EVERY ~~3~~ <u>6</u> MONTHS, A** local law enforcement unit shall send a child sexual offender's and sexually violent predator's updated photograph to the Department within 6 days after the photograph is submitted.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 658

(House Bill 99)

AN ACT concerning

~~Baltimore City –~~ Commercial Real Property – Action to Abate Drug Nuisance – ~~Repeal~~ ~~Application of~~ Prior Notice Requirement

FOR the purpose of ~~repealing~~ ~~providing that~~ *altering* certain advance notification requirements concerning certain drug–related nuisances on commercial real property ~~do not apply in Baltimore City~~; and generally relating to nuisances and commercial real property ~~in Baltimore City~~.

BY repealing and reenacting, without amendments,
Article – Real Property
Section 14–120(a)(1) and (5) and (e) through (q)
Annotated Code of Maryland
(2003 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Real Property
Section 14–120(d)
Annotated Code of Maryland
(2003 Replacement Volume and 2008 Supplement)

~~BY repealing and reenacting, with amendments,~~
~~Article – Real Property~~
~~Section 14–120(e) through (q)~~
~~Annotated Code of Maryland~~
~~(2003 Replacement Volume and 2008 Supplement)~~

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

Article – Real Property

14–120.

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

(5) "Nuisance" means a property that is used:

(i) By persons who assemble for the specific purpose of illegally administering a controlled dangerous substance;

(ii) For the illegal manufacture, or distribution of:

1. A controlled dangerous substance; or

2. Controlled paraphernalia, as defined in § 5–101 of the Criminal Law Article; or

(iii) For the illegal storage or concealment of a controlled dangerous substance in sufficient quantity to reasonably indicate under all the circumstances an intent to manufacture, distribute, or dispense:

1. A controlled dangerous substance; or

2. Controlled paraphernalia, as defined in § 5–101 of the Criminal Law Article.

[(d) (1) ***(I)*** ~~THIS SUBSECTION DOES NOT APPLY IN BALTIMORE CITY.~~

~~(2)~~ ~~An~~ ***EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, AN*** action may not be brought under this section concerning a commercial property until ~~45~~ ***30*** days after the tenant, if any, and owner of record receive notice from a person entitled to bring an action under this section that a nuisance exists.

(II) IN BALTIMORE CITY, AN ACTION MAY NOT BE BROUGHT UNDER THIS SECTION CONCERNING A COMMERCIAL PROPERTY UNTIL 15 DAYS AFTER THE TENANT, IF ANY, AND OWNER OF RECORD RECEIVE NOTICE FROM A PERSON ENTITLED TO BRING AN ACTION UNDER THIS SECTION THAT A NUISANCE EXISTS.

~~(2)~~ ~~(3)~~ ***(2)*** The notice shall specify:

(i) The date and time of day the nuisance was first discovered; and

(ii) The location on the property where the nuisance is allegedly occurring.

~~(3)~~ ~~(4)~~ *(3)* The notice shall be:

(i) Hand delivered to the tenant, if any, and the owner of record; or

(ii) Sent by certified mail to the tenant, if any, and the owner of record.~~]~~

~~[~~(e)~~]~~ ~~(D)~~ (1) In addition to any service of process required by the Maryland Rules, the plaintiff shall cause to be posted in a conspicuous place on the property no later than 48 hours before the hearing the notice required under paragraph (2) of this subsection.

(2) The notice shall indicate:

(i) The nature of the proceedings;

(ii) The time and place of the hearing; and

(iii) The name and telephone number of the person to contact for additional information.

~~[~~(f)~~]~~ ~~(E)~~ A plaintiff is entitled to relief under this section whether or not an adequate remedy exists at law.

~~[~~(g)~~]~~ ~~(F)~~ (1) If, after a hearing, the court determines that a nuisance exists, the court may order any appropriate injunctive or other equitable relief.

(2) Notwithstanding any other provision of law, and in addition to or as a component of any remedy ordered under paragraph (1) of this subsection, the court may order:

(i) A tenant who knew or should have known of the existence of the nuisance to vacate the property within 72 hours; or

(ii) An owner or operator of the property to submit for court approval a plan of correction to ensure, to the extent reasonably possible, that the property will not again be used for a nuisance if:

1. The owner or operator is a party to the action; and

2. The owner or operator knew or should have known of the existence of the nuisance.

~~[~~(h)~~]~~ ~~(G)~~ (1) (i) If a tenant fails to comply with an order under subsection ~~[~~(g)~~]~~ ~~(F)~~ of this section and the owner or operator, and tenant, are parties

to the action, the court, after a hearing, may order restitution of the possession of the property to the owner or operator.

(ii) If the court orders restitution of the possession of the property under subparagraph (i) of this paragraph, the court shall immediately issue its warrant to the sheriff or constable commanding execution of the warrant within 5 days after issuance of the warrant.

(2) If an owner, including an owner–occupant, fails to comply with an order under subsection [(g)] ~~(F)~~ of this section, after a hearing the court may, in addition to issuing a contempt order or an order for any other relief, order that:

(i) The property be sold, at the owner's expense, in accordance with the Maryland Rules governing judicial sales; or

(ii) The property be demolished if the property is unfit for habitation and the estimated cost of rehabilitation significantly exceeds the estimated market value of the property after rehabilitation.

(3) If an owner–occupant fails to comply with an order under subsection [(g)] ~~(F)~~ of this section regarding a nuisance in the owner–occupied unit of the property, after a hearing the court may, in addition to issuing a contempt order or an order for any other relief, order that:

(i) The owner–occupied unit be vacated within 72 hours; and

(ii) The owner–occupied unit remain unoccupied for a period not to exceed 1 year or until the property is sold in an arm's length transaction.

[(i)] ~~(H)~~ Except as provided in paragraph [(g)(2)] ~~(F)(2)~~ of this section, the court may order appropriate relief under subsection [(g)] ~~(F)~~ of this section without proof that a defendant knew of the existence of the nuisance.

[(j)] ~~(I)~~ In any action brought under this section:

(1) Evidence of the general reputation of the property is admissible to corroborate testimony based on personal knowledge or observation, or evidence seized during the execution of a search and seizure warrant, but shall not, in and of itself, be sufficient to establish the existence of a nuisance under this section; and

(2) Evidence that the nuisance had been discontinued at the time of the filing of the complaint or at the time of the hearing does not bar the imposition of appropriate relief by the court under subsection [(g)] ~~(F)~~ of this section.

~~[~~(k)~~]~~ ~~(J)~~ The court may award court costs and reasonable attorney's fees to a community association that is the prevailing plaintiff in an action brought under this section.

~~[~~(l)~~]~~ ~~(K)~~ An action under this section shall be heard within 14 days after service of process on the parties.

~~[~~(m)~~]~~ ~~(L)~~ This section does not abrogate any equitable or legal right or remedy under existing law to abate a nuisance.

~~[~~(n)~~]~~ ~~(M)~~ (1) An appeal from a judgment or order under this section shall be filed within 10 days after the date of the order or judgment.

(2) If either party files a request for oral argument, the court shall hear the oral argument within 7 days after the request is filed.

(3) (i) If the appellant files a request for oral argument, the request shall be filed at the time of the filing of the appeal.

(ii) If the appellee files a request for oral argument, the request shall be filed within 2 days of receiving notice of the appeal.

~~[~~(o)~~]~~ ~~(N)~~ Provisions of the Real Property Article or public local laws applicable to actions between a landlord and tenant are not applicable to actions brought against a landlord or a tenant under this section.

~~[~~(p)~~]~~ ~~(O)~~ All proceedings under this section are equitable in nature.

~~[~~(q)~~]~~ ~~(P)~~ (1) Except as provided in paragraph (2) of this subsection, when necessary to accomplish the purposes of this section, a law enforcement officer, an attorney in a municipal or county attorney's office, or an attorney in an office of the State's Attorney may disclose the contents of an executed search warrant and papers filed in connection with the search warrant to:

(i) An officer or director of the community association in which the nuisance is located, or the attorney representing the community association;

(ii) An owner, tenant, or operator of the searched property or an agent of the owner, tenant, or operator of the searched property; or

(iii) An attorney in a municipal or county attorney's office.

(2) An affidavit may not be disclosed under this subsection while under seal in accordance with § 1–203 of the Criminal Procedure Article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 659

(House Bill 137)

AN ACT concerning

Home Financial Accountability Act of 2009

FOR the purpose of clarifying the availability of certain books and records kept by or on behalf of certain common ownership communities for certain purposes and to certain persons; requiring the governing body of certain common ownership communities, on request of a member, unit owner, or lot owner, to compile and send certain information within a certain time; making a stylistic change; altering certain limitations concerning public inspection of certain records; prohibiting certain common ownership communities from imposing certain fees other than a reasonable charge imposed on a person desiring to review or copy certain books and records or who requests delivery of certain information; providing that a charge for copying certain records may not exceed a certain amount; and generally relating to access to the books and records of cooperative housing associations, condominiums, and homeowners associations.

BY repealing and reenacting, with amendments,
Article – Corporations and Associations
Section 5–6B–18.5
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Real Property
Section 11–116(c) and (d) and 11B–112(a) and (b)
Annotated Code of Maryland
(2003 Replacement Volume and 2008 Supplement)

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

Article – Corporations and Associations

5–6B–18.5.

(a) (1) **(I)** Except as provided in paragraph (2) of this subsection, all books and records kept by or on behalf of a cooperative housing corporation shall be made available for examination [and] **OR** copying**, OR BOTH,** by a member, a member's mortgagee, [and] **OR** their respective duly authorized agents or attorneys, during normal business hours, and after reasonable notice.

(II) IF A MEMBER REQUESTS *IN WRITING* A COPY OF FINANCIAL STATEMENTS OF THE COOPERATIVE HOUSING CORPORATION OR THE MINUTES OF A MEETING OF THE BOARD OF DIRECTORS OR OTHER GOVERNING BODY OF THE COOPERATIVE HOUSING CORPORATION TO BE DELIVERED, THE BOARD OF DIRECTORS OR OTHER GOVERNING BODY OF THE COOPERATIVE HOUSING CORPORATION SHALL COMPILE AND SEND THE REQUESTED INFORMATION BY MAIL, ELECTRONIC TRANSMISSION, OR PERSONAL DELIVERY ~~WITHIN~~:

1. WITHIN* 21 DAYS AFTER RECEIPT OF THE *WRITTEN* REQUEST*, IF THE FINANCIAL STATEMENTS OR MINUTES WERE PREPARED WITHIN THE 3 YEARS IMMEDIATELY PRECEDING RECEIPT OF THE REQUEST; OR

***2. WITHIN 45 DAYS AFTER RECEIPT OF THE WRITTEN REQUEST, IF THE FINANCIAL STATEMENTS OR MINUTES WERE PREPARED MORE THAN 3 YEARS BEFORE RECEIPT OF THE REQUEST*.**

(2) Books and records kept by or on behalf of a cooperative housing corporation may be withheld from public inspection**, EXCEPT FOR INSPECTION BY THE PERSON WHO IS THE SUBJECT OF THE RECORD OR THE PERSON'S DESIGNEE OR GUARDIAN,** to the extent that they concern:

(i) Personnel records**, NOT INCLUDING INFORMATION ON INDIVIDUAL SALARIES, WAGES, BONUSES, AND OTHER COMPENSATION PAID TO EMPLOYEES ~~RECEIVING ANNUAL COMPENSATION EXCEEDING $50,000~~**;

(ii) An individual's medical records;

(iii) An individual's **PERSONAL** financial records**, INCLUDING ASSETS, INCOME, LIABILITIES, NET WORTH, BANK BALANCES, FINANCIAL HISTORY OR ACTIVITIES, AND CREDITWORTHINESS**;

(iv) Records relating to business transactions that are currently in negotiation;

(v) The written advice of legal counsel; or

(vi) Minutes of a closed meeting of the board of directors or other governing body of the cooperative housing corporation**, UNLESS A MAJORITY OF A QUORUM OF THE BOARD OF DIRECTORS OR GOVERNING BODY THAT HELD THE MEETING APPROVES UNSEALING THE MINUTES OR A RECORDING OF THE MINUTES FOR PUBLIC INSPECTION**.

(b) **(1)** **[**The cooperative housing corporation may impose**]** **EXCEPT FOR** a reasonable charge **IMPOSED** on a person desiring to review or copy the books and records **OR WHO REQUESTS DELIVERY OF INFORMATION, THE COOPERATIVE HOUSING CORPORATION MAY NOT IMPOSE ANY CHARGES UNDER THIS SECTION.**

(2) A CHARGE IMPOSED UNDER PARAGRAPH (1) OF THIS SUBSECTION FOR COPYING BOOKS AND RECORDS MAY NOT EXCEED THE ~~LIMITS AUTHORIZED UNDER TITLE 7, SUBTITLE 2 OF THE COURTS ARTICLE PREVAILING AVERAGE CHARGE BY COMMERCIAL COPYING SERVICES IN THE COMMUNITY~~ *LIMITS AUTHORIZED UNDER TITLE 7, SUBTITLE 2 OF THE COURTS ARTICLE*.

Article – Real Property

11–116.

(c) (1) **(I)** Except as provided in paragraph (2) of this subsection, all books and records, including insurance policies, kept by the council of unit owners shall be maintained in Maryland or within 50 miles of its borders and shall be available at some place designated by the council of unit owners within the county where the condominium is located for examination **[**and**]** **OR** copying**, OR BOTH,** by any unit owner, **[**his**]** **A UNIT OWNER'S** mortgagee, **[**and**]** **OR** their respective duly authorized agents or attorneys, during normal business hours, and after reasonable notice.

(II) IF A UNIT OWNER REQUESTS *IN WRITING* A COPY OF FINANCIAL STATEMENTS OF THE CONDOMINIUM OR THE MINUTES OF A MEETING OF THE BOARD OF DIRECTORS OR OTHER GOVERNING BODY OF THE CONDOMINIUM TO BE DELIVERED, THE BOARD OF DIRECTORS OR OTHER GOVERNING BODY OF THE CONDOMINIUM SHALL COMPILE AND SEND THE REQUESTED INFORMATION BY MAIL, ELECTRONIC TRANSMISSION, OR PERSONAL DELIVERY ~~WITHIN~~*:*

1. WITHIN* 21 DAYS AFTER RECEIPT OF THE *WRITTEN* REQUEST*, IF THE FINANCIAL STATEMENTS OR MINUTES WERE PREPARED WITHIN THE 3 YEARS IMMEDIATELY PRECEDING RECEIPT OF THE REQUEST; OR

***2. WITHIN 45 DAYS AFTER RECEIPT OF THE WRITTEN REQUEST, IF THE FINANCIAL STATEMENTS OR MINUTES WERE PREPARED MORE THAN 3 YEARS BEFORE RECEIPT OF THE REQUEST*.**

(2) Books and records kept by or on behalf of a council of unit owners may be withheld from public inspection**, EXCEPT FOR INSPECTION BY THE PERSON WHO IS THE SUBJECT OF THE RECORD OR THE PERSON'S DESIGNEE OR GUARDIAN,** to the extent that they concern:

(i) Personnel records**, NOT INCLUDING INFORMATION ON INDIVIDUAL SALARIES, WAGES, BONUSES, AND OTHER COMPENSATION PAID TO EMPLOYEES** ~~**RECEIVING ANNUAL COMPENSATION EXCEEDING $50,000**~~;

(ii) An individual's medical records;

(iii) An individual's **PERSONAL** financial records**, INCLUDING ASSETS, INCOME, LIABILITIES, NET WORTH, BANK BALANCES, FINANCIAL HISTORY OR ACTIVITIES, AND CREDITWORTHINESS**;

(iv) Records relating to business transactions that are currently in negotiation;

(v) The written advice of legal counsel; or

(vi) Minutes of a closed meeting of the board of directors or other governing body of the council of unit owners**, UNLESS A MAJORITY OF A QUORUM OF THE BOARD OF DIRECTORS OR GOVERNING BODY THAT HELD THE MEETING APPROVES UNSEALING THE MINUTES OR A RECORDING OF THE MINUTES FOR PUBLIC INSPECTION**.

(d) **(1) [**The council of unit owners may impose**] EXCEPT FOR** a reasonable charge **[**upon**] IMPOSED ON** a person desiring to review or copy the books and records **OR WHO REQUESTS DELIVERY OF INFORMATION, THE COUNCIL OF UNIT OWNERS MAY NOT IMPOSE ANY CHARGES UNDER THIS SECTION.**

(2) A CHARGE IMPOSED UNDER PARAGRAPH (1) OF THIS SUBSECTION FOR COPYING BOOKS AND RECORDS MAY NOT EXCEED THE ~~**LIMITS AUTHORIZED UNDER TITLE 7, SUBTITLE 2 OF THE COURTS ARTICLE PREVAILING AVERAGE CHARGE BY COMMERCIAL COPYING SERVICES IN THE COMMUNITY**~~ ***LIMITS AUTHORIZED UNDER TITLE 7, SUBTITLE 2 OF THE COURTS ARTICLE***.

11B–112.

(a) (1) **(I)** Subject to the provisions of paragraph (2) of this subsection, all books and records kept by or on behalf of the homeowners association shall be made available for examination [and] **OR** copying**, OR BOTH,** by a lot owner, a lot owner's mortgagee, [and] **OR** their respective duly authorized agents or attorneys, during normal business hours, and after reasonable notice.

(II) IF A LOT OWNER REQUESTS *IN WRITING* A COPY OF FINANCIAL STATEMENTS OF THE HOMEOWNERS ASSOCIATION OR THE MINUTES OF A MEETING OF THE GOVERNING BODY OF THE HOMEOWNERS ASSOCIATION TO BE DELIVERED, THE GOVERNING BODY OF THE HOMEOWNERS ASSOCIATION SHALL COMPILE AND SEND THE REQUESTED INFORMATION BY MAIL, ELECTRONIC TRANSMISSION, OR PERSONAL DELIVERY ~~WITHIN~~:

1. WITHIN* 21 DAYS AFTER RECEIPT OF THE *WRITTEN* REQUEST, *IF THE FINANCIAL STATEMENTS OR MINUTES WERE PREPARED WITHIN THE 3 YEARS IMMEDIATELY PRECEDING RECEIPT OF THE REQUEST; OR

***2. WITHIN 45 DAYS AFTER RECEIPT OF THE WRITTEN REQUEST, IF THE FINANCIAL STATEMENTS OR MINUTES WERE PREPARED MORE THAN 3 YEARS BEFORE RECEIPT OF THE REQUEST*.**

(2) Books and records kept by or on behalf of a homeowners association may be withheld from public inspection**, EXCEPT FOR INSPECTION BY THE PERSON WHO IS THE SUBJECT OF THE RECORD OR THE PERSON'S DESIGNEE OR GUARDIAN,** to the extent that they concern:

(i) Personnel records**, NOT INCLUDING INFORMATION ON INDIVIDUAL SALARIES, WAGES, BONUSES, AND OTHER COMPENSATION PAID TO EMPLOYEES ~~RECEIVING ANNUAL COMPENSATION EXCEEDING $50,000~~**;

(ii) An individual's medical records;

(iii) An individual's **PERSONAL** financial records**, INCLUDING ASSETS, INCOME, LIABILITIES, NET WORTH, BANK BALANCES, FINANCIAL HISTORY OR ACTIVITIES, AND CREDITWORTHINESS**;

(iv) Records relating to business transactions that are currently in negotiation;

(v) The written advice of legal counsel; or

(vi) Minutes of a closed meeting of the governing body of the homeowners association**, UNLESS A MAJORITY OF A QUORUM OF THE GOVERNING BODY OF THE HOMEOWNERS ASSOCIATION THAT HELD THE MEETING APPROVES**

UNSEALING THE MINUTES OR A RECORDING OF THE MINUTES FOR PUBLIC INSPECTION.

(b) **(1)** [The homeowners association may impose] **EXCEPT FOR** a reasonable charge [upon] **IMPOSED ON** a person desiring to review or copy the books and records **OR WHO REQUESTS DELIVERY OF INFORMATION, THE HOMEOWNERS ASSOCIATION MAY NOT IMPOSE ANY CHARGES UNDER THIS SECTION.**

(2) A CHARGE IMPOSED UNDER PARAGRAPH (1) OF THIS SUBSECTION FOR COPYING BOOKS AND RECORDS MAY NOT EXCEED THE ~~**LIMITS AUTHORIZED UNDER TITLE 7, SUBTITLE 2 OF THE COURTS ARTICLE PREVAILING AVERAGE CHARGE BY COMMERCIAL COPYING SERVICES IN THE COMMUNITY**~~ ***LIMITS AUTHORIZED UNDER TITLE 7, SUBTITLE 2 OF THE COURTS ARTICLE***.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 660

(House Bill 148)

AN ACT concerning

Calvert County – Reimbursement of Costs – Authority

FOR the purpose of authorizing Calvert County to seek reimbursement for certain cleanup costs from ~~certain fines collected by the Department of the Environment for certain violations~~ a certain person under certain circumstances; and generally relating to authorizing Calvert County to seek reimbursement for certain cleanup costs.

BY adding to
Article 25 – County Commissioners
Section 238
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

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

Article 25 – County Commissioners

238.

THE COUNTY COMMISSIONERS OF CALVERT COUNTY MAY SEEK REIMBURSEMENT OF COSTS INCURRED IN THE CLEANUP OF HAZARDOUS MATERIALS IN THE COUNTY FROM ~~FINES COLLECTED BY THE DEPARTMENT OF THE ENVIRONMENT FOR VIOLATIONS OF TITLE 7 OF THE ENVIRONMENT ARTICLE~~ A PERSON RESPONSIBLE FOR THE RELEASE OF THE HAZARDOUS MATERIALS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 661

(House Bill 193)

AN ACT concerning

Gaming – ~~Instant~~ Bingo ~~– Extension of Sunset~~

FOR the purpose of *altering the distribution of revenue from a certain State tax in a certain manner; creating the Special Fund for Preservation of Cultural Arts in Maryland; providing for the purpose and administration of the Fund; specifying that the Fund is a special, nonlapsing fund; requiring that the State Treasurer hold the Fund separately and the Comptroller account for the Fund; specifying the contents of the Fund; specifying that the Fund may be used only for a certain purpose; authorizing the Governor, for each appropriation to the Fund, to include funds in the State budget subject to appropriation by the General Assembly or transfer the funds by budget amendment from the Fund under certain circumstances; specifying that money expended from the Fund for cultural arts organizations or other similar entities is supplemental and not intended to take the place of certain other funding; altering the rate of the State admissions and amusement tax on electronic bingo and electronic tip jars; limiting the rate of the State admissions and amusement tax in a certain manner under certain circumstances; limiting the rate of a county or municipal corporation admissions and amusement tax that is applicable to electronic bingo or electronic tip jars under certain circumstances; prohibiting a county from imposing a certain fee or tax under certain circumstances on or before a certain date;* extending the termination date for the authority for the operation of certain instant bingo games using electronic machines; *altering a certain condition on certain authority for certain persons to continue to operate certain*

games in a certain manner; establishing that a certain action may be brought only in a certain circuit court; establishing that the enforcement and implementation of this Act may not be stayed under certain circumstances; expressing the intent of the General Assembly regarding the proliferation of certain gaming machines; ~~repealing a certain obsolete requirement;~~ and generally relating to *electronic bingo and* instant bingo operations.

BY repealing and reenacting, without amendments,
Article – Criminal Law
Section 12–301
Annotated Code of Maryland
(2002 Volume and 2008 Supplement)

BY adding to
Article – Economic Development
Section 4–801 to be under the new subtitle "Subtitle 8. Special Fund for Preservation of Cultural Arts in Maryland"
Annotated Code of Maryland
(2008 Volume)

BY repealing and reenacting, with amendments,
Article – Tax – General
Section 2–202 and 4–105(a–1)
Annotated Code of Maryland
(2004 Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,
Article – Tax – General
Section 4–102(d) and 4–105(a)
Annotated Code of Maryland
(2004 Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Chapter 474 of the Acts of the General Assembly of 2008
Section 2

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

Article – Criminal Law

12–301.

In this subtitle:

(1) "slot machine" means a machine, apparatus, or device that:

(i) operates or can be made to operate by inserting, depositing, or placing with another person money, a token, or another object; and

(ii) through the element of chance, the reading of a game of chance, the delivery of a game of chance, or any other outcome unpredictable by the user, awards the user:

1. money, a token, or other object that represents or that can be converted into money; or

2. the right to receive money, a token, or another object that represents and can be converted into money;

(2) "slot machine" includes:

(i) a machine, apparatus, or device described in item (1) of this section that also sells, delivers, or awards merchandise, money, or some other tangible thing of value; and

(ii) a pinball machine or console machine that pays off in merchandise; and

(3) "slot machine" does not include a machine, apparatus, or device that:

(i) awards the user only free additional games or plays;

(ii) awards the user only noncash merchandise or noncash prizes of minimal value;

(iii) dispenses paper pull tab tip jar tickets or paper pull tab instant bingo tickets that must be opened manually by the user provided that the machine, apparatus, or device does not:

1. read the tickets electronically;

2. alert the user to a winning or losing ticket; or

3. tabulate a player's winnings and losses;

(iv) 1. displays facsimiles of bingo cards that users mark and monitor according to numbers called on the premises by an individual where the user is operating the machine; and

2. does not permit a user to play more than 54 bingo cards at the same time;

(v) is used by the State Lottery Commission under Title 9 of the State Government Article; or

(vi) if legislation takes effect authorizing the operation of video lottery terminals, is a video lottery terminal as defined in and licensed under that legislation.

Article – Economic Development

SUBTITLE 8. SPECIAL FUND FOR PRESERVATION OF CULTURAL ARTS IN MARYLAND.

4–801.

(A) IN THIS SECTION, "FUND" MEANS THE SPECIAL FUND FOR PRESERVATION OF CULTURAL ARTS IN MARYLAND.

(B) THERE IS A SPECIAL FUND FOR PRESERVATION OF CULTURAL ARTS IN MARYLAND.

(C) THE PURPOSE OF THE FUND IS TO PROVIDE EMERGENCY GRANTS TO CULTURAL ARTS ORGANIZATIONS, INCLUDING MUSEUMS, OR SIMILAR ENTITIES IN THE STATE.

(D) THE SECRETARY OF BUSINESS AND ECONOMIC DEVELOPMENT SHALL ADMINISTER THE FUND.

(E) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7–302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

(F) THE FUND CONSISTS OF:

(1) REVENUE DISTRIBUTED TO THE FUND UNDER ~~§ 2–202(A)(1)(I)~~ § 2–202(1)(II) OF THE TAX – GENERAL ARTICLE; AND

(2) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.

(G) THE FUND MAY BE USED ONLY FOR PREVENTING THE CLOSURE OR TERMINATION OF CULTURAL ARTS ORGANIZATIONS, INCLUDING MUSEUMS, OR SIMILAR ENTITIES IN THE STATE.

(H) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

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

(I) FOR EACH APPROPRIATION TO THE FUND, THE GOVERNOR MAY:

(1) INCLUDE THE FUNDS IN THE STATE BUDGET SUBJECT TO APPROPRIATION BY THE GENERAL ASSEMBLY; OR

(2) TRANSFER THE FUNDS BY BUDGET AMENDMENT FROM THE FUND TO THE EXPENDITURE ACCOUNT OF THE DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT ONLY AFTER THE PROPOSED BUDGET AMENDMENT HAS BEEN:

(I) SUBMITTED TO THE SENATE BUDGET AND TAXATION COMMITTEE AND THE HOUSE APPROPRIATIONS COMMITTEE OF THE GENERAL ASSEMBLY; AND

(II) APPROVED BY THE LEGISLATIVE POLICY COMMITTEE.

(J) MONEY EXPENDED FROM THE FUND FOR CULTURAL ARTS ORGANIZATIONS, INCLUDING MUSEUMS, OR OTHER SIMILAR ENTITIES IS SUPPLEMENTAL TO AND IS NOT INTENDED TO TAKE THE PLACE OF FUNDING THAT OTHERWISE WOULD BE APPROPRIATED FOR THOSE ORGANIZATIONS OR SIMILAR ENTITIES.

Article – Tax – General

2–202.

After making the distribution required under § 2–201 of this subtitle, within 20 days after the end of each quarter, the Comptroller shall distribute:

(1) ***FROM*** *the revenue from the State admissions and amusement tax on electronic bingo and electronic tip jars under § 4–102(d) of this article****:***

(I) THE REVENUE ATTRIBUTABLE TO A TAX RATE OF 20% *to the General Fund of the State; and*

(II) THE REVENUE ATTRIBUTABLE TO A TAX RATE IN EXCESS OF 20% TO THE SPECIAL FUND FOR PRESERVATION OF CULTURAL ARTS IN MARYLAND, AS PROVIDED IN § 4–801 OF THE ECONOMIC DEVELOPMENT ARTICLE; AND

(2) the remaining admissions and amusement tax revenue:

(i) to the Maryland Stadium Authority, county, or municipal corporation that is the source of the revenue; or

(ii) if the Maryland Stadium Authority and also a county or municipal corporation tax a reduced charge or free admission:

1. 80% of that revenue to the Authority; and

2. 20% to the county or municipal corporation.

4–102.

(d) (1) In this subsection, "net proceeds" means the total receipts from the operation of an electronic bingo machine or electronic tip jar machine less the amount of money winnings or prizes paid out to players.

(2) A State tax is imposed on the net proceeds derived from any charge for the operation of an electronic bingo machine permitted under a commercial bingo license or an electronic tip jar machine authorized under Title 13 of the Criminal Law Article that is operated for commercial purposes.

4–105.

(a) Except as otherwise provided in this section, the admissions and amusement tax rate is:

(1) the rate that a county or municipal corporation sets, not exceeding 10% of gross receipts subject to the admissions and amusement tax; or

(2) the rate that the Stadium Authority sets, not exceeding 8% of gross receipts subject to the admissions and amusement tax.

(a–1) ***(1)*** *[The]* ***EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE*** *rate of the State admissions and amusement tax imposed on electronic bingo or electronic tip jars under § 4–102(d) of this subtitle is [20%]* ***30%*** *of the net proceeds subject to the tax.*

(2) IF NET PROCEEDS SUBJECT TO THE STATE ADMISSIONS AND AMUSEMENT TAX IMPOSED ON ELECTRONIC BINGO OR ELECTRONIC TIP JARS UNDER § 4–102(D) OF THIS SUBTITLE ARE ALSO SUBJECT TO AN ADMISSIONS AND AMUSEMENT TAX IMPOSED BY A COUNTY OR A MUNICIPAL CORPORATION UNDER THIS SUBTITLE:

(I) THE RATE OF THE STATE TAX MAY NOT EXCEED A RATE THAT, WHEN COMBINED WITH THE RATE OF ANY COUNTY OR MUNICIPAL CORPORATION TAX, WILL EXCEED 35% OF THE NET PROCEEDS; AND

(II) THE RATE OF ANY COUNTY OR MUNICIPAL CORPORATION ADMISSIONS AND AMUSEMENT TAX THAT IS APPLICABLE TO NET PROCEEDS DERIVED FROM ELECTRONIC BINGO OR ELECTRONIC TIP JARS MAY NOT EXCEED THE RATE OF THE ADMISSIONS AND AMUSEMENT TAX IMPOSED BY THE COUNTY OR MUNICIPAL CORPORATION AS OF JANUARY 1, 2009.

Chapter 474 of the Acts of 2008

SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding the provisions of Section 1 of this Act, an entity licensed to offer instant bingo under a commercial bingo license as of July 1, 2007, or by a qualified organization as defined in § 13–201 of this article on the premises of the qualified organization may continue to operate a game of instant bingo in the same manner using electronic machines until July 1, **[**2009**]** ~~**2011**~~ ***2012***, provided that:

(a) ***(1)*** **[**the machines have been in operation for a 1–year period ending December 31, 2007; ***OR***

(2) THE MACHINES WERE IN OPERATION UNDER A COMMERCIAL BINGO LICENSE AS OF DECEMBER 31, 2007;

(b)**]** the entity does not operate more than the number of electronic machines operated as of February 28, 2008; and

[(c)**]** ~~**(B)**~~ the conduct of the gaming and operation of the machines is consistent with all other provisions of the Criminal Law Article.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before July 1, 2012, a county may not impose a fee or tax on electronic bingo in addition to any tax or fee imposed by the county as of January 1, 2009.

SECTION 3. AND BE IT FURTHER ENACTED, That, notwithstanding any other law, an action for declaratory, injunctive, or other relief to challenge the legality of any provision of this Act or any amendment made by this Act:

(1) may be brought only in the circuit court for Anne Arundel County; and

(2) does not stay the enforcement and implementation of this Act pending the disposition of the action.

SECTION 4. AND BE IT FURTHER ENACTED, That, notwithstanding any provision of this Act, it is the intent of the General Assembly that the proliferation of gaming in the State be reduced by limiting the use of gaming machines that are similar in appearance and operation to video lottery terminals and that, in authorizing the temporary continuation of gaming activity with such machines by commercial and charitable entities that have operated such machines over a long period of time, this Act be construed not as approval of an expansion of such gaming, but as enacting a mechanism to provide additional funding required to address the State's important fiscal needs on a temporary basis while the State video lottery terminal program is being implemented.

SECTION ~~2.~~ *5.* AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 662

(House Bill 201)

AN ACT concerning

~~Education – Student Discipline –~~ Juvenile Law – Juvenile Justice Alternative Education Program

FOR the purpose of authorizing a juvenile court to order a certain child to attend a certain juvenile justice alternative education program under certain circumstances; providing for the termination of this Act; and generally relating to ~~student discipline~~ a juvenile justice alternative education program.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 3–8A–19(d)(1)
(2006 Replacement Volume and 2008 Supplement)

BY adding to
Article – Education
Section 7–305.1
Annotated Code of Maryland
(2008 Replacement Volume)

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

Article – Courts and Judicial Proceedings

3–8A–19.

(d) (1) In making a disposition on a petition under this subtitle, the court may:

(i) Place the child on probation or under supervision in his own home or in the custody or under the guardianship of a relative or other fit person, upon terms the court deems appropriate, including community detention;

(ii) Subject to the provisions of paragraph (2) of this subsection, commit the child to the custody or under the guardianship of the Department of Juvenile Services, the Department of Health and Mental Hygiene, or a public or licensed private agency on terms that the court considers appropriate to meet the priorities set forth in § 3–8A–02 of this subtitle, including designation of the type of facility where the child is to be accommodated, until custody or guardianship is terminated with approval of the court or as required under § 3–8A–24 of this subtitle; **[**or**]**

(iii) Order the child, parents, guardian, or custodian of the child to participate in rehabilitative services that are in the best interest of the child and the family**; OR**

(IV) IN ANY COUNTY THAT HAS ESTABLISHED A JUVENILE JUSTICE ALTERNATIVE EDUCATION PROGRAM, ORDER THE CHILD TO ATTEND THAT PROGRAM IF THE CHILD HAS BEEN SUSPENDED, EXPELLED, OR IDENTIFIED AS A CANDIDATE FOR SUSPENSION OR EXPULSION FROM SCHOOL.

Article – Education

7–305.1.

IN ANY COUNTY THAT HAS ESTABLISHED A JUVENILE JUSTICE ALTERNATIVE EDUCATION PROGRAM, THE JUVENILE COURT MAY ORDER A STUDENT WHO IS SUSPENDED, EXPELLED, OR IDENTIFIED AS A CANDIDATE FOR SUSPENSION OR EXPULSION FROM SCHOOL TO ATTEND THAT PROGRAM IN ACCORDANCE WITH § 3–8A–19(D) OF THE COURTS ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009. It shall remain effective for a period of 3 years and, at the end of June 30, 2012, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 19, 2009.

Chapter 663

(House Bill 235)

AN ACT concerning

Health Insurance – Rescission of Contracts and Certificates – Restrictions

FOR the purpose of prohibiting certain carriers from rescinding a contract or certificate under certain circumstances; requiring the carrier to have the burden of persuasion that a rescission complies with certain provisions of this Act; applying certain provisions of this Act to health maintenance organizations; defining certain terms; providing for the application of this Act; and generally relating to the rescission of health insurance contracts and certificates.

BY adding to
Article – Health – General
Section 19–706(ttt)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY adding to
Article – Insurance
Section 15–1105 to be under the amended subtitle "Subtitle 11. Miscellaneous Health Insurance Policies and Contracts and Health Benefit Plans"
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – Health – General

19–706.

(TTT) THE PROVISIONS OF § 15–1105 OF THE INSURANCE ARTICLE APPLY TO HEALTH MAINTENANCE ORGANIZATIONS.

Article – Insurance

Subtitle 11. Miscellaneous Health Insurance Policies **AND CONTRACTS AND HEALTH BENEFIT PLANS**.

15–1105.

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

(2) "CARRIER" MEANS:

(I) AN INSURER;

(II) A NONPROFIT HEALTH SERVICE PLAN; OR

(III) A HEALTH MAINTENANCE ORGANIZATION.

(3) "EVIDENCE OF INDIVIDUAL INSURABILITY" MEANS MEDICAL OR OTHER INFORMATION THAT INDICATES HEALTH STATUS AND IS USED TO DETERMINE WHETHER COVERAGE OF AN INDIVIDUAL IS TO BE:

(I) ISSUED OR DENIED; OR

(II) ISSUED WITH OR WITHOUT AN EXCLUSIONARY RIDER.

(4) "HEALTH BENEFIT PLAN" HAS THE MEANING STATED IN § 15–1301 OF THIS TITLE.

(B) IF A CARRIER CONDITIONS COVERAGE FOR A HEALTH BENEFIT PLAN ON EVIDENCE OF INDIVIDUAL INSURABILITY, THE CARRIER MAY NOT RESCIND A CONTRACT OR A CERTIFICATE ON THE BASIS OF WRITTEN INFORMATION SUBMITTED ON OR WITH, OR OMITTED FROM, AN APPLICATION FOR THE HEALTH BENEFIT PLAN UNLESS THE CARRIER COMPLETED MEDICAL UNDERWRITING AND RESOLVED ALL <u>REASONABLE</u> MEDICAL QUESTIONS RELATED TO THE WRITTEN INFORMATION SUBMITTED ON OR WITH, OR OMITTED FROM, THE APPLICATION BEFORE ISSUING THE HEALTH BENEFIT PLAN.

(C) THE CARRIER SHALL HAVE THE BURDEN OF PERSUASION THAT ITS RESCISSION OF A HEALTH BENEFIT PLAN COMPLIES WITH SUBSECTION (B) OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all policies, contracts, certificates, and health benefit plans issued, delivered, or renewed in the State on or after October 1, 2009.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 664

(House Bill 255)

AN ACT concerning

Health Maintenance Organizations – Payments to Nonparticipating Providers

FOR the purpose of ~~altering the rate that a health maintenance organization must pay to certain trauma physicians for certain covered services provided to certain enrollees of the health maintenance organization;~~ requiring health maintenance organizations to pay certain health care providers for certain evaluation and management services no less than the greater of certain rates; requiring health maintenance organizations to pay certain health care providers for certain services that are not evaluation and management services no less than the greater of certain rates; requiring a health maintenance organization to calculate a certain average rate in a certain manner; requiring the Maryland Health Care Commission to annually review certain payments and report certain findings to the Maryland Insurance Administration; authorizing the Administration to take certain actions to investigate and enforce a violation of certain provisions of this Act; requiring the Administration, in consultation with the Commission, to adopt certain regulations; defining certain terms; providing for a delayed effective date; providing for the termination of this Act; and generally relating to payments by health maintenance organizations to nonparticipating providers.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 19–710.1
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

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

Article – Health – General

19–710.1.

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

(2) **[**"Enrollee" means a subscriber or member of the health maintenance organization.

(3)] "Adjunct claims documentation" means an abstract of an enrollee's medical record which describes and summarizes the diagnosis and treatment of, and services rendered to, the enrollee, including, in the case of trauma rendered in a trauma center, an operative report, a discharge summary, a Maryland Ambulance Information Systems form, or a medical record.

(3) "BERENSON–EGGERS TYPE OF SERVICE CODE" MEANS A CODE IN A CLASSIFICATION SYSTEM DEVELOPED BY THE CENTERS FOR MEDICARE AND MEDICAID SERVICES THAT GROUPS CURRENT PROCEDURAL TERMINOLOGY CODES TOGETHER BASED ON CLINICAL CONSISTENCY.

(4) "ENROLLEE" MEANS A SUBSCRIBER OR MEMBER OF A HEALTH MAINTENANCE ORGANIZATION.

(5) "EVALUATION AND MANAGEMENT SERVICE" MEANS ANY SERVICE WITH A BERENSON–EGGERS TYPE OF SERVICE CODE IN THE CATEGORY OF EVALUATION AND MANAGEMENT.

[(4)] **(6)** "Institute" means the Maryland Institute for Emergency Medical Services Systems.

(7) "MEDICARE ECONOMIC INDEX" MEANS THE FIXED–WEIGHT INPUT PRICE INDEX THAT:

(I) MEASURES THE WEIGHTED AVERAGE ANNUAL PRICE CHANGE FOR VARIOUS INPUTS NEEDED TO PRODUCE PHYSICIAN SERVICES; AND

(II) IS USED BY THE CENTERS FOR MEDICARE AND MEDICAID SERVICES IN THE CALCULATION OF REIMBURSEMENT OF PHYSICIAN SERVICES UNDER TITLE XVIII OF THE FEDERAL SOCIAL SECURITY ACT.

(8) "SIMILARLY LICENSED PROVIDER" MEANS:

(I) FOR A PHYSICIAN:

1. A PHYSICIAN WHO IS BOARD CERTIFIED OR ELIGIBLE IN THE SAME PRACTICE SPECIALTY; OR

2. A GROUP PHYSICIAN PRACTICE THAT CONTAINS BOARD CERTIFIED OR ELIGIBLE PHYSICIANS IN THE SAME PRACTICE SPECIALTY;

(II) FOR A HEALTH CARE PROVIDER THAT IS NOT A PHYSICIAN, A HEALTH CARE PROVIDER THAT HOLDS THE SAME TYPE OF LICENSE.

[(5)**] (9)** (i) "Trauma center" means a primary adult resource center, level I trauma center, level II trauma center, level III trauma center, or pediatric trauma center that has been designated by the institute to provide care to trauma patients.

(ii) "Trauma center" includes an out–of–state pediatric facility that has entered into an agreement with the institute to provide care to trauma patients.

[(6)**] (10)** "Trauma patient" means a patient that is evaluated or treated in a trauma center and is entered into the State trauma registry as a trauma patient.

[(7)**] (11)** "Trauma physician" means a licensed physician who has been credentialed or designated by a trauma center to provide care to a trauma patient at a trauma center.

(b) **[**(1)**]** In addition to any other provisions of this subtitle, for a covered service rendered to an enrollee of a health maintenance organization by a health care provider not under written contract with the health maintenance organization, the health maintenance organization or its agent:

[(i)**] (1)** Shall pay the health care provider within 30 days after the receipt of a claim in accordance with the applicable provisions of this subtitle; and

[(ii)**] (2)** Shall pay the claim submitted by:

[1.**] (I)** A hospital at the rate approved by the Health Services Cost Review Commission;

[2.**] (II)** A trauma physician for trauma care rendered to a trauma patient in a trauma center, at the greater of:

[A.**] 1.** **[**140% of the rate paid by the Medicare program, as published by the Centers for Medicare and Medicaid Services, for the same covered service, to a similarly licensed provider**]** ~~**125% OF THE AVERAGE RATE THE HEALTH MAINTENANCE ORGANIZATION PAID AS OF JANUARY 1 OF THE PREVIOUS CALENDAR YEAR IN THE SAME GEOGRAPHIC AREA, AS DEFINED BY THE CENTERS FOR MEDICARE AND MEDICAID SERVICES, FOR THE SAME COVERED SERVICE, TO SIMILARLY LICENSED PROVIDERS UNDER WRITTEN CONTRACT WITH THE HEALTH MAINTENANCE ORGANIZATION**~~; or

[B.**] 2.** **[**The rate as of January 1, 2001 that the health maintenance organization paid in the same geographic area, as published by the

Centers for Medicare and Medicaid Services, for the same covered service, to a similarly licensed provider~~] 140% OF THE RATE PAID BY MEDICARE, AS PUBLISHED BY THE CENTERS FOR MEDICARE AND MEDICAID SERVICES, FOR THE SAME COVERED SERVICE TO A SIMILARLY LICENSED PROVIDER IN THE SAME GEOGRAPHIC AREA AS OF AUGUST 1, 2008, INFLATED BY THE CHANGE IN THE MEDICARE ECONOMIC INDEX FROM 2008 TO THE CURRENT YEAR~~; and

[3.] **(III)** Any other health care provider**:**

1. FOR AN EVALUATION AND MANAGEMENT SERVICE, NO LESS THAN [at] the greater of:

A. [125% of the rate the health maintenance organization pays in the same geographic area, as published by the Centers for Medicare and Medicaid Services, for the same covered service, to a similarly licensed provider under written contract with the health maintenance organization] **125% OF THE AVERAGE RATE THE HEALTH MAINTENANCE ORGANIZATION PAID AS OF JANUARY 1 OF THE PREVIOUS CALENDAR YEAR IN THE SAME GEOGRAPHIC AREA, AS DEFINED BY THE CENTERS FOR MEDICARE AND MEDICAID SERVICES, FOR THE SAME COVERED SERVICE, TO SIMILARLY LICENSED PROVIDERS UNDER WRITTEN CONTRACT WITH THE HEALTH MAINTENANCE ORGANIZATION**; or

B. [The rate as of January 1, 2000 that the health maintenance organization paid in the same geographic area, as published by the Centers for Medicare and Medicaid Services, for the same covered service, to a similarly licensed provider not under written contract with the health maintenance organization.] **140% OF THE RATE PAID BY MEDICARE, AS PUBLISHED BY THE CENTERS FOR MEDICARE AND MEDICAID SERVICES, FOR THE SAME COVERED SERVICE TO A SIMILARLY LICENSED PROVIDER IN THE SAME GEOGRAPHIC AREA AS OF AUGUST 1, 2008, INFLATED BY THE CHANGE IN THE MEDICARE ECONOMIC INDEX FROM 2008 TO THE CURRENT YEAR; AND**

2. FOR A SERVICE THAT IS NOT AN EVALUATION AND MANAGEMENT SERVICE, NO LESS THAN 125% OF THE AVERAGE RATE THE HEALTH MAINTENANCE ORGANIZATION PAID AS OF JANUARY 1 OF THE PREVIOUS CALENDAR YEAR IN THE SAME GEOGRAPHIC AREA, AS DEFINED BY THE CENTERS FOR MEDICARE AND MEDICAID SERVICES, TO A SIMILARLY LICENSED PROVIDER UNDER WRITTEN CONTRACT WITH THE HEALTH MAINTENANCE ORGANIZATION FOR THE SAME COVERED SERVICE.

(C) FOR THE PURPOSES OF SUBSECTION (B)(2)(III) OF THIS SECTION, A HEALTH MAINTENANCE ORGANIZATION SHALL CALCULATE THE AVERAGE RATE PAID TO SIMILARLY LICENSED PROVIDERS UNDER WRITTEN CONTRACT WITH THE HEALTH MAINTENANCE ORGANIZATION FOR THE SAME COVERED SERVICE

BY SUMMING THE CONTRACTED RATE FOR ALL OCCURRENCES OF THE CURRENT PROCEDURAL TERMINOLOGY CODE FOR THAT SERVICE AND THEN DIVIDING BY THE TOTAL NUMBER OF OCCURRENCES OF THE CURRENT PROCEDURAL TERMINOLOGY CODE.

[(2)**]** ~~(C)~~ **(D)** A health maintenance organization shall disclose, on request of a health care provider not under written contract with the health maintenance organization, the reimbursement rate required under ~~paragraph [(1)(ii)2 and 3] (2)(II) AND (III) of this subsection~~ **SUBSECTION (B)(2)(II) AND (III) OF THIS SECTION**.

[(3) (i)**]**~~(D)~~ **(E) (1)** Subject to **[**subparagraph (ii) of this paragraph**]** **PARAGRAPH (2) OF THIS SUBSECTION**, a health maintenance organization may require a trauma physician not under contract with the health maintenance organization to submit appropriate adjunct claims documentation and to include on the uniform claim form a provider number assigned to the trauma physician by the health maintenance organization.

[(ii)**]** **(2)** If a health maintenance organization requires a trauma physician to include a provider number on the uniform claim form in accordance with **[**subparagraph (i) of this paragraph**]** **PARAGRAPH (1) OF THIS SUBSECTION**, the health maintenance organization shall assign a provider number to a trauma physician not under contract with the health maintenance organization at the request of the physician.

[(4)**]** **(3)** A trauma center, on request from a health maintenance organization, shall verify that a licensed physician is credentialed or otherwise designated by the trauma center to provide trauma care.

[(5)**]** **(4)** Notwithstanding the provisions of § 19–701(d) of this subtitle, for trauma care rendered to a trauma patient in a trauma center by a trauma physician, a health maintenance organization may not require a referral or preauthorization for a service to be covered.

[(c)**]** ~~(E)~~ **(F)** (1) A health maintenance organization may seek reimbursement from an enrollee for any payment under subsection (b) of this section for a claim or portion of a claim submitted by a health care provider and paid by the health maintenance organization that the health maintenance organization determines is the responsibility of the enrollee.

(2) The health maintenance organization may request and the health care provider shall provide adjunct claims documentation to assist in making the determination under paragraph (1) of this subsection or under subsection (b) of this section.

[(d)**]** ~~(F)~~ **(G)** (1) A health care provider may enforce the provisions of this section by filing a complaint against a health maintenance organization with the

Maryland Insurance Administration or by filing a civil action in a court of competent jurisdiction under § 1–501 or § 4–201 of the Courts Article.

(2) The Maryland Insurance Administration or a court shall award reasonable attorney fees if the complaint of the health care provider is sustained.

~~(G)~~ (H) **THE MARYLAND HEALTH CARE COMMISSION ANNUALLY SHALL REVIEW PAYMENTS TO HEALTH CARE PROVIDERS TO DETERMINE THE COMPLIANCE OF HEALTH MAINTENANCE ORGANIZATIONS WITH THE REQUIREMENTS OF THIS SECTION AND REPORT ITS FINDINGS TO THE MARYLAND INSURANCE ADMINISTRATION.**

~~(H)~~ (I) **THE MARYLAND INSURANCE ADMINISTRATION MAY TAKE ANY ACTION AUTHORIZED UNDER THIS SUBTITLE OR THE INSURANCE ARTICLE, INCLUDING CONDUCTING AN EXAMINATION UNDER TITLE 2, SUBTITLE 2 OF THE INSURANCE ARTICLE, TO INVESTIGATE AND ENFORCE A VIOLATION OF THE PROVISIONS OF THIS SECTION.**

[(e)] ~~(I)~~ (J) In addition to any other penalties under this subtitle, the Commissioner may impose a penalty not to exceed $5,000 on any health maintenance organization which violates the provisions of this section if the violation is committed with such frequency as to indicate a general business practice of the health maintenance organization.

~~(J)~~ (K) **THE MARYLAND INSURANCE ADMINISTRATION, IN CONSULTATION WITH THE MARYLAND HEALTH CARE COMMISSION, SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect January 1, 2010. It shall remain effective for a period of 5 years and, at the end of December 31, 2014, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 19, 2009.

Chapter 665

(House Bill 259)

AN ACT concerning

Environmental Health Monitoring and Testing – Reimbursement of Costs

FOR the purpose of ~~authorizing the Department of the Environment to factor in costs incurred by a county in conducting certain environmental health monitoring or testing related to a certain violation when assessing a certain penalty; requiring the Department to reimburse a county from the Maryland Clean Water Fund for certain costs incurred by the county in conducting environmental health monitoring or testing related to a certain violation; limiting reimbursement to certain circumstances and certain amounts; requiring the Department to use the Maryland Clean Water Fund for the reimbursement of counties for certain costs incurred in conducting certain environmental health monitoring or testing;~~ requiring certain persons to reimburse a county for certain costs that the county incurs in conducting environmental health monitoring or testing for a certain purpose *subject to a certain exception*; prohibiting the county from recovering the reimbursable costs under certain circumstances; authorizing the county to recover the reimbursable costs in a civil action; authorizing the Department of the Environment to recover the reimbursable costs on behalf of the county under certain circumstances; authorizing the Department to adopt certain regulations; requiring a person who discharges a pollutant into the waters of the State in violation of certain provisions of law to reimburse the Department for certain costs incurred by the Department in conducting environmental health monitoring or testing for a certain purpose; authorizing the Department to recover the reimbursable costs in a civil action; and generally relating to reimbursement of counties and the Department of the Environment for costs of conducting environmental health monitoring or testing.

BY adding to
Article – Environment
Section 1–304 and 9–342.2
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

~~BY repealing and reenacting, with amendments,~~
~~Article – Environment~~
~~Section 9–320~~
~~Annotated Code of Maryland~~
~~(2007 Replacement Volume and 2008 Supplement)~~

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

Article – Environment

1–304.

~~(A)~~ ~~**NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE DEPARTMENT MAY FACTOR IN ANY COSTS INCURRED BY A COUNTY IN CONDUCTING ENVIRONMENTAL HEALTH MONITORING OR TESTING RELATED TO**~~

~~A VIOLATION OF THIS ARTICLE WHEN ASSESSING A PENALTY AGAINST A PERSON FOR A VIOLATION OF THIS ARTICLE THAT OCCURS ON A PROPERTY THAT IS ISSUED A LICENSE OR PERMIT UNDER THIS ARTICLE.~~

~~(B) (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AND SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE DEPARTMENT SHALL REIMBURSE A COUNTY FROM THE MARYLAND CLEAN WATER FUND FOR COSTS INCURRED BY THE COUNTY IN CONDUCTING ENVIRONMENTAL HEALTH MONITORING OR TESTING RELATED TO A VIOLATION OF THIS ARTICLE THAT OCCURS ON A PROPERTY THAT IS ISSUED A LICENSE OR PERMIT UNDER THIS ARTICLE.~~

~~(2) A REIMBURSEMENT UNDER THIS SECTION:~~

~~(I) IS REQUIRED ONLY IF THE DEPARTMENT COLLECTS A FINE AS A RESULT OF THE VIOLATION; AND~~

~~(II) MAY NOT EXCEED THE AMOUNT OF THE FINE.~~

~~9–320.~~

~~(a) There is a Maryland Clean Water Fund.~~

~~(b) The following payments shall be made into the Maryland Clean Water Fund:~~

~~(1) All application fees, permit fees, renewal fees, and funds collected by the Department under this subtitle, including any civil or administrative penalty or any fine imposed by a court under the provisions of this subtitle; and~~

~~(2) Any civil penalty or any fine imposed by a court under the provisions of Title 5, Subtitle 5 of this article relating to water appropriation and use.~~

~~(c) The Department shall use the Maryland Clean Water Fund for activities that are related to:~~

~~(1) The identification, monitoring, and regulation of the proper discharge of effluent into the waters of the State including program development of these activities as provided by the State budget; [and]~~

~~(2) The management, conservation, protection, and preservation of the State's groundwater and surface water including program development of these activities as provided by the State budget; AND~~

~~(3) THE REIMBURSEMENT OF COUNTIES FOR COSTS INCURRED BY THE COUNTIES IN CONDUCTING ENVIRONMENTAL HEALTH MONITORING OR TESTING RELATED TO A VIOLATION OF THIS ARTICLE THAT OCCURS ON A PROPERTY THAT IS ISSUED A LICENSE OR PERMIT UNDER THIS ARTICLE.~~

~~(d) In determining the use of the Maryland Clean Water Fund, priority shall be given to activities relating to the water quality of the Chesapeake Bay and its tributaries.~~

~~(e) Notwithstanding any law to the contrary, unexpended moneys in the Fund shall not revert to the general treasury at the end of a fiscal year.~~

(A) *(1)* ~~THE~~ *EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE* FOLLOWING PERSONS SHALL REIMBURSE A COUNTY FOR THE REASONABLE COSTS INCURRED BY THE COUNTY IN CONDUCTING ENVIRONMENTAL HEALTH MONITORING OR TESTING, INCLUDING THE COST OF COLLECTING AND ANALYZING SOIL SAMPLES, SURFACE WATER SAMPLES, OR GROUNDWATER SAMPLES FOR THE PURPOSE OF ASSESSING THE EFFECT ON PUBLIC HEALTH AND THE ENVIRONMENT OF THE PERSON'S RELEASE ~~OR THREAT OF RELEASE~~ OF A HAZARDOUS SUBSTANCE, DISCHARGE OF OIL, OR DISCHARGE OF A POLLUTANT IN THE WATERS OF THE STATE:

~~(1)~~ *(I)* A RESPONSIBLE PERSON AS DEFINED UNDER TITLE 7, SUBTITLE 2 OF THIS ARTICLE;

~~(2)~~ *(II)* A PERSON RESPONSIBLE FOR THE DISCHARGE AS DEFINED UNDER TITLE 4, SUBTITLE 4 OF THIS ARTICLE; OR

~~(3)~~ *(III)* A PERSON RESPONSIBLE FOR THE DISCHARGE OF A POLLUTANT INTO THE WATERS OF THE STATE IN VIOLATION OF § 9–322 OR § 9–323 OF THIS ARTICLE.

(2) A PERSON MAY NOT BE REQUIRED TO REIMBURSE A COUNTY FOR COSTS UNDER PARAGRAPH (1) OF THIS SUBSECTION IF THE PERSON HAS ENTERED INTO A CONSENT ORDER WITH THE DEPARTMENT.

(B) COSTS INCURRED BY A COUNTY FOR ENVIRONMENTAL HEALTH MONITORING OR TESTING UNDER ACTIVITIES THAT ARE DUPLICATIVE OF STATE ACTIVITIES, *OR ARE NOT REASONABLY NECESSARY TO PROTECT HUMAN HEALTH OR THE ENVIRONMENT*, ARE NOT ELIGIBLE FOR REIMBURSEMENT UNDER SUBSECTION (A) OF THIS SECTION.

(C) A COUNTY MAY RECOVER COSTS THAT ARE REIMBURSABLE UNDER SUBSECTION (A) OF THIS SECTION IN A CIVIL ACTION.

(D) IF A COUNTY DETERMINES THAT IT WOULD BE MORE EFFICIENT TO COMBINE THE COUNTY'S CLAIM FOR REIMBURSEMENT UNDER SUBSECTION (A) OF THIS SECTION WITH A PENDING CLAIM BY THE DEPARTMENT, THE DEPARTMENT SHALL, ON REQUEST BY THE COUNTY, SEEK TO RECOVER REIMBURSABLE COSTS ON BEHALF OF THE COUNTY.

(E) THE DEPARTMENT MAY ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SECTION.

9–342.2.

(A) A PERSON WHO DISCHARGES A POLLUTANT INTO THE WATERS OF THE STATE IN VIOLATION OF § 9–322 OR § 9–323 OF THIS SUBTITLE SHALL REIMBURSE THE DEPARTMENT FOR THE REASONABLE COSTS INCURRED BY THE DEPARTMENT IN CONDUCTING ENVIRONMENTAL HEALTH MONITORING OR TESTING, INCLUDING THE COST OF COLLECTING AND ANALYZING SOIL SAMPLES, SURFACE WATER SAMPLES, OR GROUNDWATER SAMPLES FOR THE PURPOSE OF ASSESSING THE EFFECT ON PUBLIC HEALTH AND THE ENVIRONMENT OF THE PERSON'S DISCHARGE.

(B) THE DEPARTMENT MAY RECOVER COSTS THAT ARE REIMBURSABLE UNDER SUBSECTION (A) OF THIS SECTION IN A CIVIL ACTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 666

(House Bill 267)

AN ACT concerning

Family Law – Child Abduction by Relative

FOR the purpose of altering the elements of certain crimes involving the abducting, detaining, or harboring of a certain child by a relative to require a certain intent; altering certain penalties for certain crimes involving the abducting, detaining, or harboring of a certain child by a relative under certain circumstances; and generally relating to child abduction.

BY repealing and reenacting, with amendments,
Article – Family Law
Section 9–304, 9–305, and 9–307
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – Family Law

9–304.

If a child is under the age of 16 years, a relative who knows that another person is the lawful custodian of the child may not**, WITH THE INTENT TO DEPRIVE THE LAWFUL CUSTODIAN OF THE CUSTODY OF THE CHILD**:

(1) abduct, take, or carry away the child from the lawful custodian to a place within this State;

(2) having acquired lawful possession of the child, detain the child within this State for more than 48 hours after the lawful custodian demands that the child be returned;

(3) harbor or hide the child within this State, knowing that possession of the child was obtained by another relative in violation of this section; or

(4) act as an accessory to an act prohibited by this section.

9–305.

(a) If a child is under the age of 16 years, a relative who knows that another person is the lawful custodian of the child may not**, WITH THE INTENT TO DEPRIVE THE LAWFUL CUSTODIAN OF THE CUSTODY OF THE CHILD**:

(1) abduct, take, or carry away the child from the lawful custodian to a place in another state;

(2) having acquired lawful possession of the child, detain the child in another state for more than 48 hours after the lawful custodian demands that the child be returned;

(3) harbor or hide the child in another state knowing that possession of the child was obtained by another relative in violation of this section; or

(4) act as an accessory to an act prohibited by this section.

(b) If a child is under the age of 16 years, a relative who knows that another person is the lawful custodian of the child may not**, WITH THE INTENT TO DEPRIVE THE LAWFUL CUSTODIAN OF THE CUSTODY OF THE CHILD**:

(1) abduct, take, or carry away the child from the lawful custodian to a place that is outside of the United States or a territory of the United States or the District of Columbia or the Commonwealth of Puerto Rico;

(2) having acquired lawful possession of the child, detain the child in a place that is outside of the United States or a territory of the United States or the District of Columbia or the Commonwealth of Puerto Rico for more than 48 hours after the lawful custodian demands that the child be returned;

(3) harbor or hide the child in a place that is outside of the United States or a territory of the United States or the District of Columbia or the Commonwealth of Puerto Rico knowing that possession of the child was obtained by another relative in violation of this section; or

(4) act as an accessory to an act prohibited by this section.

9–307.

(a) A person who violates any provision of § 9–304 of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $250 or imprisonment not exceeding 30 days.

(b) If the child is out of the custody of the lawful custodian for not more than 30 days, a person who violates any provision of § 9–305(a) of this subtitle is guilty of a felony and on conviction is subject to a fine not exceeding **[**$250**] $1,000** or imprisonment not exceeding **[**30 days**] 1 YEAR**, or both.

(c) If the child is out of the custody of the lawful custodian for more than 30 days, a person who violates any provision of § 9–305(a) of this subtitle is guilty of a felony and on conviction is subject to a fine not exceeding **[**$1,000**] $2,500** or imprisonment not exceeding **[**1 year**] 3 YEARS**, or both.

(d) A person who violates any provision of § 9–305(b) of this subtitle is guilty of a felony and on conviction is subject to a fine not exceeding $5,000 or imprisonment not exceeding **[**3**] 5** years or both.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 667

(House Bill 348)

AN ACT concerning

Anne Arundel County – Board of Education – Student Member Scholarship

FOR the purpose of establishing a certain scholarship for the student member of the Anne Arundel County Board of Education who fulfills a certain requirement; providing that this Act does not apply to the incumbent student board member; and generally relating to the Anne Arundel County Board of Education.

BY repealing and reenacting, with amendments,
Article – Education
Section 3–110(g)
Annotated Code of Maryland
(2008 Replacement Volume)

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

Article – Education

3–110.

(g) **(1)** The President of the Anne Arundel County Board of Education is entitled to receive $8,000 annually as compensation and, except for the student member, the other board members are entitled to receive $6,000 each annually as compensation.

(2) A STUDENT MEMBER WHO COMPLETES A FULL TERM ON THE BOARD SHALL BE GRANTED A SCHOLARSHIP OF ~~$5,000~~ $6,000 TO BE APPLIED TOWARD THE STUDENT'S HIGHER EDUCATION COSTS.

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 current student member of the Anne Arundel County Board of Education in office on the effective date of this Act, but the provisions of this Act concerning a scholarship for the student member of the Anne Arundel County Board of Education 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 June 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 668

(House Bill 372)

AN ACT concerning

Charles County – Alcoholic Beverages Violations – Penalties

FOR the purpose of increasing certain penalties for alcoholic beverages violations in Charles County; providing that the Charles County Board of License Commissioners may impose both a fine and a license suspension for an alcoholic beverages violation; and generally relating to penalties for alcoholic beverages violations in Charles County.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 16–507(j)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,
Article – State Government
Section 10–1001
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

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

Article 2B – Alcoholic Beverages

16–507.

(j) (1) Notwithstanding any provision of this Code to the contrary, in Charles County, the Board of License Commissioners may impose a fine not to exceed **[**$1,000**] $2,500** or suspend an alcoholic beverage license **OR BOTH**, for any violation of the alcoholic beverage laws affecting Charles County. All moneys collected under this subsection shall be deposited into the general funds of the county.

(2) (i) In Charles County, if an alcoholic beverages licensee or an employee of an alcoholic beverages licensee sells alcoholic beverages to a person under 21 years of age, the Board of License Commissioners may:

1. For the first offense, suspend the license for not more than 3 days or impose a fine not to exceed **[**$500**] $750** or both; and

2. For each subsequent offense, impose a penalty as determined by the Board of License Commissioners.

(ii) In Charles County, if an employee of an alcoholic beverages licensee sells alcoholic beverages to a person under 21 years of age, the Board of License Commissioners may impose a fine on the employee not to exceed **[**$150**] $500** per offense.

(3) (i) In this paragraph the term "economic impact" includes, but is not limited to, the ratio between total sales of alcoholic beverages as compared with the total sales of the establishment before and during a license suspension.

(ii) When determining the number of days for a suspension of a license for a subsequent offense as provided for in this subsection, the Board shall consider the class of license and the economic impact the suspension will have on the business.

(4) (i) Except as provided in subparagraph (ii) of this paragraph, if a license is suspended for 4 days or less, then the suspension may not be on a Friday, Saturday, or Sunday.

(ii) If a license is suspended for 4 days or less and the licensed premises is only open on Friday, Saturday, or Sunday, or a combination of those days, then the suspension may be on a Friday, Saturday, or Sunday.

(5) A fine levied by the Charles County Board of License Commissioners under this subsection shall be levied in accordance with the provisions of § 10–1001 of the State Government Article.

Article – State Government

10–1001.

(a) In this section, "unit" means an officer or other entity in the Executive Branch.

(b) Unless otherwise provided by statute or regulation, a unit of State government authorized by law to impose a civil penalty up to a specific dollar amount for violation of any statute or regulation shall consider the following in setting the amount of the penalty:

(1) the severity of the violation for which the penalty is to be assessed;

(2) the good faith of the violator; and

(3) any history of prior violations.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 669

(House Bill 392)

AN ACT concerning

Baltimore County – ~~State Highways – Prohibition on Use for Solicitation~~
Roadside Solicitation of Money or Donations – Permit Program

FOR the purpose of ~~prohibiting, in Baltimore County, a person from standing in a roadway, median divider, or intersection to solicit money or donations from the occupant of a vehicle; providing that this Act applies only to State highways in Baltimore County; and generally relating to restrictions on the use of State highways for solicitation in Baltimore County~~ authorizing the County Council of Baltimore County or the governing body of a municipal corporation in Baltimore County to enact a permit program to allow a person to stand in a roadway, median divider, or intersection to solicit money or donations from the occupant of a vehicle; requiring an applicant for a permit to provide certain information to the county or municipal corporation within a certain period before the date on which the permit is to be effective; requiring the county or municipal corporation to make a certain examination and investigation to determine the truth of the statements made on a certain application; requiring the county or municipal corporation to deny the permit under certain circumstances; requiring a certain permit to contain certain information; requiring a certain permit to be signed by a certain individual; prohibiting the term of a certain permit from exceeding a certain period; limiting the number of certain permits that may be issued to the same person in a calendar year; requiring the county or municipal corporation to send a copy of a certain permit to the police department of the county or municipal corporation; requiring a certain person to display a certain permit in a certain manner while soliciting; and generally relating to a permit program for roadside solicitation of money or donations in Baltimore County.

~~BY repealing and reenacting, without amendments,~~
~~Article – Transportation~~
~~Section 21–507(a) and (b)~~
~~Annotated Code of Maryland~~

~~(2006 Replacement Volume and 2008 Supplement)~~

BY repealing and reenacting, with amendments,
Article – Transportation
Section ~~21–507(c)~~ 21–507
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – Transportation

21–507.

(a) Except for the occupant of a disabled vehicle who seeks the aid of another vehicle, a person may not stand in a roadway to solicit a ride, employment, or business from the occupant of any vehicle.

(b) A person may not stand on or near a highway to solicit any other person to watch or guard any vehicle while it is parked or about to be parked on a highway.

(c) ~~(1)~~ In ~~**BALTIMORE COUNTY,**~~ Carroll County, Charles County, Frederick County, Harford County, and Washington County, a person may not stand in a roadway, median divider, or intersection to solicit money or donations of any kind from the occupant of a vehicle.

~~(2) IN BALTIMORE COUNTY, THIS SUBSECTION APPLIES ONLY TO STATE HIGHWAYS.~~

(d) (1) This subsection applies to Prince George's County.

(2) (i) A person may not stand in a highway to solicit money or donations of any kind from the occupant of a vehicle.

(ii) An adult may not cause, encourage, allow, or petition a child under the age of 15 years to violate subparagraph (i) of this paragraph.

(iii) In this paragraph, "highway" includes:

1. Rights–of–way, roadway surfaces, roadway subgrades, shoulders, median dividers, drainage facilities and structures, related stormwater management facilities and structures, roadway cuts, roadway fills, guardrails, bridges, highway grade separation structures, railroad grade separations, tunnels, overpasses, underpasses, interchanges, entrance plazas, approaches, and other structures forming an integral part of a street, road, or highway, including bicycle and walking paths; and

2. Any other property acquired for the construction, operation, or use of the highway.

(3) A child under the age of 15 years may not be found guilty or adjudicated delinquent for a violation of paragraph (2)(i) of this subsection if an adult caused, encouraged, allowed, or petitioned the child in violation of paragraph (2)(ii) of this subsection.

(4) This subsection shall be enforced:

(i) By the issuance of a warning that informs the offender of the requirements of this subsection if it is the offender's first violation; and

(ii) Under § 27–101 of this article if it is the offender's second or subsequent violation.

(e) (1) This subsection applies to Anne Arundel County.

(2) (i) A person may not stand in a highway to:

1. Solicit money or donations of any kind from the occupant of a vehicle; or

2. Advertise any message.

(ii) "Highway" includes:

1. Rights–of–way, roadway surfaces, roadway subgrades, shoulders, median dividers, drainage facilities and structures, related stormwater management facilities and structures, roadway cuts, roadway fills, guardrails, bridges, highway grade separation structures, railroad grade separations, tunnels, overpasses, underpasses, interchanges, entrance plazas, approaches, and other structures forming an integral part of a street, road, or highway, including bicycle and walking paths; and

2. Any other property acquired for the construction, operation, or use of the highway.

(f) (1) This subsection applies only to Cecil County.

(2) In this subsection, "qualified organization" means a fire company or bona fide religious, fraternal, civic, war veterans', or charitable organization.

(3) Except as provided in paragraph (4) of this subsection, in Cecil County a person may not:

(i) Stand in a roadway, median divider, or intersection to solicit money or donations of any kind from the occupant of a vehicle; or

(ii) Cause, encourage, allow, or petition another to stand in a roadway, median divider, or intersection to solicit money or donations of any kind from the occupant of a vehicle.

(4) (i) The County Commissioners of Cecil County or the governing body of a municipal corporation in Cecil County may, by appropriate resolution or ordinance, enact a permit program to allow individuals who are at least 18 years old and representatives of qualified organizations who are at least 18 years old to solicit money or donations from the occupant of a vehicle by standing in a roadway, median divider, or intersection.

(ii) If the County Commissioners or the governing body of a municipal corporation in the county enact a resolution or ordinance establishing a permit program authorized by this paragraph, the resolution or ordinance shall:

1. Require an applicant for a permit to submit proof that the individual or qualified organization has a plan for safely soliciting money or donations from the proposed location;

2. Provide that a permit is effective for a period of 1 calendar day; and

3. Allow an individual or a qualified organization to obtain only one permit per calendar year.

(g) (1) In Montgomery County, a child under the age of 18 years may not stand in a roadway, median divider, or intersection to solicit money or donations of any kind from the occupant of a vehicle.

(2) This subsection shall be enforced by the issuance of a warning that informs the offender of the requirements of this subsection.

(H) (1) THE COUNTY COUNCIL OF BALTIMORE COUNTY OR THE GOVERNING BODY OF A MUNICIPAL CORPORATION IN BALTIMORE COUNTY, BY APPROPRIATE RESOLUTION OR ORDINANCE, MAY ENACT A PERMIT PROGRAM TO ALLOW A PERSON TO STAND IN A ROADWAY, MEDIAN DIVIDER, OR INTERSECTION TO SOLICIT MONEY OR DONATIONS FROM THE OCCUPANT OF A VEHICLE.

(2) AT LEAST 15 DAYS BEFORE THE DATE ON WHICH THE PERMIT APPLIED FOR IS TO BE EFFECTIVE, AN APPLICANT SHALL FILE WITH THE COUNTY OR MUNICIPAL CORPORATION AN APPLICATION THAT CONTAINS THE FOLLOWING INFORMATION:

(I) THE NAME, ADDRESS, AND AGE OF EACH PERSON WHO WILL SOLICIT;

(II) THE NAME AND ADDRESS OF THE EMPLOYING OR SPONSORING PERSON, AGENCY, OR ENTITY;

(III) THE EXACT LOCATION WHERE EACH SOLICITOR WILL BE ASSIGNED;

(IV) THE PURPOSE OF THE SOLICITATION;

(V) THE TIME FRAME AND DURATION OF THE SOLICITATION;

(VI) THE MEANS OF TRAVEL TO AND FROM THE PLACE OF SOLICITATION; AND

(VII) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF A CONTACT PERSON WHO WILL BE ABLE TO PROVIDE ADDITIONAL INFORMATION TO THE COUNTY OR MUNICIPAL CORPORATION OR ITS DESIGNEE.

(3) THE COUNTY OR MUNICIPAL CORPORATION SHALL EXAMINE EACH APPLICATION AND MAKE ANY FURTHER INVESTIGATION AS DEEMED NECESSARY IN ORDER TO DETERMINE THE TRUTH OF THE STATEMENTS MADE ON THE APPLICATION.

(4) THE COUNTY OR MUNICIPAL CORPORATION SHALL DENY THE PERMIT IF IT DETERMINES THAT:

(I) ANY STATEMENT MADE ON THE APPLICATION IS UNTRUE; OR

(II) THE LOCATION OR METHOD OF THE SOLICITATION OR ITS DURATION ARE SUCH THAT IT WILL BE HARMFUL TO THE HEALTH, SAFETY, CONVENIENCE, OR WELFARE OF THE GENERAL PUBLIC.

(5) A PERMIT ISSUED UNDER THIS SUBSECTION SHALL CONTAIN:

(I) THE NAME AND ADDRESS OF THE PERSON MAKING THE SOLICITATION;

(II) THE DATE AND TIME AT WHICH THE PERSON MAY SOLICIT; AND

(III) A STATEMENT THAT THE PERMIT DOES NOT CONSTITUTE AN ENDORSEMENT BY THE COUNTY OR MUNICIPAL CORPORATION OF THE SOLICITATION OR THE PERSON CONDUCTING THE SOLICITATION.

(6) A PERMIT SHALL BE SIGNED BY THE APPROPRIATE COUNTY OR MUNICIPAL OFFICER.

(7) THE TERM OF A PERMIT MAY NOT EXCEED 24 HOURS.

(8) NO MORE THAN 12 PERMITS MAY BE ISSUED TO THE SAME PERSON IN A CALENDAR YEAR.

(9) THE COUNTY OR MUNICIPAL CORPORATION SHALL SEND A COPY OF EACH PERMIT ISSUED BY THE COUNTY OR MUNICIPAL CORPORATION TO THE POLICE DEPARTMENT OF THE COUNTY OR MUNICIPAL CORPORATION.

(10) A PERSON TO WHOM A PERMIT IS ISSUED SHALL CONSPICUOUSLY DISPLAY THE PERMIT WHILE SOLICITING.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 670

(House Bill 405)

AN ACT concerning

Health Insurance – Mandated Benefits – Breast Cancer Screening

FOR the purpose of requiring certain insurers, nonprofit health service plans, and health maintenance organizations~~, and the State Employee and Retiree Health and Welfare Benefits Program~~ to provide coverage for breast cancer screening in accordance with certain guidelines; repealing certain requirements for coverage of certain mammograms by certain insurance policies and nonprofit health service plans; repealing a certain definition; making certain requirements applicable to health maintenance organizations; making certain conforming changes; providing for the applicability of this Act; and generally relating to health insurance coverage for breast cancer screening.

BY repealing and reenacting, with amendments,
Article – Insurance

Section 15–814
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

~~BY repealing and reenacting, with amendments,~~
~~Article – State Personnel and Pensions~~
~~Section 2–502 and 2–503(b)~~
~~Annotated Code of Maryland~~
~~(2004 Replacement Volume and 2008 Supplement)~~

~~BY repealing and reenacting, without amendments,~~
~~Article – State Personnel and Pensions~~
~~Section 2–503(a)~~
~~Annotated Code of Maryland~~
~~(2004 Replacement Volume and 2008 Supplement)~~

BY adding to
Article – Health – General
Section 19–706(ttt)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

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

Article – Insurance

15–814.

(a) **[**In this section, "mammogram" means an x–ray examination of the breast using dedicated equipment, including an x–ray tube, filter, compression device, screens, films, and cassettes, specifically for mammography that delivers an average radiation exposure of less than one rad mid–breast with two views for each breast.

(b)**]** This section applies to **[**each individual hospital or major medical insurance policy, group or blanket health insurance policy, and nonprofit health service plan that is delivered or issued for delivery in the State and is written on an expense–incurred basis**]:**

(1) INSURERS AND NONPROFIT HEALTH SERVICE PLANS THAT PROVIDE HOSPITAL, MEDICAL, OR SURGICAL BENEFITS TO INDIVIDUALS OR GROUPS ON AN EXPENSE–INCURRED BASIS UNDER HEALTH INSURANCE POLICIES OR CONTRACTS THAT ARE ISSUED OR DELIVERED IN THE STATE; AND

(2) HEALTH MAINTENANCE ORGANIZATIONS THAT PROVIDE HOSPITAL, MEDICAL, OR SURGICAL BENEFITS TO INDIVIDUALS OR GROUPS UNDER CONTRACTS THAT ARE ISSUED OR DELIVERED IN THE STATE.

[(c)**] (B)** **[**A policy or plan**] AN ENTITY** subject to this section shall provide coverage for**[**:

(1) a baseline mammogram for women who are 35 to 39 years old;

(2) a mammogram every 2 years, or more frequently if recommended by a physician, for women who are 40 to 49 years old; and

(3) an annual mammogram for women who are at least 50 years old**] BREAST CANCER SCREENING IN ACCORDANCE WITH THE LATEST SCREENING GUIDELINES ISSUED BY THE AMERICAN CANCER SOCIETY**.

[(d)**] (C)** **[**A policy or plan**] AN ENTITY** subject to this section is not required to cover **[**screening mammograms**] BREAST CANCER SCREENINGS** used to identify breast cancer in asymptomatic women that are provided by a facility that is not accredited by the American College of Radiology or certified or licensed under a program established by the State.

[(e)**] (D)** (1) **[**A policy or plan**] AN ENTITY** subject to this section may not impose a deductible on the coverage required under this section.

(2) Each health insurance policy and certificate **ISSUED BY AN ENTITY SUBJECT TO THIS SECTION** shall contain a notice of the prohibition established by paragraph (1) of this subsection in a form approved by the Commissioner.

~~**Article – State Personnel and Pensions**~~

~~2–502.~~

~~(a) There is a State Employee and Retiree Health and Welfare Benefits Program, to be developed and administered by the Secretary.~~

~~(b) (1) The Program:~~

~~(i) subject to the regulations adopted under § 2–503 of this subtitle, shall encompass all units in the Executive, Judicial, and Legislative branches of State government, including any unit with an independent personnel system;~~

~~(ii) **SUBJECT TO SUBSECTION (C) OF THIS SECTION,** shall include the health insurance benefit options established by the Secretary; and~~

~~(iii) except as provided in paragraph (2) of this subsection, may include any other benefit option that the Secretary considers appropriate.~~

~~(2) The Program may not contain any of the benefits provided under Division II or Title 35 or Title 37 of this article.~~

~~(C) **THE PROGRAM SHALL PROVIDE COVERAGE FOR BREAST CANCER SCREENING IN ACCORDANCE WITH THE LATEST SCREENING GUIDELINES ISSUED BY THE AMERICAN CANCER SOCIETY.**~~

~~2–503.~~

~~(a) The Secretary shall:~~

~~(1) adopt regulations for the administration of the Program;~~

~~(2) ensure that the Program complies with all federal and State laws governing employee benefit plans; and~~

~~(3) each year, recommend to the Governor the State share of the costs of the Program.~~

~~(b) [The] **EXCEPT AS OTHERWISE PROVIDED BY LAW, THE** Secretary may arrange as the Secretary considers appropriate any benefit option for inclusion in the Program.~~

Article – Health – General

19–706.

(TTT) THE PROVISIONS OF § 15–814 OF THE INSURANCE ARTICLE APPLY TO HEALTH MAINTENANCE ORGANIZATIONS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or after October 1, 2009.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 671

(House Bill 419)

AN ACT concerning

~~Maryland Health and Wellness Commission –~~ Wellness Report Card Pilot Program

FOR the purpose of ~~establishing the Maryland Health and Wellness Commission in the Department of Health and Mental Hygiene; providing for the purpose of the Commission; providing for the membership, staffing, and duties of the Commission; requiring the Governor to designate the chair of the Commission;~~ establishing the Wellness Report Card Pilot Program; providing for the purpose of the Pilot Program; requiring the Department *of Health and Mental Hygiene* to designate the entity to establish a certain health report card; requiring the Wellness Report Card to include a certain evaluation; *requiring the University of Maryland School of Health, using existing staff, to conduct certain activities related to the Pilot Program;* providing for the termination of this Act; providing that the Pilot Program shall be funded by private or federal grants; defining ~~certain terms~~ *a certain term*; and generally relating to the ~~Maryland Health and Wellness Commission and the~~ Wellness Report Card Pilot Program.

BY adding to
Article – Health – General
Section 13–2801 through ~~13–2807~~ *13–2804* to be under the new subtitle "Subtitle 28. ~~Maryland Health and Wellness Commission~~ *Wellness Report Card Pilot Program*"
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

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

Article – Health – General

SUBTITLE 28. ~~MARYLAND HEALTH AND WELLNESS COMMISSION~~ *WELLNESS REPORT CARD PILOT PROGRAM*.

13–2801.

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

~~(B) "COMMISSION" MEANS THE MARYLAND HEALTH AND WELLNESS COMMISSION.~~

~~(C)~~ , "PILOT PROGRAM" MEANS THE WELLNESS REPORT CARD PILOT PROGRAM.

13–2802.

~~THERE IS A MARYLAND HEALTH AND WELLNESS COMMISSION IN THE DEPARTMENT.~~

~~13–2803.~~

~~THE PURPOSE OF THE COMMISSION IS TO:~~

~~(1) FACILITATE COLLABORATIVE EFFORTS FOR HEALTH PROMOTION AND DISEASE PREVENTION IN COUNTIES IN THE STATE; AND~~

~~(2) PROMOTE THE SOCIAL AND ECONOMIC WELL–BEING OF RESIDENTS OF THE STATE THROUGH HEALTHY LIVING.~~

~~13–2804.~~

~~(A) THE COMMISSION SHALL CONSIST OF THE FOLLOWING MEMBERS APPOINTED BY THE GOVERNOR:~~

~~(1) A REPRESENTATIVE OF THE DEPARTMENT;~~

~~(2) TWO REPRESENTATIVES OF LOCAL HEALTH DEPARTMENTS;~~

~~(3) A REPRESENTATIVE OF THE UNIVERSITY OF MARYLAND SCHOOL OF PUBLIC HEALTH;~~

~~(4) A REPRESENTATIVE OF THE JOHNS HOPKINS BLOOMBERG SCHOOL OF PUBLIC HEALTH;~~

~~(4)~~ (5) ~~A REPRESENTATIVE OF AN INSTITUTION OF HIGHER EDUCATION;~~

~~(5)~~ (6) ~~A REPRESENTATIVE OF A PUBLIC SCHOOL;~~

~~(6)~~ (7) ~~TWO REPRESENTATIVES OF THE BUSINESS COMMUNITY;~~

~~(7)~~ (8) ~~TWO REPRESENTATIVES OF COMMUNITY HEALTH AND SOCIAL SERVICE ORGANIZATIONS; AND~~

~~(8)~~ (9) ~~TWO REPRESENTATIVES OF PUBLIC OR PRIVATE HEALTH CARE FOUNDATIONS.~~

~~(B) THE GOVERNOR SHALL DESIGNATE THE CHAIR OF THE COMMISSION.~~

~~(C) THE UNIVERSITY OF MARYLAND SCHOOL OF PUBLIC HEALTH SHALL PROVIDE STAFF FOR THE COMMISSION USING EXISTING STAFF.~~

~~13–2805.~~

~~THE COMMISSION SHALL:~~

~~(1) PROVIDE A FORUM FOR STAKEHOLDERS TO ENGAGE IN ACTIVE COLLABORATION TO ENHANCE THE HEALTH AND WELL–BEING OF THE RESIDENTS OF THE FIVE COUNTIES INVOLVED IN THE PILOT PROGRAM DEVELOPED UNDER § 13–2806 OF THIS SUBTITLE;~~

~~(2) ANALYZE THE RESULTS OF THE WELLNESS REPORT CARD DEVELOPED UNDER § 13–2806 OF THIS SUBTITLE AND DEVELOP A STRATEGIC PLAN TO DEVELOP SOLUTIONS TO THE WELLNESS ISSUES IDENTIFIED IN THE WELLNESS REPORT CARD;~~

~~(3) ENSURE EFFECTIVE IMPLEMENTATION OF PROGRAMS FOR PRIORITY HEALTH PROMOTION AND DISEASE PREVENTION ISSUES AS DEFINED BY THE WELLNESS REPORT CARD DEVELOPED UNDER § 13–2806 OF THIS SUBTITLE AND EVALUATE THE PROGRAMS THAT ARE IMPLEMENTED; AND~~

~~(4) SERVE AS A MODEL FOR OTHER STATES AND COUNTIES.~~

~~13–2806.~~

(A) THERE IS A WELLNESS REPORT CARD PILOT PROGRAM ~~IN MONTGOMERY COUNTY, PRINCE GEORGE'S COUNTY, ANNE ARUNDEL COUNTY, SOMERSET COUNTY, AND GARRETT COUNTY~~.

(B) THE PURPOSE OF THE PILOT PROGRAM IS TO:

(1) IDENTIFY KEY WELLNESS AND PREVENTION ISSUES IN THE COUNTIES INVOLVED IN THE PILOT PROGRAM ~~TO BE RESOLVED BY THE COMMISSION~~; AND

(2) PROVIDE A COMPREHENSIVE REPORT COMPARING CERTAIN COUNTIES IN THE STATE TO EACH OTHER AND IDENTIFYING THE MOST

IMPORTANT WELLNESS ISSUES THAT NEED TO BE ADDRESSED TO PROMOTE WELLNESS AND DISEASE PREVENTION.

(C) THE DEPARTMENT SHALL DESIGNATE THE ENTITY TO ESTABLISH THE WELLNESS REPORT CARD REQUIRED BY THE PILOT PROGRAM.

(D) THE ENTITY DESIGNATED TO ESTABLISH THE WELLNESS REPORT CARD SHALL DETERMINE WHICH COUNTIES IN THE STATE WILL BE INVOLVED IN THE PILOT PROGRAM.

~~(D)~~ *(E)* THE WELLNESS REPORT CARD SHALL EVALUATE THE HEALTH STATUS OF EACH COUNTY IN THE PILOT PROGRAM BY RANKING THE COUNTY WITHIN SPECIFIED HEALTH INDICATOR CATEGORIES AND COMPARING EACH COUNTY TO THE STATE AND TO COMPARABLE COUNTIES IN THE UNITED STATES.

~~13–2807.~~ 13–2803.

THE PILOT PROGRAM ESTABLISHED UNDER THIS SUBTITLE SHALL BE FUNDED BY PRIVATE OR FEDERAL GRANTS.

13–2804.

THE UNIVERSITY OF MARYLAND SCHOOL OF PUBLIC HEALTH, USING EXISTING STAFF, SHALL:

(1) PROVIDE A FORUM FOR STAKEHOLDERS TO ENGAGE IN ACTIVE COLLABORATION TO ENHANCE THE HEALTH AND WELL–BEING OF THE RESIDENTS OF THE COUNTIES INVOLVED IN THE PILOT PROGRAM ESTABLISHED UNDER § 13–2802 OF THIS SUBTITLE;

(2) ANALYZE THE RESULTS OF THE WELLNESS REPORT CARD DEVELOPED UNDER § 13–2802 OF THIS SUBTITLE AND DEVELOP A STRATEGIC PLAN TO DEVELOP SOLUTIONS TO THE WELLNESS ISSUES IDENTIFIED IN THE WELLNESS REPORT CARD; AND

(3) ENSURE EFFECTIVE IMPLEMENTATION OF PROGRAMS FOR PRIORITY HEALTH PROMOTION AND DISEASE PREVENTION ISSUES AS DEFINED BY THE WELLNESS REPORT CARD DEVELOPED UNDER § 13–2802 OF THIS SUBTITLE AND EVALUATE THE PROGRAMS THAT ARE IMPLEMENTED.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009. It shall remain effective for a period of 5 years and, at the end of

September 30, 2014, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 19, 2009.

Chapter 672

(House Bill 422)

AN ACT concerning

Family Law – Child Custody and Visitation – Military Duty

FOR the purpose of requiring ~~that, in a child custody or visitation proceeding involving a parent who is on certain active military duty,~~ that any order or modification of an existing child custody or visitation order issued by ~~the~~ a court during ~~certain active military duty of the~~ a certain deployment of a parent specifically reference certain information; requiring a parent, under certain circumstances, to specifically reference certain information in a certain petition for child custody or visitation; requiring the court, if a certain petition is filed within a certain time period after the end of ~~certain active military duty, to hear and rule~~ a certain deployment, to set a hearing on the petition on an expedited basis; authorizing the court, under extenuating circumstances, to ~~hear and rule~~ set a hearing on a certain petition on an expedited basis whenever the petition is filed; ~~establishing that the end of certain active military duty of a parent constitutes a material change of circumstances that affects the welfare of the child for purposes of modifying a child custody order~~ requiring any custody or visitation order issued based on a certain deployment of a parent to contain certain provisions; defining the term "deployment"; and generally relating to active military duty and child custody or visitation orders.

BY adding to
Article – Family Law
Section 9–107
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – Family Law

9–107.

(A) IN THIS SECTION:

(1) "DEPLOYMENT" MEANS COMPLIANCE WITH MILITARY ORDERS RECEIVED BY A MEMBER OF THE UNITED STATES ARMY, NAVY, AIR FORCE, MARINE CORPS, COAST GUARD, NATIONAL GUARD, OR ANY OTHER RESERVE COMPONENT TO REPORT FOR COMBAT OPERATIONS OR OTHER ACTIVE SERVICE FOR WHICH THE MEMBER IS REQUIRED TO REPORT UNACCOMPANIED BY ANY FAMILY MEMBER OR THAT IS CLASSIFIED BY THE MEMBER'S BRANCH AS REMOTE; AND

(2) "DEPLOYMENT" DOES NOT INCLUDE NATIONAL GUARD OR RESERVE ANNUAL TRAINING, INACTIVE DUTY DAYS, OR DRILL WEEKENDS.

~~(A)~~ (B) ~~IN A CHILD CUSTODY OR VISITATION PROCEEDING INVOLVING A PARENT WHO IS ON ACTIVE DUTY AS A MEMBER OF THE UNITED STATES ARMED FORCES DEPLOYED OUTSIDE THE UNITED STATES OR ON FEDERAL ACTIVE DUTY AS A MEMBER OF A STATE NATIONAL GUARD OR RESERVE FORCE, ANY~~ ANY ORDER OR MODIFICATION OF AN EXISTING CHILD CUSTODY OR VISITATION ORDER ISSUED BY ~~THE~~ A COURT DURING ~~THE~~ A TERM OF ~~THE~~ A DEPLOYMENT ~~OR FEDERAL ACTIVE DUTY~~ OF ~~THE~~ A PARENT SHALL SPECIFICALLY REFERENCE THE DEPLOYMENT ~~OR FEDERAL ACTIVE DUTY STATUS~~ OF THE PARENT.

~~(B)~~ (C) (1) A PARENT WHO PETITIONS THE COURT FOR AN ORDER OR MODIFICATION OF AN EXISTING CHILD CUSTODY OR VISITATION ORDER AFTER RETURNING FROM A DEPLOYMENT ~~OR FEDERAL ACTIVE DUTY~~ SHALL SPECIFICALLY REFERENCE THE DATE OF THE END OF THE DEPLOYMENT ~~OR FEDERAL ACTIVE DUTY STATUS~~ IN THE PETITION.

(2) (I) IF THE PETITION UNDER PARAGRAPH (1) OF THIS SUBSECTION IS FILED WITHIN 30 DAYS AFTER THE END OF THE DEPLOYMENT ~~OR FEDERAL ACTIVE DUTY~~ OF THE PARENT, THE COURT SHALL ~~HEAR AND RULE~~ SET A HEARING ON THE PETITION ON AN EXPEDITED BASIS.

(II) IF THE COURT FINDS THAT EXTENUATING CIRCUMSTANCES PROHIBITED THE FILING OF THE PETITION WITHIN 30 DAYS AFTER THE END OF THE DEPLOYMENT ~~OR FEDERAL ACTIVE DUTY~~ OF THE PARENT, THE COURT MAY ~~HEAR AND RULE~~ SET A HEARING ON THE PETITION ON AN EXPEDITED BASIS WHENEVER THE PETITION IS FILED.

~~(C) THE END OF A DEPLOYMENT OR FEDERAL ACTIVE DUTY OF A PARENT CONSTITUTES A MATERIAL CHANGE OF CIRCUMSTANCE THAT AFFECTS THE WELFARE OF THE CHILD FOR PURPOSES OF MODIFYING A CHILD CUSTODY ORDER.~~

(D) ANY CUSTODY OR VISITATION ORDER ISSUED BASED ON THE DEPLOYMENT OF A PARENT SHALL REQUIRE THAT:

(1) THE OTHER PARENT REASONABLY ACCOMMODATE THE LEAVE SCHEDULE OF THE PARENT WHO IS SUBJECT TO THE DEPLOYMENT;

(2) THE OTHER PARENT FACILITATE OPPORTUNITIES FOR TELEPHONE AND ELECTRONIC MAIL CONTACT BETWEEN THE PARENT WHO IS SUBJECT TO THE DEPLOYMENT AND THE CHILD DURING THE PERIOD OF DEPLOYMENT; AND

(3) THE PARENT WHO IS SUBJECT TO THE DEPLOYMENT PROVIDE TIMELY INFORMATION REGARDING THE PARENT'S LEAVE SCHEDULE TO THE OTHER PARENT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 673

(House Bill 442)

AN ACT concerning

Charles County – Alcoholic Beverages Licensees – Administrative Proceedings

FOR the purpose of adding Charles County to the list of counties in which the granting of probation before judgment to an alcoholic beverages licensee for selling or furnishing alcoholic beverages to an underage individual does not bar the Board of License Commissioners from proceeding administratively against the licensee for the violation; and generally relating to alcoholic beverages licensees in Charles County.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 12–108(a)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Article 2B – Alcoholic Beverages
Section 12–108(f)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

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

Article 2B – Alcoholic Beverages

12–108.

(a) (1) A licensee licensed under this article, or any employee of the licensee, may not sell or furnish any alcoholic beverages at any time:

(i) To a person under 21 years of age for the underage person's own use or for the use of any other person; or

(ii) To any person who, at the time of the sale, or delivery, is visibly under the influence of any alcoholic beverage.

(2) Any licensee or any employee of the licensee who is charged with a violation of this subsection shall receive a summons to appear in court on a certain day to answer the charges placed against that person. The person charged may not be required to post bail bond pending trial in any court of this State.

(3) (i) A licensee or employee of the licensee violating any of the provisions of this subsection is guilty of a misdemeanor and, upon conviction, suffers the penalties provided by § 16–503 of this article.

(ii) A licensee or employee of the licensee who is charged with selling or furnishing any alcoholic beverages to a person under 21 years of age may not be found guilty of a violation of this subsection, if the person establishes to the satisfaction of the jury or the court sitting as a jury that the person used due caution to establish that the person under 21 years of age was not, in fact, a person under 21 years of age if a nonresident of the State.

(iii) The licensee or employee of the licensee may accept, as proof of a person's age:

1. If the person is a resident of the State, the person's driver's license or identification card as provided for in the Maryland Vehicle Law; or

2. A United States military identification card.

(iv) Except as otherwise provided in this section, if any licensee or employee of the licensee is found not guilty, or placed on probation without a

verdict, of any alleged violation of this subsection, this finding operates as a complete bar to any proceeding by any alcoholic beverage law enforcement or licensing authorities against the licensee on account of the alleged violation.

(f) (1) This subsection applies in the following jurisdictions:

(i) Cecil County;

(ii) **CHARLES COUNTY;**

(III) Dorchester County;

[(iii)**] (IV)** Garrett County;

[(iv)**] (V)** Howard County;

[(v)**] (VI)** Kent County;

[(vi)**] (VII)** Montgomery County;

[(vii)**] (VIII)** St. Mary's County;

[(viii)**] (IX)** Washington County; and

[(ix)**] (X)** Wicomico County.

(2) The granting of probation before judgment to a licensee or employee of the licensee for violating subsection (a) of this section does not bar the Board of License Commissioners from proceeding administratively against the licensee for the violation.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 674

(House Bill 446)

AN ACT concerning

State Retirement and Pension System – Board of Trustees – Attendance and Educational Training

FOR the purpose of providing additional exceptions for excused absences from certain meetings for members of the Board of Trustees of the State Retirement and Pension System; ~~altering the limitation on the location where the Board of Trustees may meet for certain training; removing certain limitations regarding certain entities who may conduct certain training for the Board of Trustees~~ requiring certain trustees on the Board of Trustees of the State Retirement and Pension System to ~~use certain leave~~ *be on work time* when attending certain meetings of the Board of Trustees; requiring the Chairman of the Board of Trustees to approve certain training to satisfy a certain requirement; requiring the State Retirement Agency to submit certain reports on or before a certain date to the Joint Committee on Pensions; and generally relating to trustee attendance and educational training for members of the Board of Trustees.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 21–104(e) and 21–108(a)
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

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

Article – State Personnel and Pensions

21–104.

(e) (1) Except as provided in paragraph (2) of this subsection, each trustee shall attend at least 80% of the monthly Board of Trustees meetings held during a 1–year period beginning January 1.

(2) (i) A trustee may be granted an excused absence by the chairman of the Board or another officer of the Board due **[**to illness or family emergencies**] TO:**

1. ILLNESS;

2. FAMILY EMERGENCIES;

3. JURY DUTY; OR

4. ATTENDANCE AT INVESTMENT OR FIDUCIARY TRAINING.

(ii) An excused absence under this paragraph may not be considered an absence for the purposes of paragraph (1) of this subsection.

(3) (i) Any elected or Governor–appointed trustee that fails to attend at least 80% of the meetings, not including excused absences under paragraph (2) of this subsection, shall be removed from the Board of Trustees by the Governor.

(ii) The Governor shall fill the vacancy for the office of the trustee for the unexpired term in the same manner as the office was previously filled.

(iii) The State Retirement Agency shall submit a trustee attendance report to the Department of Legislative Services by June 30 and December 31 of each year.

(4) AN ELECTED TRUSTEE REPRESENTING EMPLOYEES OF ANY OF THE SEVERAL SYSTEMS SHALL BE ~~ON ADMINISTRATIVE LEAVE WHEN THE ELECTED TRUSTEE ATTENDS A MONTHLY MEETING OF THE BOARD OF TRUSTEES OR A COMMITTEE MEETING~~ *GIVEN REASONABLE TIME DURING WORK TO ATTEND MONTHLY MEETINGS OF THE BOARD OF TRUSTEES OR COMMITTEE MEETINGS* OF THE BOARD OF TRUSTEES.

21–108.

(a) (1) The responsibility for the management, general administration, and proper operation of the several systems is vested in the Board of Trustees.

(2) The Board of Trustees is not responsible for:

(i) reviewing the benefit structures for any of the several systems, except for the purpose of making technical corrections; or

(ii) considering benefit enhancements for any of the several systems.

(3) (i) Each trustee on the Board of Trustees is required to complete at least 8 hours of investment and fiduciary training, including training on fiduciary conduct and board governance, during a 1–year period beginning January 1.

(ii) The training shall be ~~conducted at a facility located [in the State by an entity not affiliated with any of the external investment managers for the several systems] WITHIN THE CONTINENTAL UNITED STATES~~ **APPROVED BY THE CHAIRMAN OF THE BOARD OF TRUSTEES TO SATISFY THE 8–HOUR REQUIREMENT UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH**.

~~(iii)~~ **(4) (I)** On or before June 30 and December 31 of each year, the State Retirement Agency shall submit a report to the Department of Legislative Services that provides a summary of the training required by ~~this~~

~~paragraph~~ **PARAGRAPH (3) OF THIS SUBSECTION** that was completed by each trustee during that 6–month period.

(II) ON OR BEFORE SEPTEMBER 1 OF EACH YEAR, THE BOARD OF TRUSTEES SHALL SUBMIT A REPORT IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE TO THE JOINT COMMITTEE ON PENSIONS THAT PROVIDES:

1. A TOTAL OF ALL TRAVEL EXPENSES FOR THE FISCAL YEAR ENDING IMMEDIATELY PRIOR TO SEPTEMBER 1 FOR:

A. MEMBERS OF THE BOARD OF TRUSTEES; AND

B. STAFF OF THE STATE RETIREMENT AGENCY;

2. THE DESTINATION, DURATION, AND JUSTIFICATION FOR THE TRAVEL;

3. FOR MEMBERS OF THE BOARD OF TRUSTEES, A STATEMENT WHETHER THE TRAVEL WAS MADE FOR PURPOSES OF FIDUCIARY EDUCATIONAL TRAINING; AND

4. FOR STAFF OF THE INVESTMENT DIVISION, A STATEMENT WHETHER THE TRAVEL WAS MADE FOR PURPOSES OF MEETING WITH EXISTING OR PROSPECTIVE INVESTMENT MANAGERS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 675

(House Bill 482)

AN ACT concerning

Criminal Law – Removing Human Remains from Burial Site – Exceptions

FOR the purpose of providing certain exceptions to the prohibition against a person removing or attempting to remove human remains from a burial site; authorizing certain persons to arrange for the removal ~~and relocation of the cremated remains of a decedent from a burial site or permanent cemetery, or~~

~~the relocation of any human remains of a decedent within the boundary of a permanent cemetery containing the original burial site~~ of human remains or the remains of a decedent after cremation from a burial site within a permanent cemetery, and the reinterment of the remains in the same burial site or in another burial site within the same permanent cemetery, without the need for obtaining authorization from a State's Attorney or providing a certain notice; requiring a certain notice under certain circumstances; providing that the location of a reinterment of ~~human~~ remains ~~within the boundary of a permanent cemetery containing the burial site~~ under this Act shall be entered into the inventory of local burial sites or, if no inventory exists, into a record or inventory deemed appropriate by the Maryland Historical Trust; and generally relating to the removal and ~~relocation~~ reinterment of human remains.

BY repealing and reenacting, without amendments,
Article – Criminal Law
Section 10–401
Annotated Code of Maryland
(2002 Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 10–402
Annotated Code of Maryland
(2002 Volume and 2008 Supplement)

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

Article – Criminal Law

10–401.

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

(b) (1) "Associated funerary object" means an item of human manufacture or use that is intentionally placed:

(i) with human remains at the time of interment in a burial site; or

(ii) after interment, as a part of a death ceremony of a culture, religion, or group.

(2) "Associated funerary object" includes a gravestone, monument, tomb, or other structure in or directly associated with a burial site.

(c) (1) "Burial site" means a natural or prepared physical location, whether originally located below, on, or above the surface of the earth, into which human remains or associated funerary objects are deposited as a part of a death ceremony of a culture, religion, or group.

(2) "Burial site" includes the human remains and associated funerary objects that result from a shipwreck or accident and are left intentionally to remain at the site.

(d) "Permanent cemetery" means a cemetery that is owned by:

(1) a cemetery company regulated under Title 5 of the Business Regulation Article;

(2) a nonprofit organization; or

(3) the State.

10–402.

(a) Except as provided in [subsection (b)] **SUBSECTIONS (B) AND (F)** of this section, a person may not remove or attempt to remove human remains from a burial site.

(b) Subject to subsection (c) of this section, the State's Attorney for a county may authorize in writing the removal of human remains from a burial site in the State's Attorney's jurisdiction:

(1) to ascertain the cause of death of the person whose remains are to be removed;

(2) to determine whether the human remains were interred erroneously;

(3) for the purpose of reburial; or

(4) for medical or scientific examination or study allowed by law.

(c) (1) Except as provided in paragraph (4) of this subsection, the State's Attorney for a county shall require a person who requests authorization to relocate permanently human remains from a burial site to publish a notice of the proposed relocation in a newspaper of general circulation in the county where the burial site is located.

(2) The notice shall be published in the newspaper one time.

(3) The notice shall contain:

(i) a statement that authorization from the State's Attorney is being requested to remove human remains from a burial site;

(ii) the purpose for which the authorization is being requested;

(iii) the location of the burial site, including the tax map and parcel number or liber and folio number; and

(iv) all known pertinent information concerning the burial site, including the names of the persons whose human remains are interred in the burial site, if known.

(4) (i) The State's Attorney may authorize the temporary relocation of human remains from a burial site for good cause, notwithstanding the notice requirements of this subsection.

(ii) If the person requesting the authorization subsequently intends to relocate the remains permanently, the person promptly shall publish notice as required under this subsection.

(5) The person requesting the authorization from the State's Attorney shall pay the cost of publishing the notice.

(6) The State's Attorney may authorize the removal of the human remains from the burial site after:

(i) receiving proof of the publication required under paragraph (1) of this subsection; and

(ii) 15 days after the date of publication.

(7) This subsection may not be construed to delay, prohibit, or otherwise limit the State's Attorney's authorization for the removal of human remains from a burial site.

(8) For a known, but not necessarily documented, unmarked burial site, the person requesting authorization for the removal of human remains from the burial site has the burden of proving by archaeological excavation or another acceptable method the precise location and boundaries of the burial site.

(d) (1) Any human remains that are removed from a burial site under this section shall be reinterred in:

(i) 1. a permanent cemetery that provides perpetual care; or

2. a place other than a permanent cemetery with the agreement of a person in interest as defined under § 14–121(a)(4) of the Real Property Article; and

(ii) in the presence of:

1. a mortician, professional cemeterian, or other individual qualified in the interment of human remains;

2. a minister, priest, or other religious leader; or

3. a trained anthropologist or archaeologist.

(2) The location of the final disposition and treatment of human remains that are removed from a burial site under this section shall be entered into the local burial sites inventory or, if no local burial sites inventory exists, into a record or inventory deemed appropriate by the State's Attorney or the Maryland Historical Trust.

(e) This section may not be construed to:

(1) preempt the need for a permit required by the Department of Health and Mental Hygiene under § 4–215 of the Health – General Article to remove human remains from a burial site; or

(2) interfere with the normal operation and maintenance of a cemetery, as long as the operation and maintenance of the cemetery are performed in accordance with State law.

(F) (1) SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, HUMAN REMAINS OR THE REMAINS OF A DECEDENT AFTER CREMATION, AS DEFINED IN § 5–508 OF THE HEALTH – GENERAL ARTICLE, MAY BE REMOVED FROM A BURIAL SITE WITHIN A PERMANENT CEMETERY AND REINTERRED IN:

(I) THE SAME BURIAL SITE; OR

(II) ANOTHER BURIAL SITE WITHIN THE BOUNDARY OF THE SAME PERMANENT CEMETERY.

(2) THE FOLLOWING PERSONS, IN THE ORDER OF PRIORITY STATED, MAY ARRANGE FOR ~~THE REMOVAL AND RELOCATION OF THE REMAINS OF A DECEDENT AFTER CREMATION, AS DEFINED IN § 5–508 OF THE HEALTH – GENERAL ARTICLE, FROM A BURIAL SITE, INCLUDING RELOCATING THE CREMATED REMAINS TO ANOTHER SITE OUTSIDE THE BOUNDARY OF A PERMANENT CEMETERY OR ARRANGE FOR THE RELOCATION OF ANY HUMAN REMAINS OF A DECEDENT WITHIN THE BOUNDARY OF A PERMANENT CEMETERY~~

~~CONTAINING THE BURIAL SITE OF THE REMAINS~~ A REINTERMENT OF REMAINS UNDER PARAGRAPH (1) OF THIS SECTION:

(I) THE SURVIVING SPOUSE OR DOMESTIC PARTNER OF THE DECEDENT;

(II) AN ADULT CHILD OF THE DECEDENT;

(III) A PARENT OF THE DECEDENT;

(IV) AN ADULT BROTHER OR SISTER OF THE DECEDENT;

(V) A PERSON ACTING AS A REPRESENTATIVE OF THE DECEDENT UNDER A SIGNED AUTHORIZATION OF THE DECEDENT; OR

(VI) THE GUARDIAN OF THE PERSON OF THE DECEDENT AT THE TIME OF THE DECEDENT'S DEATH, IF ONE HAS BEEN APPOINTED~~; OR~~

~~(VII) IN THE ABSENCE OF ANY PERSON UNDER ITEMS (I) THROUGH (VI) OF THIS PARAGRAPH, ANY OTHER PERSON WILLING TO ASSUME THE RESPONSIBILITY TO ACT AS THE AUTHORIZING AGENT FOR PURPOSES OF ARRANGING FOR THE REMOVAL AND RELOCATION OF THE DECEDENT'S CREMATED REMAINS, INCLUDING THE PERSONAL REPRESENTATIVE OF THE DECEDENT'S ESTATE, AFTER ATTESTING IN WRITING THAT A GOOD FAITH EFFORT HAS BEEN MADE TO NO AVAIL TO CONTACT THE INDIVIDUALS UNDER ITEMS (I) THROUGH (VI) OF THIS SUBPARAGRAPH~~.

~~(2)~~ (3) (I) THE ~~REMOVAL OR RELOCATION~~ REINTERMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY BE DONE WITHOUT THE NEED FOR OBTAINING THE AUTHORIZATION OF THE STATE'S ATTORNEY UNDER SUBSECTION (B) OF THIS SECTION OR PROVIDING THE NOTICE REQUIRED UNDER SUBSECTION (C) OF THIS SECTION.

(II) 1. A PERSON WHO ARRANGES FOR THE REINTERMENT OF REMAINS WITHIN A PERMANENT CEMETERY UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION, WITHIN 30 DAYS AFTER THE REINTERMENT, SHALL PUBLISH A NOTICE OF THE REINTERMENT IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY WHERE THE PERMANENT CEMETERY IS LOCATED.

2. THE NOTICE SHALL BE PUBLISHED IN THE NEWSPAPER ONE TIME.

3. THE NOTICE SHALL CONTAIN:

A. A STATEMENT THAT THE REINTERMENT TOOK PLACE;

B. THE REASON FOR THE REINTERMENT;

C. THE LOCATION OF THE BURIAL SITE FROM WHICH REMAINS HAVE BEEN REMOVED, INCLUDING THE TAX MAP AND PARCEL NUMBER OR LIBER AND FOLIO NUMBER;

D. THE LOCATION OF THE BURIAL SITE IN WHICH THE REMAINS HAVE BEEN REINTERRED, INCLUDING THE TAX MAP AND PARCEL NUMBER OR LIBER AND FOLIO NUMBER; AND

E. ALL KNOWN PERTINENT INFORMATION CONCERNING THE BURIAL SITES, INCLUDING THE NAMES OF THE PERSONS WHOSE CREMATED REMAINS OR HUMAN REMAINS ARE INTERRED IN THE BURIAL SITES, IF KNOWN.

(III) WITHIN 45 DAYS AFTER THE REINTERMENT, A PERSON WHO ARRANGES FOR A REINTERMENT OF REMAINS UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION SHALL PROVIDE A COPY OF THE NOTICE REQUIRED UNDER THIS PARAGRAPH TO THE OFFICE OF CEMETERY OVERSIGHT.

~~(3)~~ (4) THE LOCATION OF A REINTERMENT OF ~~HUMAN~~ REMAINS ~~WITHIN THE BOUNDARY OF THE PERMANENT CEMETERY CONTAINING THE ORIGINAL BURIAL SITE~~ UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE ENTERED INTO THE INVENTORY OF THE LOCAL BURIAL SITES OR, IF NO INVENTORY EXISTS, INTO A RECORD OR INVENTORY DEEMED APPROPRIATE BY THE MARYLAND HISTORICAL TRUST.

[(f)**] (G)** 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.

[(g)**] (H)** 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, 2009.

Approved by the Governor, May 19, 2009.