Laws

of the

State of Maryland

At the Session of the General Assembly Begun and Held in the
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VOLUME V

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Chapter 545

(House Bill 328)

AN ACT concerning

Estates and Trusts – Guardianship – Payment of Expenses After Death of Ward

FOR the purpose of requiring that, after the death of a minor or disabled person for whom a guardian of the property has been appointed, the guardian of the property of the minor or disabled person pay from the estate all commissions, fees, and expenses shown on the court–approved final guardianship account and retain the balance of the estate for delivery to an appointed personal representative of the decedent or other person entitled to it; and generally relating to guardianship of the property of a minor or disabled person.

BY repealing and reenacting, with amendments,
Article – Estates and Trusts
Section 13–214(c)(3)
Annotated Code of Maryland
(2001 Replacement Volume and 2009 Supplement)

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

Article – Estates and Trusts

13–214.

(c) (3) When a minor or disabled person dies, the guardian shall deliver to the appropriate probate court for safekeeping any will of the deceased person in his possession, **PAY FROM THE ESTATE ALL COMMISSIONS, FEES, AND EXPENSES SHOWN ON THE COURT–APPROVED FINAL GUARDIANSHIP ACCOUNT,** inform the personal representative or a beneficiary named in it that he has done so, and retain the **BALANCE OF THE** estate for delivery to an appointed personal representative of the decedent or other person entitled to it.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 546

(Senate Bill 344)

AN ACT concerning

Motor Vehicles – ~~Medium~~ Limited Speed Vehicles – Requirements and Prohibitions

FOR the purpose of prohibiting a person from driving a ~~medium-speed~~ certain vehicle with a limited speed capability on certain highways; prohibiting a person from driving a ~~medium-speed~~ certain vehicle with a limited speed capability on a highway unless the vehicle displays a certain emblem; establishing certain standards for a certain emblem; prohibiting a motor vehicle dealer from selling a ~~medium-speed~~ certain vehicle with a limited speed capability unless the dealer permanently affixes a certain emblem to the vehicle and informs the buyer that certain driving restrictions apply; ~~requiring the application for registration of a medium-speed vehicle to be submitted electronically; requiring a dealer of medium-speed vehicles under certain circumstances to obtain a registration application from the vehicle's owner, collect registration fees, and transmit the application and fees in a certain manner within a certain time period; defining a certain term;~~ and generally relating to requirements and prohibitions for ~~medium-speed~~ certain vehicles with limited speed capabilities.

BY adding to
Article – Transportation
Section ~~11–132.1 and~~ 21–805.1
Annotated Code of Maryland
(2009 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Transportation
Section ~~13–403,~~ 15–313~~,~~ and 21–804
Annotated Code of Maryland
(2009 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,
Article – Transportation
Section 27–101(a) and (b)
Annotated Code of Maryland
(2009 Replacement Volume and 2009 Supplement)

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

Article – Transportation

~~11–132.1.~~

~~"MEDIUM SPEED VEHICLE" MEANS A CLASS A (PASSENGER), CLASS D (MOTORCYCLE), OR CLASS M (MULTIPURPOSE) MOTOR VEHICLE THAT HAS A MAXIMUM SPEED CAPABILITY OF AT LEAST 25 MILES PER HOUR BUT LESS THAN 55 MILES PER HOUR.~~

~~13–403.~~

~~(a) (1) Except as provided in paragraph (2) of this subsection, the owner of a vehicle subject to registration under this subtitle shall apply to the Administration for the registration of the vehicle in a manner that the Administration requires.~~

~~(2) The application for registration of a low speed vehicle OR A MEDIUM SPEED VEHICLE shall be made by electronic transmission under § 13–610 of this title.~~

~~(b) The application shall contain the information that the Administration reasonably requires to determine if the vehicle is entitled to registration.~~

~~(c) If a licensed dealer holds a low speed vehicle OR A MEDIUM SPEED VEHICLE for sale and transfers the vehicle to a person other than another licensed dealer, the dealer shall:~~

~~(1) Obtain from the transferee a completed application;~~

~~(2) Collect all fees required to register the [low speed] vehicle under this subtitle; and~~

~~(3) Within 30 days of the date of delivery of the [low speed] vehicle, electronically transmit the application and fees in accordance with § 13–610 of this title.~~

15–313.

(a) A dealer or an agent or employee of a dealer may not use any advertisement that is in any way false, deceptive, or misleading.

(b) A dealer or an agent or employee of a dealer may not by any means advertise or offer to the public any vehicle without intent to sell it as advertised or offered.

(c) A dealer or an agent or employee of a dealer:

(1) May not state the purchase price of a vehicle in an advertisement unless the price is the full delivered purchase price of the vehicle, excluding only taxes,

title fees, and any freight or dealer processing charge disclosed in accordance with § 15–311.1 of this subtitle; and

(2) Shall print the full delivered purchase price in a vehicle advertisement in the largest font used in the advertisement to provide any information related to the price of the vehicle.

(d) (1) A dealer or an agent or employee of a dealer may not place on a vehicle an insignia, logo, or other plate that advertises the name of the dealer, unless:

(i) The contract of sale for the vehicle contains a notice of the rights of the buyer described in this subsection; and

(ii) The buyer of the vehicle consents to the placement of the insignia, logo, or other plate on the vehicle.

(2) A dealer or an agent or employee of a dealer may enter into an agreement with a buyer of a vehicle to compensate the buyer in exchange for the buyer's consent to the placement on the vehicle of an insignia, logo, or other plate that advertises the name of the dealer.

(3) If a dealer or an agent or employee of a dealer places an insignia, logo, or other plate that advertises the name of the dealer without obtaining a buyer's consent, the dealer shall, at the request of the buyer, remove the advertising and make all repairs necessary to restore the vehicle to its original appearance at no charge to the buyer.

(E) A DEALER OR AN AGENT OR EMPLOYEE OF A DEALER MAY NOT SELL A ~~MEDIUM SPEED VEHICLE~~ CLASS A (PASSENGER) OR CLASS M (MULTIPURPOSE) VEHICLE THAT HAS A MAXIMUM SPEED CAPABILITY OF MORE THAN 25 MILES PER HOUR BUT LESS THAN 55 MILES PER HOUR UNLESS THE DEALER:

(1) PERMANENTLY AFFIXES AN EMBLEM TO THE VEHICLE IN ACCORDANCE WITH § 21–805.1 OF THIS ARTICLE; AND

(2) INFORMS THE BUYER IN WRITING THAT THE VEHICLE MAY BE DRIVEN LAWFULLY ONLY ON HIGHWAYS ON WHICH THE SPEED CAPABILITY OF THE VEHICLE EXCEEDS THE POSTED MAXIMUM SPEED LIMIT FOR THE HIGHWAY BY AT LEAST 5 MILES PER HOUR.

21–804.

(a) Unless reduced speed is necessary for the safe operation of the vehicle or otherwise is in compliance with law, a person may not willfully drive a motor vehicle at such a slow speed as to impede the normal and reasonable movement of traffic.

(b) (1) If, on the basis of an engineering and traffic investigation, the State Highway Administration or a local authority determines that slow speeds on any part of a highway in its jurisdiction impede the normal and reasonable movement of traffic, the State Highway Administration or the local authority may establish a minimum speed limit for that part of the highway.

(2) Unless reduced speed is necessary for the safe operation of the vehicle or otherwise is in compliance with law, a person may not drive a vehicle below a minimum speed limit established under this subsection.

(3) A minimum speed limit established under this subsection is effective when posted on appropriate signs giving notice of the limit.

(C) A PERSON MAY NOT DRIVE A ~~MEDIUM–SPEED VEHICLE~~ CLASS A (PASSENGER) OR CLASS M (MULTIPURPOSE) VEHICLE ON A HIGHWAY IF THE MAXIMUM SPEED CAPABILITY OF THE VEHICLE DOES NOT EXCEED THE POSTED MAXIMUM SPEED LIMIT FOR THE HIGHWAY BY AT LEAST 5 MILES PER HOUR.

21–805.1.

(A) A PERSON MAY NOT DRIVE A ~~MEDIUM–SPEED VEHICLE~~ VEHICLE THAT IS DESIGNED WITH A MAXIMUM SPEED OF MORE THAN 25 MILES PER HOUR AND LESS THAN 55 MILES PER HOUR ON A HIGHWAY UNLESS THE VEHICLE PROPERLY DISPLAYS A ~~REDUCED~~ *LIMITED* SPEED VEHICLE EMBLEM IN ACCORDANCE WITH THIS SECTION.

(B) A ~~REDUCED~~ *LIMITED* SPEED VEHICLE EMBLEM REQUIRED UNDER THIS SECTION SHALL BE:

(1) A TRUNCATED EQUILATERAL TRIANGLE THAT IS AT LEAST 14 INCHES HIGH WITH A RED REFLECTIVE BORDER THAT IS AT LEAST 1.75 INCHES WIDE AND WITH A FLUORESCENT GREEN CENTER; AND

(2) PERMANENTLY AFFIXED TO THE REAR OF THE VEHICLE, WITH THE BASE DOWN AND AT A HEIGHT OF BETWEEN 3 FEET AND 5 FEET ABOVE THE GROUND.

27–101.

(a) It is a misdemeanor for any person to violate any of the provisions of the Maryland Vehicle Law unless the violation:

(1) Is declared to be a felony by the Maryland Vehicle Law or by any other law of this State; or

(2) Is punishable by a civil penalty under the applicable provision of the Maryland Vehicle Law.

(b) Except as otherwise provided in this section, any person convicted of a misdemeanor for the violation of any of the provisions of the Maryland Vehicle Law is subject to a fine of not more than $500.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 547

(Senate Bill 347)

AN ACT concerning

Political Subdivisions – Financial Reports

FOR the purpose of amending certain provisions relating to the timeframes for the submission of comprehensive annual reports on the financial condition of political subdivisions in the State to the Department of Legislative Services and the State Treasurer to conform those timeframes to those required for the submission to the Department of certain other reports of counties, municipal corporations, and special taxing districts in the State; making technical changes; and generally relating to financial reports of political subdivisions in the State.

BY repealing and reenacting, with amendments,
Article 24 – Political Subdivisions – Miscellaneous Provisions
Section 2–101(b)
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

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

Article 24 – Political Subdivisions – Miscellaneous Provisions

2–101.

(b) (1) **[**Except as provided in paragraph (2) of this subsection, if**]** **IF** a political subdivision is authorized to incur debt to be redeemed from a fee, charge, or

the proceeds of a levy, **[**then within 120 days after the end of the fiscal year of the political subdivision, its**]** **THE** financial officer **OF THE POLITICAL SUBDIVISION** shall submit to the Department and State Treasurer, subject to § 2–1246 of the State Government Article, a comprehensive report on the financial condition of the political subdivision as of the end of that fiscal year.

(2) **[**If a political subdivision subject to the provisions of paragraph (1) of this subsection has a population of more than 400,000, the report required under paragraph (1) of this subsection may be submitted within 180 days after the end of the fiscal year of the political subdivision**]** **A POLITICAL SUBDIVISION SHALL SUBMIT THE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION IN ACCORDANCE WITH THE TIMEFRAMES REQUIRED UNDER ARTICLE 19, § 37 OF THE CODE FOR THE SUBMISSION TO THE DEPARTMENT OF ANNUAL FINANCIAL REPORTS OF COUNTIES, MUNICIPAL CORPORATIONS, AND SPECIAL TAXING DISTRICTS**.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 548

(Senate Bill 368)

AN ACT concerning

Department of Transportation – Repeal of Secretary's Authority to Abolish Employee Positions

FOR the purpose of repealing the authority of the Secretary of Transportation to abolish certain employee positions; and generally relating to the authority of the Secretary of Transportation to abolish employee positions.

BY repealing and reenacting, without amendments,
Article – Transportation
Section 2–103.4(a)
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Transportation
Section 2–103.4(b)
Annotated Code of Maryland

(2008 Replacement Volume and 2009 Supplement)

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

Article – Transportation

2–103.4.

(a) Without regard to the laws of this State relating to other State employees, the Secretary of Transportation may establish a human resources management system for employees of the Department and its units. Any human resources management system that the Secretary establishes under this section shall:

(1) Be based on merit;

(2) Include fair and equitable procedures for appointment, hiring, promotion, layoff, removal, termination, redress of grievances, and reinstatement of employees; and

(3) Permit employees to participate in the pension and retirement systems for employees of the State of Maryland authorized under Division II of the State Personnel and Pensions Article or any other pension and retirement systems authorized by law.

(b) (1) In the exercise of the Secretary's powers under this section, the Secretary may:

(i) Create **[**and abolish any position other than positions specifically provided for in this article**]** **ANY POSITION IN ACCORDANCE WITH STATE LAW**; and

(ii) Subject to subsection (b–1) of this section, determine the qualifications, appointment, removal, tenure, terms of employment, and compensation of employees unless otherwise prohibited by law.

(2) The Secretary shall designate executive service employee and commission plan employee positions in the Human Resources Management System that:

(i) Must be filled without regard to political affiliation, belief, or opinion; or

(ii) In accordance with the criteria established under § 6–405(b) of the State Personnel and Pensions Article, may be filled with regard to political affiliation, belief, or opinion.

(3) On an annual basis, the Secretary shall report on the total number of positions designated under paragraph (2) of this subsection to the Governor and, in accordance with § 2–1246 of the State Government Article, to the General Assembly.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 549

(Senate Bill 372)

AN ACT concerning

Property Tax – Tax Sales – Notice to Foreclose Right of Redemption

FOR the purpose of altering certain notice provisions by requiring a holder of a certificate of sale to send certain notices by certified mail before the holder of a certificate of sale may file a complaint to foreclose the right of redemption; and generally relating to notices to foreclose the right of redemption.

BY repealing and reenacting, without amendments,
Article – Tax – Property
Section 14–833(a–1)(1)
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 14–833(a–1)(6) and (8)
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

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

Article – Tax – Property

14–833.

(a–1) (1) The holder of a certificate of sale may not file a complaint to foreclose the right of redemption until at least 2 months after sending the first of two notices required under this subsection to:

(i) the person who last appears as owner of the property on the collector's tax roll; and

(ii) 1. the current mortgagee of the property, assignee of a mortgagee of record, or servicer of the current mortgage; or

2. the current holder of a beneficial interest in a deed of trust recorded against the property.

(6) **(I)** The ~~notice~~ **FIRST OF THE TWO NOTICES** required under this subsection shall be sent**[**:

~~(i)~~ **1.** by first–class mail; and

~~(ii)~~ **2.** in an envelope prominently marked on the outside with the following phrase "Notice of Delinquent Property Tax"**]**.

(II) THE SECOND OF THE TWO NOTICES REQUIRED UNDER THIS SUBSECTION SHALL BE SENT:

1. BY FIRST–CLASS CERTIFIED MAIL, POSTAGE PREPAID, RETURN RECEIPT REQUESTED, BEARING A POSTMARK FROM THE UNITED STATES POSTAL SERVICE; AND

2. IN AN ENVELOPE PROMINENTLY MARKED ON THE OUTSIDE WITH THE FOLLOWING PHRASE "NOTICE OF DELINQUENT PROPERTY TAX".

(8) In a proceeding to foreclose the right of redemption, if the holder of a certificate of sale, the holder's agent, or the attorney of the holder of a certificate of sale, files an affidavit, before the court enters a final judgment foreclosing the right of redemption, attesting to the fact that the affiant has complied with the notice provisions of this subsection **AND PROVIDES EVIDENCE THAT ~~NOTICE~~ THE SECOND OF THE TWO NOTICES REQUIRED UNDER THIS SUBSECTION WAS SENT BY CERTIFIED MAIL AS REQUIRED UNDER PARAGRAPH ~~(6)~~ (6)(II) OF THIS SUBSECTION**, then:

(i) the notice provisions of this subsection shall be deemed satisfied; and

(ii) the failure of the owner, mortgagee, or beneficiary of a deed of trust to receive the required notice does not invalidate the proceeding to foreclose the right of redemption or the final judgment of the court.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 550

(Senate Bill 376)

AN ACT concerning

Baltimore City – Consumption of Alcoholic Beverages – Unlicensed Restaurants

FOR the purpose of prohibiting, with a certain exception, an establishment in Baltimore City that is not licensed by the Board of License Commissioners from performing certain activities, including giving, serving, or dispensing alcoholic beverages on its premises; authorizing certain restaurants not licensed by the Board to allow a patron to consume alcoholic beverages during a certain time under certain conditions; authorizing the Baltimore City Police Department to immediately close all operations of an establishment under certain circumstances; requiring the owner or operator to be given an opportunity for a prompt hearing on when the establishment may reopen; repealing provisions concerning the establishment and registration of bottle clubs; and generally relating to alcoholic beverages in Baltimore City.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 1–102(a)(1) and (22)(i) and (ii)
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 20–102
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

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

Article 2B – Alcoholic Beverages

1–102.

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

(22) (i) 1. "Restaurant" means an establishment:

A. Which accommodates the public;

B. Which is equipped with a dining room with facilities for preparing and serving regular meals; and

C. In which the average daily receipts from the sale of foods exceed the average daily receipts from the sale of alcoholic beverages.

2. However the board of license commissioners in any county by regulation may prescribe a different standard as to what constitutes a restaurant.

3. For a restaurant in Baltimore City, the average daily receipts from the sale of food must be at least 40% of the total daily receipts of the establishment.

(ii) In Baltimore City, the term "food" as used in the definition of "restaurant", whether the definition is established by State law or by regulations adopted by the Board of License Commissioners, may not include any ingredient or garnish used with or mixed with an alcoholic beverage that is prepared and served for consumption on the licensed premises.

20–102.

(a) **[**(1) In this section, "bottle club" means any establishment that serves, gives, or allows alcoholic beverages to be consumed by patrons from supplies that the patrons previously purchased or reserved.

(2) "Bottle club" does not include any establishment if a license for the premises had been issued under the provisions of this article.

(b)**]** This section applies only in Baltimore City.

[(c)**] (B)** **[**A bottle club**] EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, AN ESTABLISHMENT THAT IS NOT LICENSED BY THE BOARD OF LICENSE COMMISSIONERS** may not give, serve, dispense, keep, or allow to be consumed on its premises, or on premises under its control or possession, any alcoholic beverages**[**, setups, or other component parts of mixed alcoholic drinks after legal closing hours for establishments under § 8–203(d) of this article**]**.

(C) A RESTAURANT AS DEFINED IN § 1–102(A)(22)(I) AND (II) OF THIS ARTICLE THAT IS NOT LICENSED BY THE BOARD OF LICENSE COMMISSIONERS

MAY ALLOW A PATRON TO CONSUME ALCOHOLIC BEVERAGES FROM 6 A.M. TO 2 A.M. THE FOLLOWING DAY IF:

(1) THE ALCOHOLIC BEVERAGES ARE BROUGHT TO THE RESTAURANT BY THE PATRON;

(2) THE ALCOHOLIC BEVERAGES ARE CONSUMED WITH A MEAL;

(3) THERE IS NO CHARGE FOR ADMISSION TO THE RESTAURANT; AND

(4) THE BALTIMORE CITY FIRE DEPARTMENT DETERMINES THAT THE MAXIMUM SEATING CAPACITY OF THE RESTAURANT IS 50.

(D) (1) THE BALTIMORE CITY POLICE DEPARTMENT MAY IMMEDIATELY CLOSE ALL OPERATIONS OF AN ESTABLISHMENT IF THE DEPARTMENT DETERMINES THAT THE ESTABLISHMENT IS IN VIOLATION OF THIS SECTION AND THAT THE PUBLIC HEALTH, SAFETY, OR WELFARE REQUIRES EMERGENCY ACTION.

(2) THE ESTABLISHMENT SHALL BE CLOSED UNTIL THE BALTIMORE CITY POLICE DEPARTMENT DETERMINES THAT THE PUBLIC HEALTH, SAFETY, OR WELFARE HAS BEEN RESTORED.

(3) THE OWNER OR OPERATOR OF THE ESTABLISHMENT SHALL BE GIVEN AN OPPORTUNITY TO REQUEST A PROMPT HEARING IN CIRCUIT COURT ON WHEN THE ESTABLISHMENT MAY REOPEN.

~~(d)~~ **(E) [**(1) Any person who owns or operates a bottle club shall register the establishment with the Board of License Commissioners for Baltimore City and pay the application fee that the Board sets.

(2) The registration shall include:

(i) The name of the establishment;

(ii) The address where the establishment is doing business; and

(iii) Evidence of all inspections required of the establishment and business licenses issued to the person by the State or Baltimore City.

(3) (i) The Board shall meet the same notice and hearing requirements for the application for registration that apply to an application for an alcoholic beverages license.

(ii) Before the Board may approve an application and accept the registration, the applicant shall provide copies of all inspections by the appropriate agencies, a trader's license, a sales and use tax license, and a use and occupancy permit.

(iii) At the hearing, the Board shall determine whether to register the establishment, using the standards listed under § 10–202(a)(2)(ii) of this article.

(iv) 1. A registration of a bottle club under this subsection remains in effect for 1 year.

2. Subject to subparagraph (v) of this paragraph, a registration that is accepted by the Board may be renewed each year in accordance with the same renewal procedures used for liquor licenses.

3. A person that seeks to renew a registration shall pay the renewal fee that the Board establishes.

(v) 1. Subject to subsubparagraph 2 of this subparagraph, the Board may not accept a renewal of a registration without a hearing if a protest has been filed against the renewal at least 30 days before the expiration of the registration.

2. A protest shall be:

A. Instituted by the Board; or

B. Signed by at least 10 residents, commercial tenants who are not holders of or applicants for any license issued under this article, or real estate owners in the immediate vicinity in which the bottle club is located.

(vi) The Board may revoke or refuse to renew a registration.

(e)**]** A violation of this section is a misdemeanor, and upon conviction, the court shall impose a fine of up to $10,000 or imprisonment for up to 2 years, or both.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 551

(House Bill 1326)

AN ACT concerning

Baltimore City – Consumption of Alcoholic Beverages – Unlicensed Restaurants

FOR the purpose of prohibiting, with a certain exception, an establishment in Baltimore City that is not licensed by the Board of License Commissioners from performing certain activities, including giving, serving, or dispensing alcoholic beverages on its premises; authorizing certain restaurants not licensed by the Board to allow a patron to consume alcoholic beverages during a certain time under certain conditions; authorizing the Baltimore City Police Department to immediately close all operations of an establishment under certain circumstances; requiring the owner or operator to be given an opportunity for a prompt hearing on when the establishment may reopen; repealing provisions concerning the establishment and registration of bottle clubs; and generally relating to alcoholic beverages in Baltimore City.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 1–102(a)(1) and (22)(i) and (ii)
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 20–102
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

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

Article 2B – Alcoholic Beverages

1–102.

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

(22) (i) 1. "Restaurant" means an establishment:

A. Which accommodates the public;

B. Which is equipped with a dining room with facilities for preparing and serving regular meals; and

C. In which the average daily receipts from the sale of foods exceed the average daily receipts from the sale of alcoholic beverages.

2. However the board of license commissioners in any county by regulation may prescribe a different standard as to what constitutes a restaurant.

3. For a restaurant in Baltimore City, the average daily receipts from the sale of food must be at least 40% of the total daily receipts of the establishment.

(ii) In Baltimore City, the term "food" as used in the definition of "restaurant", whether the definition is established by State law or by regulations adopted by the Board of License Commissioners, may not include any ingredient or garnish used with or mixed with an alcoholic beverage that is prepared and served for consumption on the licensed premises.

20–102.

(a) **[**(1) In this section, "bottle club" means any establishment that serves, gives, or allows alcoholic beverages to be consumed by patrons from supplies that the patrons previously purchased or reserved.

(2) "Bottle club" does not include any establishment if a license for the premises had been issued under the provisions of this article.

(b)**]** This section applies only in Baltimore City.

[(c)**] (B)** **[**A bottle club**] EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, AN ESTABLISHMENT THAT IS NOT LICENSED BY THE BOARD OF LICENSE COMMISSIONERS** may not give, serve, dispense, keep, or allow to be consumed on its premises, or on premises under its control or possession, any alcoholic beverages**[**, setups, or other component parts of mixed alcoholic drinks after legal closing hours for establishments under § 8–203(d) of this article**]**.

(C) A RESTAURANT AS DEFINED IN § 1–102(A)(22)(I) AND (II) OF THIS ARTICLE THAT IS NOT LICENSED BY THE BOARD OF LICENSE COMMISSIONERS MAY ALLOW A PATRON TO CONSUME ALCOHOLIC BEVERAGES FROM 6 A.M. TO 2 A.M. THE FOLLOWING DAY IF:

(1) THE ALCOHOLIC BEVERAGES ARE BROUGHT TO THE RESTAURANT BY THE PATRON;

(2) THE ALCOHOLIC BEVERAGES ARE CONSUMED WITH A MEAL;

(3) THERE IS NO CHARGE FOR ADMISSION TO THE RESTAURANT; AND

(4) THE BALTIMORE CITY FIRE DEPARTMENT DETERMINES THAT THE MAXIMUM SEATING CAPACITY OF THE RESTAURANT IS 50.

(D) (1) THE BALTIMORE CITY POLICE DEPARTMENT MAY IMMEDIATELY CLOSE ALL OPERATIONS OF AN ESTABLISHMENT IF THE DEPARTMENT DETERMINES THAT THE ESTABLISHMENT IS IN VIOLATION OF THIS SECTION AND THAT THE PUBLIC HEALTH, SAFETY, OR WELFARE REQUIRES EMERGENCY ACTION.

(2) THE ESTABLISHMENT SHALL BE CLOSED UNTIL THE BALTIMORE CITY POLICE DEPARTMENT DETERMINES THAT THE PUBLIC HEALTH, SAFETY, OR WELFARE HAS BEEN RESTORED.

(3) THE OWNER OR OPERATOR OF THE ESTABLISHMENT SHALL BE GIVEN AN OPPORTUNITY TO REQUEST A PROMPT HEARING IN CIRCUIT COURT ON WHEN THE ESTABLISHMENT MAY REOPEN.

~~(d)~~ **(E) [**(1) Any person who owns or operates a bottle club shall register the establishment with the Board of License Commissioners for Baltimore City and pay the application fee that the Board sets.

(2) The registration shall include:

(i) The name of the establishment;

(ii) The address where the establishment is doing business; and

(iii) Evidence of all inspections required of the establishment and business licenses issued to the person by the State or Baltimore City.

(3) (i) The Board shall meet the same notice and hearing requirements for the application for registration that apply to an application for an alcoholic beverages license.

(ii) Before the Board may approve an application and accept the registration, the applicant shall provide copies of all inspections by the appropriate agencies, a trader's license, a sales and use tax license, and a use and occupancy permit.

(iii) At the hearing, the Board shall determine whether to register the establishment, using the standards listed under § 10–202(a)(2)(ii) of this article.

(iv) 1. A registration of a bottle club under this subsection remains in effect for 1 year.

2. Subject to subparagraph (v) of this paragraph, a registration that is accepted by the Board may be renewed each year in accordance with the same renewal procedures used for liquor licenses.

3. A person that seeks to renew a registration shall pay the renewal fee that the Board establishes.

(v) 1. Subject to subsubparagraph 2 of this subparagraph, the Board may not accept a renewal of a registration without a hearing if a protest has been filed against the renewal at least 30 days before the expiration of the registration.

2. A protest shall be:

A. Instituted by the Board; or

B. Signed by at least 10 residents, commercial tenants who are not holders of or applicants for any license issued under this article, or real estate owners in the immediate vicinity in which the bottle club is located.

(vi) The Board may revoke or refuse to renew a registration.

(e)**]** A violation of this section is a misdemeanor, and upon conviction, the court shall impose a fine of up to $10,000 or imprisonment for up to 2 years, or both.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 552

(Senate Bill 383)

AN ACT concerning

Public Health – Frederick County – Dogs in Outdoor Dining Areas

FOR the purpose of authorizing the County Commissioners for Frederick County to enact certain laws, ordinances, rules, or regulations to allow a restaurant to allow dogs in outdoor dining areas of restaurants; requiring the legislation to contain a certain prohibition; requiring the legislation to contain a provision to

ensure certain rights are not impeded; and generally relating to the presence of animals in outdoor dining areas in Frederick County.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 21–304
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – Health – General

21–304.

(a) (1) The Department shall adopt rules and regulations necessary to carry out the provisions of this subtitle.

(2) For excluded organizations, the Department:

(i) Shall adopt separate regulations that establish minimum standards that:

1. Ensure food integrity and safety;

2. Preserve public health; and

3. Control foodborne illnesses; and

(ii) May adopt separate regulations that establish a licensing system, with appropriate standards, that excluded organizations may voluntarily choose to submit to as a nonrescindable alternative to regulation under subparagraph (i) of this paragraph.

(b) **[**A**] EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, A** political subdivision may not adopt a law, ordinance, rule, or regulation that establishes a standard that is less stringent than rules and regulations adopted under this subtitle.

(c) Except as otherwise provided in this section, this subtitle does not limit the power of a home rule or charter county or Baltimore City to adopt and enforce laws, ordinances, and regulations that are consistent with the purposes of this subtitle, including the power to adopt local licensing and enforcement procedures.

(D) (1) THE COUNTY COMMISSIONERS FOR FREDERICK COUNTY MAY ADOPT A LAW, AN ORDINANCE, A RULE, OR A REGULATION TO ALLOW A

RESTAURANT WITH AN OUTDOOR DINING AREA TO ALLOW A PATRON'S DOG TO ACCOMPANY THE PATRON IN THE OUTDOOR DINING AREA.

(2) A LAW, AN ORDINANCE, A RULE, OR A REGULATION ADOPTED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL:

(I) PROHIBIT A DOG FROM BEING ALLOWED TO TRAVEL THROUGH AN INDOOR SPACE OF A RESTAURANT TO ENTER OR EXIT AN OUTDOOR DINING AREA; AND

(II) CONTAIN A PROVISION TO ENSURE THAT THE LAW, ORDINANCE, RULE, OR REGULATION DOES NOT AFFECT THE RIGHT OF AN INDIVIDUAL TO USE A SERVICE ANIMAL, AS DEFINED IN § 7–701 OF THE HUMAN SERVICES ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 553

(Senate Bill 394)

AN ACT concerning

Municipalities – Authority to Enter into Agreements with Other Municipalities

FOR the purpose of authorizing municipalities to enter into certain agreements with other municipalities for certain purposes; and generally relating to agreements among municipalities.

BY adding to
Article 23A – Corporations – Municipal
Section 2(b)(38)
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

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

Article 23A – Corporations – Municipal

2.

(b) In addition to, but not in substitution of, the powers which have been, or may hereafter be, granted to it, such legislative body also shall have the following express ordinance–making powers:

(38) TO ENTER INTO AGREEMENTS WITH ONE OR MORE OTHER MUNICIPALITIES FOR PURPOSES THAT INCLUDE:

(I) THE JOINT ADMINISTRATION OF THE MUNICIPALITIES;

(II) THE COOPERATIVE PROCUREMENT OF GOODS AND SERVICES, INCLUDING CONSTRUCTION SERVICES;

(III) THE PROVISION OF MUNICIPAL SERVICES; AND

(IV) THE JOINT FUNDING AND MANAGEMENT OF PROJECTS THAT ARE CENTRALLY LOCATED TO THE MUNICIPALITIES.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 554

(Senate Bill 396)

AN ACT concerning

Maryland Estate Tax – <u>Pilot Program for</u> Payment Deferral for Qualified Agricultural Property

FOR the purpose of providing for a certain payment deferral under certain circumstances for certain Maryland estate tax imposed on certain agricultural property; providing that Maryland estate tax subject to a payment deferral shall become due immediately under certain circumstances; <u>providing that certain Maryland estate tax subject to a payment deferral shall be paid without interest in accordance with a certain schedule over a certain period; requiring the Comptroller to submit a certain report to the General Assembly and the Maryland Agricultural Land Preservation Foundation by a certain date;</u> providing for the application of this Act; <u>providing for the termination of this Act;</u> defining certain terms; and generally relating to a <u>pilot program for a</u>

payment deferral under certain circumstances for certain Maryland estate tax imposed on certain agricultural property.

BY adding to
Article – Tax – General
Section 7–307(e)
Annotated Code of Maryland
(2004 Replacement Volume and 2009 Supplement)

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

Article – Tax – General

7–307.

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

(II) "FARMING PURPOSES" HAS THE MEANING STATED IN § 2032A(E)(5) OF THE INTERNAL REVENUE CODE.

(III) "QUALIFIED AGRICULTURAL PROPERTY" MEANS REAL OR PERSONAL PROPERTY THAT IS USED PRIMARILY FOR FARMING PURPOSES.

(IV) "QUALIFIED RECIPIENT" MEANS AN INDIVIDUAL WHO ENTERS INTO AN AGREEMENT TO USE QUALIFIED AGRICULTURAL PROPERTY FOR FARMING PURPOSES AFTER THE DECEDENT'S DEATH.

(2) SUBJECT TO THE PROVISIONS OF THIS SUBSECTION, ON APPLICATION OF THE PERSON RESPONSIBLE FOR PAYING THE MARYLAND ESTATE TAX, THE COMPTROLLER SHALL ALLOW A PAYMENT DEFERRAL FOR UP TO ~~5~~ 3 YEARS FROM THE DUE DATE SPECIFIED IN § 7–306 OF THIS SUBTITLE FOR THE MARYLAND ESTATE TAX IMPOSED ON QUALIFIED AGRICULTURAL PROPERTY THAT PASSES FROM THE DECEDENT TO OR FOR THE USE OF A QUALIFIED RECIPIENT.

(3) (I) ~~THE~~ SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE AMOUNT OF TAX ELIGIBLE FOR A PAYMENT DEFERRAL AS PROVIDED UNDER THIS SUBSECTION IS THE AMOUNT DETERMINED BY MULTIPLYING THE MARYLAND ESTATE TAX BY A FRACTION:

~~(I)~~ 1. THE NUMERATOR OF WHICH IS THE VALUE OF QUALIFIED AGRICULTURAL PROPERTY THAT PASSES FROM THE DECEDENT TO OR FOR THE USE OF A QUALIFIED RECIPIENT; AND

~~(II)~~ 2. THE DENOMINATOR OF WHICH IS THE VALUE OF THE GROSS ESTATE OF THE DECEDENT.

(II) THE AMOUNT OF TAX DEFERRED UNDER THIS SECTION MAY NOT EXCEED $375,000 AS TO ANY DECEDENT.

(4) NOTWITHSTANDING A PAYMENT DEFERRAL UNDER THIS SUBSECTION, THE MARYLAND ESTATE TAX ON QUALIFIED AGRICULTURAL PROPERTY THAT PASSES FROM THE DECEDENT TO OR FOR THE USE OF A QUALIFIED RECIPIENT DEFERRED UNDER THIS SECTION SHALL BECOME DUE IMMEDIATELY IF THE QUALIFIED RECIPIENT CEASES TO USE THE QUALIFIED AGRICULTURAL PROPERTY FOR FARMING PURPOSES BEFORE THE TAX IS PAID.

(5) NOTWITHSTANDING § 13–601(D) OF THIS ARTICLE, INTEREST DOES NOT BEGIN ON UNPAID MARYLAND ESTATE TAX THAT IS ALLOWED A PAYMENT DEFERRAL UNDER THIS SUBSECTION UNTIL THE TAX IS DUE UNDER THIS SUBSECTION.

(6) IF A PAYMENT DEFERRAL IS ALLOWED UNDER THIS SUBSECTION, A QUALIFIED RECIPIENT SHALL PAY THE DEFERRED MARYLAND ESTATE TAX, WITHOUT INTEREST, IN ACCORDANCE WITH A PAYMENT SCHEDULE PRESCRIBED BY THE COMPTROLLER OVER A 3–YEAR PERIOD BEGINNING IN THE 4TH YEAR AFTER THE DUE DATE.

~~(6)~~ (7) TO BE ELIGIBLE FOR A PAYMENT DEFERRAL UNDER THIS SUBSECTION, A QUALIFIED RECIPIENT SHALL:

(I) FILE AN APPLICATION FOR THE PAYMENT DEFERRAL AND ENTER INTO AN AGREEMENT IN A FORM SPECIFIED BY THE COMPTROLLER TO USE THE QUALIFIED AGRICULTURAL PROPERTY FOR FARMING PURPOSES AFTER THE DECEDENT'S DEATH; AND

(II) FILE PERIODIC REPORTS OR ALLOW PERIODIC INSPECTIONS AS REQUIRED BY THE COMPTROLLER TO ADMINISTER THE PROVISIONS OF THIS SUBSECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before October 1, 2013, the Comptroller shall submit a report to the General Assembly, in accordance with § 2–1246 of the State Government Article, and the Maryland Agricultural Land Preservation Foundation on:

(1) the number of approved applications for Maryland estate tax payment deferral;

(2) the number of agricultural acres in which a Maryland estate tax payment deferral was approved under the payment deferral pilot program;

(3) the number of qualified agricultural properties approved for Maryland estate tax payment deferral that apply to preserve agricultural land under the Maryland Agricultural Land Preservation Foundation;

(4) the aggregate value of Maryland estate tax payment deferrals approved under the payment deferral pilot program;

(5) the aggregate amount of Maryland estate taxes paid due to exceeding the maximum amount eligible for payment deferral under the payment deferral pilot program; and

(6) recommendations for implementing a Maryland estate tax payment deferral program in the State.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010, and shall be applicable to decedents dying after December 31, 2010. It shall remain effective for a period of 4 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 20, 2010.

Chapter 555

(Senate Bill 411)

AN ACT concerning

Defense of Dwelling or Place of Business – Civil Immunity

FOR the purpose of providing that a person is not liable for damages for a personal injury or death of an individual who enters the person's dwelling or place of business under certain circumstances; ~~requiring the~~ *authorizing a* court to award costs and reasonable attorney's fees to a certain defendant; defining a certain term; providing for the application of this Act; and generally relating to providing certain immunity from civil liability to certain persons under certain circumstances.

BY adding to
Article – Courts and Judicial Proceedings
Section 5–808
Annotated Code of Maryland

(2006 Replacement Volume and 2009 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

5–808.

(A) IN THIS SECTION, "PERSON" DOES NOT INCLUDE A GOVERNMENTAL ENTITY.

(B) A PERSON IS NOT LIABLE FOR DAMAGES FOR A PERSONAL INJURY OR DEATH OF AN INDIVIDUAL WHO ENTERS THE PERSON'S DWELLING OR PLACE OF BUSINESS IF:

(1) THE PERSON REASONABLY BELIEVES THAT FORCE OR DEADLY FORCE IS NECESSARY TO REPEL AN ATTACK BY THE INDIVIDUAL; AND

(2) THE AMOUNT AND NATURE OF THE FORCE USED BY THE PERSON IS REASONABLE UNDER THE CIRCUMSTANCES.

(C) SUBSECTION (B) OF THIS SECTION DOES NOT APPLY TO A PERSON WHO IS CONVICTED OF A CRIME OF VIOLENCE UNDER § 14–101 OF THE CRIMINAL LAW ARTICLE, ASSAULT IN THE SECOND DEGREE, OR RECKLESS ENDANGERMENT ARISING OUT OF THE CIRCUMSTANCES DESCRIBED IN SUBSECTION (B) OF THIS SECTION.

~~(C)~~ *(D)* THE COURT ~~SHALL~~ *MAY* AWARD COSTS AND REASONABLE ATTORNEY'S FEES TO A DEFENDANT WHO PREVAILS IN A DEFENSE UNDER THIS SECTION.

~~(D)~~ *(E)* THIS SECTION DOES NOT LIMIT OR ABROGATE ANY IMMUNITY FROM CIVIL LIABILITY OR DEFENSE AVAILABLE TO A PERSON UNDER ANY OTHER PROVISION OF THE CODE OR AT COMMON LAW.

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 case in which the cause of action arises before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 556

(Senate Bill 431)

AN ACT concerning

~~Infant Formula and Baby Food~~ Food and Cosmetics – Auction Sales – Prohibition – Exception

FOR the purpose of prohibiting a person from selling certain infant formula and baby food at auction sales unless the person makes a certain notification; authorizing the Secretary of Health and Mental Hygiene to make certain inspections; prohibiting a person from selling certain infant formula and baby food at an auction sale under certain circumstances; exempting the sale of certain items at a charity auction from a certain prohibition under certain circumstances; and generally relating to auction sales of ~~infant formula and baby food~~ certain food and cosmetics.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 21–1110
Annotated Code of Maryland
(2009 Replacement Volume)

BY repealing and reenacting, without amendments,
Article – Health – General
Section 21–1206
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – Health – General

21–1110.

(A) THIS SECTION DOES NOT APPLY TO COSMETICS, INFANT FORMULA, OR BABY FOOD IF:

(1) THE COSMETICS, INFANT FORMULA, OR BABY FOOD ARE BEING SOLD IN A SINGLE LOT AT A CHARITY AUCTION; AND

(2) THE TOTAL VALUE OF THE COSMETICS, INFANT FORMULA, OR BABY FOOD IN THE LOT IS $100 OR LESS.

~~(a)~~ **(B)** A person may not sell any drug, medicine, cosmetic, pharmaceutical preparation, **[**or**]** medicinal preparation**, OR INFANT FORMULA OR BABY FOOD THAT IS SUBJECT TO DATING REQUIREMENTS BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION** at any auction sale unless the person notifies the Secretary in writing of the proposed auction at least 7 days before the date of the auction.

~~(b)~~ **(C)** (1) The Secretary may:

(i) Inspect any drugs, medicines, cosmetics, pharmaceutical preparations, **[**or**]** medicinal preparations**, INFANT FORMULA, OR BABY FOOD** that a person proposes to sell by auction sale; and

(ii) Issue an order that prohibits the sale of any of these if, in the opinion of the Secretary, they are unfit for human use or consumption.

(2) A person may not hold an auction sale of any drug, medicine, cosmetic, pharmaceutical preparation, **[**or**]** medicinal preparation**, INFANT FORMULA, OR BABY FOOD** in violation of an order issued under this section.

21–1206.

A person who violates any provision of the following sections of this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $500:

(1) § 21–818 of this title; and

(2) § 21–1110 of this title.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 557

(House Bill 494)

AN ACT concerning

~~Infant Formula and Baby Food~~ Food and Cosmetics – Auction Sales – Prohibition – Exception

FOR the purpose of prohibiting a person from selling certain infant formula and baby food at any auction sale unless the person makes a certain notification; authorizing the Secretary of Health and Mental Hygiene to make certain inspections; prohibiting a person from selling certain infant formula and baby food at an auction sale under certain circumstances; exempting the sale of certain items at a charity auction from a certain prohibition under certain circumstances; and generally relating to auction sales of certain ~~infant formula and baby food~~ food and cosmetics.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 21–1110
Annotated Code of Maryland
(2009 Replacement Volume)

BY repealing and reenacting, without amendments,
Article – Health – General
Section 21–1206
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – Health – General

21–1110.

(A) THIS SECTION DOES NOT APPLY TO COSMETICS, INFANT FORMULA, OR BABY FOOD IF:

(1) THE COSMETICS, INFANT FORMULA, OR BABY FOOD ARE BEING SOLD IN A SINGLE LOT AT A CHARITY AUCTION; AND

(2) THE TOTAL VALUE OF THE COSMETICS, INFANT FORMULA, OR BABY FOOD IN THE LOT IS $100 OR LESS.

~~(a)~~ **(B)** A person may not sell any drug, medicine, cosmetic, pharmaceutical preparation, **[**or**]** medicinal preparation**, OR INFANT FORMULA OR BABY FOOD THAT IS SUBJECT TO DATING REQUIREMENTS BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION** at any auction sale unless the person notifies the Secretary in writing of the proposed auction at least 7 days before the date of the auction.

~~(b)~~ **(C)** (1) The Secretary may:

(i) Inspect any drugs, medicines, cosmetics, pharmaceutical preparations, **[**or**]** medicinal preparations**, INFANT FORMULA, OR BABY FOOD** that a person proposes to sell by auction sale; and

(ii) Issue an order that prohibits the sale of any of these if, in the opinion of the Secretary, they are unfit for human use or consumption.

(2) A person may not hold an auction sale of any drug, medicine, cosmetic, pharmaceutical preparation, **[**or**]** medicinal preparation**, INFANT FORMULA, OR BABY FOOD** in violation of an order issued under this section.

21–1206.

A person who violates any provision of the following sections of this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $500:

(1) § 21–818 of this title; and

(2) § 21–1110 of this title.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 558

(Senate Bill 443)

AN ACT concerning

Real Property – Wrongful Detainer

FOR the purpose of transferring and clarifying the application of certain provisions of law regarding wrongful detainer of real property; ~~clarifying the application of certain other provisions of law relating to an action for possession;~~ providing that certain provisions of law relating to an action for possession do not apply to an action for wrongful detainer; making certain technical and conforming changes; and generally relating to the applicability of certain provisions of law relating to wrongful possession of property.

BY repealing and reenacting, with amendments,
Article – Real Property
Section 8–402.4 and 14–108.1
Annotated Code of Maryland

(2003 Replacement Volume and 2009 Supplement)

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

Article – Real Property

14–108.1.

~~(a)~~ ~~**(1)**~~ ~~**THIS SECTION APPLIES TO PROPERTY:**~~

~~**(I)**~~ ~~**LEASED FOR BUSINESS, COMMERCIAL, MANUFACTURING, MERCANTILE, OR INDUSTRIAL PURPOSES, OR ANY OTHER PURPOSE THAT IS NOT PRIMARILY RESIDENTIAL;**~~

~~**(II)**~~ ~~**IMPROVED OR TO BE IMPROVED BY ANY APARTMENT, CONDOMINIUM, COOPERATIVE, OR OTHER BUILDING FOR MULTIFAMILY USE OF GREATER THAN FOUR DWELLING UNITS; OR**~~

~~**(III)**~~ ~~**LEASED FOR DWELLING UNITS OR MOBILE HOMES THAT ARE ERECTED OR PLACED IN A MOBILE HOME DEVELOPMENT OR MOBILE HOME PARK.**~~

~~**(2)**~~ ~~This section does not apply to:~~

~~**[**(1)**]**~~ ~~**(I)**~~ ~~A grantee action under § 14–109 of this subtitle;~~

~~**[**(2)**]**~~ ~~**(II)**~~ ~~A landlord–tenant action that is within the exclusive original jurisdiction of the District Court; or~~

~~**[**(3)**]**~~ ~~**(III)**~~ ~~An action for nonpayment of ground rent under a ground lease on residential property that is or was used, intended to be used, or authorized to be used for four or fewer dwelling units.~~

(a) This section does not apply to:

(1) A grantee action under § 14–109 of this subtitle;

(2) A landlord–tenant action that is within the exclusive original jurisdiction of the District Court; **[**or**]**

(3) An action for nonpayment of ground rent under a ground lease on residential property that is or was used, intended to be used, or authorized to be used for four or fewer dwelling units**; OR**

(4) AN ACTION FOR WRONGFUL DETAINER UNDER § 14–130 OF THIS ARTICLE.

(b) (1) A person who is not in possession of property and claims title and right to possession ~~UNDER A GROUND LEASE~~ may bring an action for possession against the person in possession of the property.

(2) Encumbrance of property by a mortgage or deed of trust to secure a debt does not prevent an action under this section by the owner of the property.

(c) When personal jurisdiction is not obtained over the defendant, the plaintiff may obtain a default judgment under the Maryland Rules only on proof of title and right to possession. The judgment shall be in rem for possession of the property. Entry and enforcement of the judgment does not bar further pursuit, in the same or another action, of the plaintiff's claim for mesne profits and damages.

[8–402.4.**] 14–130.**

(a) In this **[**subtitle**] SECTION**, "wrongful detainer" means to hold possession of **[**a**] REAL** property without the right of possession.

(B) THIS SECTION DOES NOT APPLY IF:

(1) THE PERSON IN ACTUAL POSSESSION OF THE PROPERTY HAS BEEN GRANTED POSSESSION UNDER A COURT ORDER;

(2) A REMEDY IS AVAILABLE UNDER TITLE 8 OF THIS ARTICLE; OR

(3) ANY OTHER EXCLUSIVE MEANS TO RECOVER POSSESSION IS PROVIDED BY STATUTE OR RULE.

[(b)**] (C)** A person may not hold possession of property unless the person is entitled to possession of the property under the law.

[(c)**] (D)** (1) If a person **[**other than a tenant holding over**]** violates subsection **[**(b)**] (C)** of this section, a person claiming possession may make complaint in writing to the District Court of the county in which the property is located.

(2) On receipt of a complaint under paragraph (1) of this subsection, the court shall summons immediately the person in possession to appear before the court on the day specified in the summons to show cause, if any, why restitution of the possession of the property to the person filing the complaint should not be made.

(3) If, for any reason, the person in actual possession cannot be found, the person authorized to serve process by the Maryland Rules shall affix an attested copy of the summons conspicuously on the property.

(4) If notice of the summons is sent to the person in possession by first–class mail, the affixing of the summons in accordance with paragraph (3) of this subsection shall constitute sufficient service to support restitution of possession.

[(d)**] (E)** A counterclaim or cross–claim may not be filed in an action brought under this section.

[(e)**] (F)** (1) If the court determines that the complainant is legally entitled to possession, the court shall:

(i) Give judgment for restitution of the possession of the property to the complainant; and

(ii) Issue its warrant to the sheriff or constable commanding the sheriff or constable to deliver possession to the complainant.

(2) The court may also give judgment in favor of the complainant for damages due to the wrongful detainer and for court costs and attorney fees if:

(i) The complainant claimed damages in the complaint; and

(ii) The court finds that:

1. The person in actual possession was personally served with the summons; or

2. There was service of process or submission to the jurisdiction of the court as would support a judgment in contract or tort.

(3) A person in actual possession who is not personally served with a summons is not subject to the personal jurisdiction of the District Court if the person appears in response to the summons and prior to the time that evidence is taken by the court and asserts that the appearance is only for the purpose of defending an in rem action.

[(f)**] (G)** (1) Not later than 10 days from the entry of the judgment of the District Court, either party may appeal to the circuit court for the county in which the property is located.

(2) The person in actual possession of the property may retain possession until the determination of the appeal if the person:

(i) Files with the court an affidavit that the appeal is not taken for delay; and

(ii) 1. Files sufficient bond with one or more securities conditioned on diligent prosecution of the appeal; or

2. Pays to the complainant or into the appellate court:

A. The fair rental value of the property for the entire period of possession up to the date of judgment;

B. All court costs in the case;

C. All losses or damages other than the fair rental value of the property up to the day of judgment that the court determined to be due because of the detention of possession; and

D. The fair rental value of the property during the pendency of the appeal.

(3) On application of either party, the court shall set a hearing date for the appeal that is not less than 5 days or more than 15 days after the application for appeal.

(4) Notice of the order for a hearing shall be served on the parties or the parties' counsels not less than 5 days before the hearing.

[(g)**] (H)** If the judgment of the circuit court shall be in favor of the **[**landlord**] PERSON CLAIMING POSSESSION**, a warrant shall be issued by the court to the sheriff, who shall proceed immediately to execute the warrant.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 559

(House Bill 605)

AN ACT concerning

Real Property – Wrongful Detainer

FOR the purpose of transferring and clarifying the application of certain provisions of law regarding wrongful detainer of real property; ~~clarifying the application of certain other provisions of law relating to an action for possession;~~ providing that certain provisions of law relating to an action for possession do not apply to an action for wrongful detainer; making certain technical and conforming changes; and generally relating to the applicability of certain provisions of law relating to wrongful possession of property.

BY repealing and reenacting, with amendments,
Article – Real Property
Section 8–402.4 and 14–108.1
Annotated Code of Maryland
(2003 Replacement Volume and 2009 Supplement)

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

Article – Real Property

14–108.1.

~~(a)~~ ~~**(1)**~~ ~~**THIS SECTION APPLIES TO PROPERTY:**~~

~~**(I)**~~ ~~**LEASED FOR BUSINESS, COMMERCIAL, MANUFACTURING, MERCANTILE, OR INDUSTRIAL PURPOSES, OR ANY OTHER PURPOSE THAT IS NOT PRIMARILY RESIDENTIAL;**~~

~~**(II)**~~ ~~**IMPROVED OR TO BE IMPROVED BY ANY APARTMENT, CONDOMINIUM, COOPERATIVE, OR OTHER BUILDING FOR MULTIFAMILY USE OF GREATER THAN FOUR DWELLING UNITS; OR**~~

~~**(III)**~~ ~~**LEASED FOR DWELLING UNITS OR MOBILE HOMES THAT ARE ERECTED OR PLACED IN A MOBILE HOME DEVELOPMENT OR MOBILE HOME PARK.**~~

~~**(2)**~~ ~~This section does not apply to:~~

~~**[**(1)**]**~~ ~~**(I)**~~ ~~A grantee action under § 14–109 of this subtitle;~~

~~**[**(2)**]**~~ ~~**(II)**~~ ~~A landlord–tenant action that is within the exclusive original jurisdiction of the District Court; or~~

~~**[**(3)**]**~~ ~~**(III)**~~ ~~An action for nonpayment of ground rent under a ground lease on residential property that is or was used, intended to be used, or authorized to be used for four or fewer dwelling units.~~

(a) This section does not apply to:

(1) A grantee action under § 14–109 of this subtitle;

(2) A landlord–tenant action that is within the exclusive original jurisdiction of the District Court; **[**or**]**

(3) An action for nonpayment of ground rent under a ground lease on residential property that is or was used, intended to be used, or authorized to be used for four or fewer dwelling units**; OR**

(4) AN ACTION FOR WRONGFUL DETAINER UNDER § 14–130 OF THIS ARTICLE.

(b) (1) A person who is not in possession of property and claims title and right to possession ~~UNDER A GROUND LEASE~~ may bring an action for possession against the person in possession of the property.

(2) Encumbrance of property by a mortgage or deed of trust to secure a debt does not prevent an action under this section by the owner of the property.

(c) When personal jurisdiction is not obtained over the defendant, the plaintiff may obtain a default judgment under the Maryland Rules only on proof of title and right to possession. The judgment shall be in rem for possession of the property. Entry and enforcement of the judgment does not bar further pursuit, in the same or another action, of the plaintiff's claim for mesne profits and damages.

[8–402.4.**] 14–130.**

(a) In this **[**subtitle**] SECTION**, "wrongful detainer" means to hold possession of **[**a**] REAL** property without the right of possession.

(B) THIS SECTION DOES NOT APPLY IF:

(1) THE PERSON IN ACTUAL POSSESSION OF THE PROPERTY HAS BEEN GRANTED POSSESSION UNDER A COURT ORDER;

(2) A REMEDY IS AVAILABLE UNDER TITLE 8 OF THIS ARTICLE; OR

(3) ANY OTHER EXCLUSIVE MEANS TO RECOVER POSSESSION IS PROVIDED BY STATUTE OR RULE.

[(b)**] (C)** A person may not hold possession of property unless the person is entitled to possession of the property under the law.

[(c)**] (D)** (1) If a person **[**other than a tenant holding over**]** violates subsection **[**(b)**] (C)** of this section, a person claiming possession may make complaint in writing to the District Court of the county in which the property is located.

(2) On receipt of a complaint under paragraph (1) of this subsection, the court shall summons immediately the person in possession to appear before the court on the day specified in the summons to show cause, if any, why restitution of the possession of the property to the person filing the complaint should not be made.

(3) If, for any reason, the person in actual possession cannot be found, the person authorized to serve process by the Maryland Rules shall affix an attested copy of the summons conspicuously on the property.

(4) If notice of the summons is sent to the person in possession by first–class mail, the affixing of the summons in accordance with paragraph (3) of this subsection shall constitute sufficient service to support restitution of possession.

[(d)**] (E)** A counterclaim or cross–claim may not be filed in an action brought under this section.

[(e)**] (F)** (1) If the court determines that the complainant is legally entitled to possession, the court shall:

(i) Give judgment for restitution of the possession of the property to the complainant; and

(ii) Issue its warrant to the sheriff or constable commanding the sheriff or constable to deliver possession to the complainant.

(2) The court may also give judgment in favor of the complainant for damages due to the wrongful detainer and for court costs and attorney fees if:

(i) The complainant claimed damages in the complaint; and

(ii) The court finds that:

1. The person in actual possession was personally served with the summons; or

2. There was service of process or submission to the jurisdiction of the court as would support a judgment in contract or tort.

(3) A person in actual possession who is not personally served with a summons is not subject to the personal jurisdiction of the District Court if the person appears in response to the summons and prior to the time that evidence is taken by the court and asserts that the appearance is only for the purpose of defending an in rem action.

[(f)**] (G)** (1) Not later than 10 days from the entry of the judgment of the District Court, either party may appeal to the circuit court for the county in which the property is located.

(2) The person in actual possession of the property may retain possession until the determination of the appeal if the person:

(i) Files with the court an affidavit that the appeal is not taken for delay; and

(ii) 1. Files sufficient bond with one or more securities conditioned on diligent prosecution of the appeal; or

2. Pays to the complainant or into the appellate court:

A. The fair rental value of the property for the entire period of possession up to the date of judgment;

B. All court costs in the case;

C. All losses or damages other than the fair rental value of the property up to the day of judgment that the court determined to be due because of the detention of possession; and

D. The fair rental value of the property during the pendency of the appeal.

(3) On application of either party, the court shall set a hearing date for the appeal that is not less than 5 days or more than 15 days after the application for appeal.

(4) Notice of the order for a hearing shall be served on the parties or the parties' counsels not less than 5 days before the hearing.

[(g)**] (H)** If the judgment of the circuit court shall be in favor of the **[**landlord**] PERSON CLAIMING POSSESSION**, a warrant shall be issued by the court to the sheriff, who shall proceed immediately to execute the warrant.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 560

(Senate Bill 444)

AN ACT concerning

Blue Ribbon Commission to Study Retiree Health Care Funding Options – Extension of Reporting and Termination Dates

FOR the purpose of requiring the Blue Ribbon Commission to Study Retiree Health Care Funding Options to issue a certain report by a certain date; altering the date by which the Blue Ribbon Commission to Study Retiree Health Care Funding Options is required to submit a certain report; extending the termination date of the Commission until a certain date; and generally relating to the reporting and termination dates of the Blue Ribbon Commission to Study Retiree Health Care Funding Options.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 34–201(g)
Annotated Code of Maryland
(2009 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Chapter 433 of the Acts of the General Assembly of 2006, as amended by Chapter 229 of the Acts of the General Assembly of 2008
Section 3

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

Article – State Personnel and Pensions

34–201.

(g) (1) On or before December 31, 2008, the Commission shall issue an interim report of its findings to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

(2) ON OR BEFORE DECEMBER 31, 2010, THE COMMISSION SHALL ISSUE A SECOND INTERIM REPORT OF ITS FINDINGS TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

~~(2)~~ **(3)** On or before December 31, **[**2009**] 2011**, the Commission shall issue 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.

Chapter 433 of the Acts of 2006, as amended by Chapter 229 of the Acts of 2008

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2006. It shall remain effective for a period of **[**4**] 6** years and, at the end of June 30, **[**2010**] 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, 2010.

Approved by the Governor, May 20, 2010.

Chapter 561

(House Bill 771)

AN ACT concerning

Blue Ribbon Commission to Study Retiree Health Care Funding Options – Extension of Reporting and Termination Dates

FOR the purpose of requiring the Blue Ribbon Commission to Study Retiree Health Care Funding Options to issue a certain report by a certain date; altering the date by which the Blue Ribbon Commission to Study Retiree Health Care Funding Options is required to submit a certain report; extending the termination date of the Commission until a certain date; and generally relating to the reporting and termination dates of the Blue Ribbon Commission to Study Retiree Health Care Funding Options.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 34–201(g)
Annotated Code of Maryland
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(2) ON OR BEFORE DECEMBER 31, 2010, THE COMMISSION SHALL ISSUE A SECOND INTERIM REPORT OF ITS FINDINGS TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

~~(2)~~ **(3)** On or before December 31, **[**2009**] 2011**, the Commission shall issue 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.

Chapter 433 of the Acts of 2006, as amended by Chapter 229 of the Acts of 2008

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2006. It shall remain effective for a period of **[**4**] 6** years and, at the end of June 30, **[**2010**] 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, 2010.

Approved by the Governor, May 20, 2010.

Chapter 562

(Senate Bill 451)

AN ACT concerning

Prevailing Wage Rates – Public Works Contracts – Suits by Employees

FOR the purpose of authorizing certain employees to file a complaint with the Commissioner of Labor and Industry; requiring that a certain complaint filed by an employee under a certain provision of law is subject to certain ~~investigation~~

~~and enforcement~~ procedures; requiring the Commissioner to attempt to resolve a certain issue ~~internally or issue a certain order under certain circumstances;~~ informally; requiring the Commissioner to issue an order for a hearing under certain circumstances; requiring the Commissioner to take certain actions if an employee is found to be entitled to restitution; authorizing certain employees to seek certain compensation and additional remedies from certain employers under certain circumstances; authorizing certain employees or the Commissioner to file certain court actions; requiring that certain actions be brought within a certain time period; providing that a certain contract is not a bar to the recovery of certain remedies; authorizing a court to award certain employees certain wages, other compensation, and fees in certain circumstances; authorizing certain employees to bring an action on their behalf and on behalf of certain other employees; subjecting certain persons to certain civil penalties; prohibiting a contractor or subcontractor from engaging in certain conduct against certain employees; subjecting a contractor or subcontractor to certain penalties for certain violations; and generally relating to private enforcement actions under the State prevailing wage law.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 17–224
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – State Finance and Procurement

17–224.

(a) (1) If an employee under a public work contract is paid less than the prevailing wage rate for that employee's classification for the work performed, the employee **[**is entitled to sue to recover the difference between the prevailing wage rate and the amount received by the employee**]** **MAY FILE A COMPLAINT WITH THE COMMISSIONER**.

(2) ~~A~~ **EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, A** **[**determination by the Commissioner that a contractor is required to make restitution does not preclude an employee from filing an action under this section**]** **COMPLAINT FILED UNDER THIS SECTION SHALL BE SUBJECT TO THE** ~~**INVESTIGATION AND ENFORCEMENT PROCEDURES UNDER**~~ **PROVISIONS OF § 17–221 OF THIS SUBTITLE**.

(3) IF THE COMMISSIONER'S INVESTIGATION DETERMINES THAT THE EMPLOYER VIOLATED PROVISIONS OF THIS SUBTITLE, THE COMMISSIONER SHALL:

~~(I) TRY TO RESOLVE THE ISSUE INFORMALLY; OR~~

~~(II) ISSUE AN ORDER COMPELLING COMPLIANCE WITH THIS SUBTITLE IN ACCORDANCE WITH § 17–221 OF THIS SUBTITLE~~ TRY TO RESOLVE THE ISSUE INFORMALLY.

(4) (I) IF THE COMMISSIONER IS UNABLE TO RESOLVE THE MATTER INFORMALLY, THE COMMISSIONER SHALL ISSUE AN ORDER FOR A HEARING IN ACCORDANCE WITH § 17–221 OF THIS SUBTITLE.

(II) IF, AT THE CONCLUSION OF A HEARING ORDERED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE COMMISSIONER DETERMINES THAT THE EMPLOYEE IS ENTITLED TO RESTITUTION UNDER THIS SUBTITLE, THE COMMISSIONER SHALL ISSUE AN ORDER IN ACCORDANCE WITH § 17–221 OF THIS SUBTITLE.

(III) IF AN EMPLOYER OF AN EMPLOYEE FOUND TO BE ENTITLED TO RESTITUTION UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH IS NO LONGER WORKING UNDER A CONTRACT WITH A PUBLIC BODY, THE COMMISSIONER MAY ORDER THAT RESTITUTION BE PAID DIRECTLY BY THE EMPLOYER TO THE EMPLOYEE WITHIN A REASONABLE PERIOD OF TIME, AS DETERMINED BY THE COMMISSIONER.

~~(4)~~ (5) IF AN EMPLOYER FAILS TO COMPLY WITH ~~THE~~ AN ORDER ~~ISSUED UNDER PARAGRAPH (3)(II)~~ TO PAY RESTITUTION TO AN EMPLOYEE UNDER PARAGRAPH (4)(III) OF THIS SUBSECTION, THE COMMISSIONER OR THE EMPLOYEE MAY BRING A CIVIL ACTION TO ENFORCE THE ORDER IN THE CIRCUIT COURT IN THE COUNTY WHERE THE EMPLOYEE OR EMPLOYER IS LOCATED.

(b) (1) An action under this section is considered to be a suit for wages.

(2) A judgment in an action under this section shall have the same force and effect as any other judgment for wages.

(3) AN ACTION BROUGHT UNDER THIS SECTION FOR A VIOLATION OF THIS SUBTITLE SHALL BE FILED WITHIN 3 YEARS FROM THE DATE THE AFFECTED EMPLOYEE KNEW OR SHOULD HAVE KNOWN OF THE VIOLATION.

(c) **(1)** The failure of an employee to protest orally or in writing the payment of a wage that is less than the prevailing wage rate is not a bar to recovery in an action under this section.

(2) A CONTRACT OR OTHER WRITTEN DOCUMENT IN WHICH AN EMPLOYEE STATES THAT THE EMPLOYEE SHALL BE PAID LESS THAN THE AMOUNT REQUIRED BY THIS SUBTITLE DOES NOT BAR THE RECOVERY OF ANY REMEDY REQUIRED UNDER THIS SUBTITLE.

(D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, IF THE COURT IN AN ACTION FILED UNDER THIS SECTION FINDS THAT AN EMPLOYER PAID AN EMPLOYEE LESS THAN THE REQUISITE PREVAILING WAGE, THE COURT SHALL AWARD THE AFFECTED EMPLOYEE THE DIFFERENCE BETWEEN THE WAGE ACTUALLY PAID AND THE PREVAILING WAGE AT THE TIME THAT THE SERVICES WERE RENDERED.

(2) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, UNPAID FRINGE BENEFIT CONTRIBUTIONS OWED FOR AN EMPLOYEE IN ACCORDANCE WITH THIS SECTION SHALL BE PAID TO THE APPROPRIATE BENEFIT FUND, PLAN, OR PROGRAM.

(II) IN THE ABSENCE OF AN APPROPRIATE BENEFIT FUND, PLAN, OR PROGRAM, THE AMOUNT OWED FOR FRINGE BENEFITS FOR AN EMPLOYEE SHALL BE PAID DIRECTLY TO THE EMPLOYEE.

(3) THE COURT MAY ORDER THE PAYMENT OF DOUBLE DAMAGES OR TREBLE DAMAGES UNDER THIS SECTION IF THE COURT FINDS THAT THE EMPLOYER WITHHELD WAGES OR FRINGE BENEFITS WILLFULLY AND KNOWINGLY OR WITH DELIBERATE IGNORANCE OR RECKLESS DISREGARD OF THE EMPLOYER'S OBLIGATIONS UNDER THIS SUBTITLE.

(4) IN AN ACTION UNDER THIS SECTION, THE COURT SHALL AWARD A PREVAILING PLAINTIFF REASONABLE COUNSEL FEES AND COSTS.

(5) IF THE COURT FINDS THAT AN EMPLOYEE SUBMITTED A FALSE OR FRAUDULENT CLAIM IN AN ACTION UNDER THIS SECTION, THE COURT MAY ORDER THE EMPLOYEE TO PAY THE EMPLOYER REASONABLE COUNSEL FEES AND COSTS.

(E) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AN ACTION FILED IN ACCORDANCE WITH THIS SECTION MAY BE BROUGHT BY ONE OR MORE EMPLOYEES ON BEHALF OF THAT EMPLOYEE OR GROUP OF EMPLOYEES AND ON BEHALF OF OTHER EMPLOYEES SIMILARLY SITUATED.

(2) AN EMPLOYEE MAY NOT BE A PARTY PLAINTIFF TO AN ACTION BROUGHT UNDER THIS SECTION UNLESS THAT EMPLOYEE FILES WRITTEN CONSENT WITH THE COURT IN WHICH THE ACTION IS BROUGHT TO BECOME A PARTY TO THE ACTION.

(F) (1) A PERSON FOUND TO HAVE MADE A FALSE OR FRAUDULENT REPRESENTATION OR OMISSION KNOWN TO BE FALSE OR MADE WITH DELIBERATE IGNORANCE OR RECKLESS DISREGARD FOR ITS TRUTH OR FALSITY REGARDING A MATERIAL FACT IN CONNECTION WITH ANY PREVAILING WAGE PAYROLL RECORD REQUIRED BY § 17–220 OF THIS SUBTITLE IS LIABLE FOR A CIVIL PENALTY OF $1,000 FOR EACH FALSIFIED RECORD.

(2) THE PENALTY SHALL BE RECOVERABLE IN A CIVIL ACTION FILED IN ACCORDANCE WITH THIS SECTION AND PAID TO THE STATE GENERAL FUND.

(G) AN EMPLOYER MAY NOT DISCHARGE, THREATEN, OR OTHERWISE RETALIATE OR DISCRIMINATE AGAINST AN EMPLOYEE REGARDING COMPENSATION OR OTHER TERMS AND CONDITIONS OF EMPLOYMENT BECAUSE THAT EMPLOYEE OR AN ORGANIZATION OR OTHER PERSON ACTING ON BEHALF OF THAT EMPLOYEE:

(1) REPORTS OR MAKES A COMPLAINT UNDER THIS SUBTITLE OR OTHERWISE ASSERTS THE WORKER'S RIGHTS UNDER THIS SECTION; OR

(2) PARTICIPATES IN ANY INVESTIGATION, HEARING, OR INQUIRY HELD BY THE COMMISSIONER UNDER § 17–221 OF THIS SUBTITLE.

(H) (1) A CONTRACTOR OR SUBCONTRACTOR MAY NOT RETALIATE OR DISCRIMINATE AGAINST AN EMPLOYEE IN VIOLATION OF THIS SECTION.

(2) IF A CONTRACTOR OR SUBCONTRACTOR RETALIATES OR DISCRIMINATES AGAINST AN EMPLOYEE IN VIOLATION OF THIS SECTION, THE AFFECTED EMPLOYEE MAY FILE AN ACTION IN ANY COURT OF COMPETENT JURISDICTION WITHIN 3 YEARS FROM THE EMPLOYEE'S KNOWLEDGE OF THE ACTION.

(3) IF THE COURT FINDS IN FAVOR OF THE EMPLOYEE IN AN ACTION BROUGHT UNDER THIS SUBSECTION, THE COURT SHALL ORDER THAT THE CONTRACTOR OR SUBCONTRACTOR:

(I) REINSTATE THE EMPLOYEE OR PROVIDE THE EMPLOYEE RESTITUTION, AS APPROPRIATE;

(II) PAY THE EMPLOYEE AN AMOUNT EQUAL TO THREE TIMES THE AMOUNT OF BACK WAGES AND FRINGE BENEFITS CALCULATED FROM THE DATE OF THE VIOLATION; AND

(III) PAY REASONABLE COUNSEL FEES AND OTHER COSTS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 563

(House Bill 1100)

AN ACT concerning

Prevailing Wage Rates – Public Works Contracts – Suits by Employees

FOR the purpose of authorizing certain employees to file a complaint with the Commissioner of Labor and Industry; requiring that a certain complaint filed by an employee under a certain provision of law is subject to certain ~~investigation and enforcement~~ procedures; requiring the Commissioner to attempt to resolve a certain issue ~~internally or issue a certain order under certain circumstances;~~ *informally; requiring the Commissioner to issue an order for a hearing under certain circumstances; requiring the Commissioner to take certain actions if an employee is found to be entitled to restitution;* authorizing certain employees to seek certain compensation and additional remedies from certain employers under certain circumstances; authorizing certain employees or the Commissioner to file certain court actions; requiring that certain actions be brought within a certain time period; providing that a certain contract is not a bar to the recovery of certain remedies; authorizing a court to award certain employees certain wages, other compensation, and fees in certain circumstances; authorizing certain employees to bring an action on their behalf and on behalf of certain other employees; subjecting certain persons to certain civil penalties; prohibiting a contractor or subcontractor from engaging in certain conduct against certain employees; subjecting a contractor or subcontractor to certain penalties for certain violations; and generally relating to private enforcement actions under the State prevailing wage law.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 17–224
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – State Finance and Procurement

17–224.

(a) (1) If an employee under a public work contract is paid less than the prevailing wage rate for that employee's classification for the work performed, the employee **[**is entitled to sue to recover the difference between the prevailing wage rate and the amount received by the employee**]** **MAY FILE A COMPLAINT WITH THE COMMISSIONER**.

(2) ~~A~~ ***EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, A*** **[**determination by the Commissioner that a contractor is required to make restitution does not preclude an employee from filing an action under this section**]** **COMPLAINT FILED UNDER THIS SECTION SHALL BE SUBJECT TO THE** ~~**INVESTIGATION AND ENFORCEMENT PROCEDURES UNDER**~~ ***PROVISIONS OF*** **§ 17–221 OF THIS SUBTITLE**.

(3) IF THE COMMISSIONER'S INVESTIGATION DETERMINES THAT THE EMPLOYER VIOLATED PROVISIONS OF THIS SUBTITLE, THE COMMISSIONER SHALL:

~~**(I) TRY TO RESOLVE THE ISSUE INFORMALLY; OR**~~

~~**(II) ISSUE AN ORDER COMPELLING COMPLIANCE WITH THIS SUBTITLE IN ACCORDANCE WITH § 17–221 OF THIS SUBTITLE**~~ ***TRY TO RESOLVE THE ISSUE INFORMALLY*****.**

(4) (I) IF THE COMMISSIONER IS UNABLE TO RESOLVE THE MATTER INFORMALLY, THE COMMISSIONER SHALL ISSUE AN ORDER FOR A HEARING IN ACCORDANCE WITH § 17–221 OF THIS SUBTITLE.

(II) IF, AT THE CONCLUSION OF A HEARING ORDERED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE COMMISSIONER DETERMINES THAT THE EMPLOYEE IS ENTITLED TO RESTITUTION UNDER THIS SUBTITLE, THE COMMISSIONER SHALL ISSUE AN ORDER IN ACCORDANCE WITH § 17–221 OF THIS SUBTITLE.

(III) IF AN EMPLOYER OF AN EMPLOYEE FOUND TO BE ENTITLED TO RESTITUTION UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH IS NO LONGER WORKING UNDER A CONTRACT WITH A PUBLIC BODY, THE COMMISSIONER MAY ORDER THAT RESTITUTION BE PAID DIRECTLY BY THE

EMPLOYER TO THE EMPLOYEE WITHIN A REASONABLE PERIOD OF TIME, AS DETERMINED BY THE COMMISSIONER.

~~(4)~~ ***(5)*** **IF AN EMPLOYER FAILS TO COMPLY WITH ~~THE~~ *AN* ORDER ~~ISSUED UNDER PARAGRAPH (3)(II)~~ *TO PAY RESTITUTION TO AN EMPLOYEE UNDER PARAGRAPH (4)(III)* OF THIS SUBSECTION, THE COMMISSIONER OR THE EMPLOYEE MAY BRING A CIVIL ACTION TO ENFORCE THE ORDER IN THE CIRCUIT COURT IN THE COUNTY WHERE THE EMPLOYEE OR EMPLOYER IS LOCATED.**

(b) (1) An action under this section is considered to be a suit for wages.

(2) A judgment in an action under this section shall have the same force and effect as any other judgment for wages.

(3) AN ACTION BROUGHT UNDER THIS SECTION FOR A VIOLATION OF THIS SUBTITLE SHALL BE FILED WITHIN 3 YEARS FROM THE DATE THE AFFECTED EMPLOYEE KNEW OR SHOULD HAVE KNOWN OF THE VIOLATION.

(c) **(1)** The failure of an employee to protest orally or in writing the payment of a wage that is less than the prevailing wage rate is not a bar to recovery in an action under this section.

(2) A CONTRACT OR OTHER WRITTEN DOCUMENT IN WHICH AN EMPLOYEE STATES THAT THE EMPLOYEE SHALL BE PAID LESS THAN THE AMOUNT REQUIRED BY THIS SUBTITLE DOES NOT BAR THE RECOVERY OF ANY REMEDY REQUIRED UNDER THIS SUBTITLE.

(D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, IF THE COURT IN AN ACTION FILED UNDER THIS SECTION FINDS THAT AN EMPLOYER PAID AN EMPLOYEE LESS THAN THE REQUISITE PREVAILING WAGE, THE COURT SHALL AWARD THE AFFECTED EMPLOYEE THE DIFFERENCE BETWEEN THE WAGE ACTUALLY PAID AND THE PREVAILING WAGE AT THE TIME THAT THE SERVICES WERE RENDERED.

(2) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, UNPAID FRINGE BENEFIT CONTRIBUTIONS OWED FOR AN EMPLOYEE IN ACCORDANCE WITH THIS SECTION SHALL BE PAID TO THE APPROPRIATE BENEFIT FUND, PLAN, OR PROGRAM.

(II) IN THE ABSENCE OF AN APPROPRIATE BENEFIT FUND, PLAN, OR PROGRAM, THE AMOUNT OWED FOR FRINGE BENEFITS FOR AN EMPLOYEE SHALL BE PAID DIRECTLY TO THE EMPLOYEE.

(3) THE COURT MAY ORDER THE PAYMENT OF DOUBLE DAMAGES OR TREBLE DAMAGES UNDER THIS SECTION IF THE COURT FINDS THAT THE EMPLOYER WITHHELD WAGES OR FRINGE BENEFITS WILLFULLY AND KNOWINGLY OR WITH DELIBERATE IGNORANCE OR RECKLESS DISREGARD OF THE EMPLOYER'S OBLIGATIONS UNDER THIS SUBTITLE.

(4) IN AN ACTION UNDER THIS SECTION, THE COURT SHALL AWARD A PREVAILING PLAINTIFF REASONABLE COUNSEL FEES AND COSTS.

(5) IF THE COURT FINDS THAT AN EMPLOYEE SUBMITTED A FALSE OR FRAUDULENT CLAIM IN AN ACTION UNDER THIS SECTION, THE COURT MAY ORDER THE EMPLOYEE TO PAY THE EMPLOYER REASONABLE COUNSEL FEES AND COSTS.

(E) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AN ACTION FILED IN ACCORDANCE WITH THIS SECTION MAY BE BROUGHT BY ONE OR MORE EMPLOYEES ON BEHALF OF THAT EMPLOYEE OR GROUP OF EMPLOYEES AND ON BEHALF OF OTHER EMPLOYEES SIMILARLY SITUATED.

(2) AN EMPLOYEE MAY NOT BE A PARTY PLAINTIFF TO AN ACTION BROUGHT UNDER THIS SECTION UNLESS THAT EMPLOYEE FILES WRITTEN CONSENT WITH THE COURT IN WHICH THE ACTION IS BROUGHT TO BECOME A PARTY TO THE ACTION.

(F) (1) A PERSON FOUND TO HAVE MADE A FALSE OR FRAUDULENT REPRESENTATION OR OMISSION KNOWN TO BE FALSE OR MADE WITH DELIBERATE IGNORANCE OR RECKLESS DISREGARD FOR ITS TRUTH OR FALSITY REGARDING A MATERIAL FACT IN CONNECTION WITH ANY PREVAILING WAGE PAYROLL RECORD REQUIRED BY § 17–220 OF THIS SUBTITLE IS LIABLE FOR A CIVIL PENALTY OF $1,000 FOR EACH FALSIFIED RECORD.

(2) THE PENALTY SHALL BE RECOVERABLE IN A CIVIL ACTION FILED IN ACCORDANCE WITH THIS SECTION AND PAID TO THE STATE GENERAL FUND.

(G) AN EMPLOYER MAY NOT DISCHARGE, THREATEN, OR OTHERWISE RETALIATE OR DISCRIMINATE AGAINST AN EMPLOYEE REGARDING COMPENSATION OR OTHER TERMS AND CONDITIONS OF EMPLOYMENT BECAUSE THAT EMPLOYEE OR AN ORGANIZATION OR OTHER PERSON ACTING ON BEHALF OF THAT EMPLOYEE:

(1) REPORTS OR MAKES A COMPLAINT UNDER THIS SUBTITLE OR OTHERWISE ASSERTS THE WORKER'S RIGHTS UNDER THIS SECTION; OR

(2) PARTICIPATES IN ANY INVESTIGATION, HEARING, OR INQUIRY HELD BY THE COMMISSIONER UNDER § 17–221 OF THIS SUBTITLE.

(H) (1) A CONTRACTOR OR SUBCONTRACTOR MAY NOT RETALIATE OR DISCRIMINATE AGAINST AN EMPLOYEE IN VIOLATION OF THIS SECTION.

(2) IF A CONTRACTOR OR SUBCONTRACTOR RETALIATES OR DISCRIMINATES AGAINST AN EMPLOYEE IN VIOLATION OF THIS SECTION, THE AFFECTED EMPLOYEE MAY FILE AN ACTION IN ANY COURT OF COMPETENT JURISDICTION WITHIN 3 YEARS FROM THE EMPLOYEE'S KNOWLEDGE OF THE ACTION.

(3) IF THE COURT FINDS IN FAVOR OF THE EMPLOYEE IN AN ACTION BROUGHT UNDER THIS SUBSECTION, THE COURT SHALL ORDER THAT THE CONTRACTOR OR SUBCONTRACTOR:

(I) REINSTATE THE EMPLOYEE OR PROVIDE THE EMPLOYEE RESTITUTION, AS APPROPRIATE;

(II) PAY THE EMPLOYEE AN AMOUNT EQUAL TO THREE TIMES THE AMOUNT OF BACK WAGES AND FRINGE BENEFITS CALCULATED FROM THE DATE OF THE VIOLATION; AND

(III) PAY REASONABLE COUNSEL FEES AND OTHER COSTS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 564

(Senate Bill 459)

AN ACT concerning

Maryland Consolidated Capital Bond Loan of 2009 – ~~Charles County – Hospice House~~ Anne Arundel County – Maryland Hall for the Creative Arts

FOR the purpose of amending the Maryland Consolidated Capital Bond Loan of 2009 to authorize the matching fund for a certain grant ~~to the Board of Directors of the Hospice of Charles County, Inc.~~ to consist of real property, in kind contributions, and funds expended prior to a certain date.

BY repealing and reenacting, with amendments,
Chapter 485 of the Acts of the General Assembly of 2009
Section 1(3) Item ~~ZA02(AB) and ZA03(AE)~~ ZA00(M)

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

Chapter 485 of the Acts of 2009

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

~~(3) ZA02 HOUSE OF DELEGATES LEGISLATIVE INITIATIVES~~

~~(AB) Hospice House. Provide a grant equal to the lesser of (i) $105,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Hospice of Charles County, Inc. for the acquisition, planning, design, construction, and capital equipping of a residential hospice house, located in La Plata. Notwithstanding Section 1(5) of this Act, the matching fund may consist of **REAL PROPERTY AND** in-kind contributions (Charles County) ..... 105,000~~

~~ZA03 LOCAL SENATE INITIATIVES~~

~~(AE) Hospice House. Provide a grant equal to the lesser of (i) $145,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Hospice of Charles County, Inc. for the acquisition, planning, design, construction, and capital equipping of a residential hospice house, located in La Plata. Notwithstanding Section 1(5) of this Act, the matching fund may consist of **REAL PROPERTY AND** in-kind contributions (Charles County) ..... 145,000~~

(3) ZA00 MISCELLANEOUS GRANT PROGRAMS

(M) Maryland Hall for the Creative Arts. Provide a grant to the Board of Directors of the Maryland Hall for the Creative Arts for the construction and capital equipping of improvements to the Maryland Hall for the Creative Arts, subject to the requirement that the grantee provide an equal and matching fund for this purpose. **NOTWITHSTANDING THE PROVISIONS OF SECTION 1(5) OF THIS ACT, THE MATCHING FUND MAY CONSIST OF REAL PROPERTY, IN KIND CONTRIBUTIONS, OR FUNDS EXPENDED PRIOR TO**

THE EFFECTIVE DATE OF THIS ACT (Anne Arundel County) 500,000

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 565

(Senate Bill 477)

AN ACT concerning

State Highways – Mobile Produce Vendors – Required State Lease

FOR the purpose of expanding the application of a provision of law that prohibits certain food vendors from operating on a State highway right–of–way without a certain State lease to include mobile produce vendors; authorizing the State to require a mobile seafood or produce vendor to submit an application and pay a certain fee; prohibiting the State from entering into a lease with a mobile produce vendor unless the applicable county licenses mobile produce vendors; authorizing the State Highway Administration to adopt certain regulations; prohibiting a mobile produce vendor lessee from operating at certain locations; providing that this Act does not diminish the authority of a county to license and regulate mobile produce vendors; establishing certain criminal penalties for a violation of this Act; providing for the enforcement of this Act; defining a certain term; making certain stylistic changes; and generally relating to the operations of mobile seafood and produce vendors.

BY repealing and reenacting, with amendments,
Article – Transportation
Section 24–301 through 24–303
Annotated Code of Maryland
(2009 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,
Article – Transportation
Section 24–304
Annotated Code of Maryland
(2009 Replacement Volume and 2009 Supplement)

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

Article – Transportation

24–301.

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

(b) (1) "Established place of business" means any permanent building or structure from which a permanent business is conducted during normal business hours throughout the year.

(2) An established place of business does not include a tent, temporary stand or other temporary quarters, or permanent quarters occupied under a temporary arrangement.

(c) "Mobile seafood **OR PRODUCE** vendor" means a person who sells or offers for sale any seafood **OR PRODUCE**:

(1) While outdoors on foot;

(2) From any vehicle or conveyance, whether or not the vehicle or conveyance is in operating condition; or

(3) From any tent, temporary stand, roadside stand, roadside market, or other quarters that is not an established place of business.

(d) **(1) "PRODUCE" MEANS ANY FRUIT OR VEGETABLE PRODUCT OF THE SOIL THAT IS INTENDED FOR HUMAN CONSUMPTION.**

(2) "PRODUCE" DOES NOT INCLUDE A CANNED, FROZEN, DRIED, OR PICKLED PRODUCT.

(E) "Right–of–way" includes any highway area or highway structure and any property adjacent to a highway acquired for the operation or use of the highway.

[(e)**] (F)** "Seafood" means any finfish, crustacean, or mollusk, live or dead, or any part, egg, offspring, or body of any finfish, crustacean, or mollusk, that is intended for human consumption.

[(f)**] (G)** "Shopping center" means any 5 or more contiguous established places of business which share common parking facilities of 25 parking spaces or more.

[(g)**] (H)** "State highway" means any public highway owned by this State.

24–302.

This subtitle does not:

(1) Diminish any authority of Anne Arundel County, Howard County, or a municipal corporation to license and regulate mobile seafood vendors;

(2) Apply to charitable or nonprofit vendors who sell seafood at short–term festivals or other short–term events; **[**or**]**

(3) Apply in Calvert County and in St. Mary's County for those persons selling their own **SEAFOOD** catch**; OR**

(4) DIMINISH THE AUTHORITY OF A COUNTY TO LICENSE AND REGULATE MOBILE PRODUCE VENDORS.

24–303.

(a) **(1)** When located on the right–of–way of any State highway, a mobile seafood **OR PRODUCE** vendor may not sell, or offer for sale, any seafood **OR PRODUCE**, unless the **[**mobile seafood**]** vendor has a lease from the State that **[**permits**] ALLOWS** the **[**mobile seafood**]** vendor to sell, or offer for sale, seafood **OR PRODUCE**.

(2) THE STATE MAY REQUIRE A MOBILE SEAFOOD OR PRODUCE VENDOR TO SUBMIT AN APPLICATION AND PAY A REASONABLE FEE TO BE APPLIED TO ADMINISTRATIVE COSTS.

(3) THE STATE MAY NOT ENTER INTO A LEASE WITH A MOBILE PRODUCE VENDOR UNLESS THE APPLICABLE COUNTY LICENSES MOBILE PRODUCE VENDORS.

(b) A mobile seafood **OR PRODUCE** vendor may not sell, or offer for sale, any seafood **OR PRODUCE**, when located:

(1) Within 50 yards of any vehicular entrance to or exit from a school or place of worship, unless the **[**mobile seafood dealer**] VENDOR** has written permission of the applicable school board or person who is responsible for the buildings and grounds of the place of worship;

(2) Within 100 yards of any vehicular entrance to or exit from any shopping center;

(3) In the parking lot of any shopping center, unless the **[**mobile seafood**]** vendor has written permission of the owner of the shopping center and conforms to applicable local laws and ordinances;

(4) Within an unsafe distance, as determined by the local authorities, from the edge of any roadway;

(5) On any roadway; or

(6) On **[**privately–owned**]** **PRIVATE** property adjoining a State highway, unless the **[**mobile seafood**]** vendor owns**[**, leases,**]** or **LEASES THE PROPERTY OR** has written permission **[**of the**]** **FROM THE PROPERTY** owner **[**of the privately–owned property**]**.

(C) THE STATE HIGHWAY ADMINISTRATION MAY ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.

24–304.

(a) A violation of this subtitle is a misdemeanor punishable by the penalty specified in § 27–101(b) of this article.

(b) The charging of a person with a violation of this subtitle shall be by means of a traffic citation in the form determined under § 1–605(d) of the Courts Article.

(c) The charging of a person with a violation of this section may be performed by any State or local police officer.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 566

(House Bill 611)

AN ACT concerning

State Highways – Mobile Produce Vendors – Required State Lease

FOR the purpose of expanding the application of a provision of law that prohibits certain food vendors from operating on a State highway right–of–way without a certain State lease to include mobile produce vendors; authorizing the State to require a mobile seafood or produce vendor to submit an application and pay a certain fee; prohibiting the State from entering into a lease with a mobile produce vendor unless the applicable county licenses mobile produce vendors;

authorizing the State Highway Administration to adopt certain regulations; prohibiting a mobile produce vendor lessee from operating at certain locations; providing that this Act does not diminish the authority of a county to license and regulate mobile produce vendors; establishing certain criminal penalties for a violation of this Act; providing for the enforcement of this Act; defining a certain term; making certain stylistic changes; and generally relating to the operations of mobile seafood and produce vendors.

BY repealing and reenacting, with amendments,
Article – Transportation
Section 24–301 through 24–303
Annotated Code of Maryland
(2009 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,
Article – Transportation
Section 24–304
Annotated Code of Maryland
(2009 Replacement Volume and 2009 Supplement)

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

Article – Transportation

24–301.

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

(b) (1) "Established place of business" means any permanent building or structure from which a permanent business is conducted during normal business hours throughout the year.

(2) An established place of business does not include a tent, temporary stand or other temporary quarters, or permanent quarters occupied under a temporary arrangement.

(c) "Mobile seafood **OR PRODUCE** vendor" means a person who sells or offers for sale any seafood **OR PRODUCE**:

(1) While outdoors on foot;

(2) From any vehicle or conveyance, whether or not the vehicle or conveyance is in operating condition; or

(3) From any tent, temporary stand, roadside stand, roadside market, or other quarters that is not an established place of business.

(d) **(1) "PRODUCE" MEANS ANY FRUIT OR VEGETABLE PRODUCT OF THE SOIL THAT IS INTENDED FOR HUMAN CONSUMPTION.**

(2) "PRODUCE" DOES NOT INCLUDE A CANNED, FROZEN, DRIED, OR PICKLED PRODUCT.

(E) "Right–of–way" includes any highway area or highway structure and any property adjacent to a highway acquired for the operation or use of the highway.

[(e)**] (F)** "Seafood" means any finfish, crustacean, or mollusk, live or dead, or any part, egg, offspring, or body of any finfish, crustacean, or mollusk, that is intended for human consumption.

[(f)**] (G)** "Shopping center" means any 5 or more contiguous established places of business which share common parking facilities of 25 parking spaces or more.

[(g)**] (H)** "State highway" means any public highway owned by this State.

24–302.

This subtitle does not:

(1) Diminish any authority of Anne Arundel County, Howard County, or a municipal corporation to license and regulate mobile seafood vendors;

(2) Apply to charitable or nonprofit vendors who sell seafood at short–term festivals or other short–term events; **[**or**]**

(3) Apply in Calvert County and in St. Mary's County for those persons selling their own **SEAFOOD** catch**; OR**

(4) DIMINISH THE AUTHORITY OF A COUNTY TO LICENSE AND REGULATE MOBILE PRODUCE VENDORS.

24–303.

(a) **(1)** When located on the right–of–way of any State highway, a mobile seafood **OR PRODUCE** vendor may not sell, or offer for sale, any seafood **OR PRODUCE**, unless the **[**mobile seafood**]** vendor has a lease from the State that **[**permits**] ALLOWS** the **[**mobile seafood**]** vendor to sell, or offer for sale, seafood **OR PRODUCE**.

(2) THE STATE MAY REQUIRE A MOBILE SEAFOOD OR PRODUCE VENDOR TO SUBMIT AN APPLICATION AND PAY A REASONABLE FEE TO BE APPLIED TO ADMINISTRATIVE COSTS.

(3) THE STATE MAY NOT ENTER INTO A LEASE WITH A MOBILE PRODUCE VENDOR UNLESS THE APPLICABLE COUNTY LICENSES MOBILE PRODUCE VENDORS.

(b) A mobile seafood **OR PRODUCE** vendor may not sell, or offer for sale, any seafood **OR PRODUCE**, when located:

(1) Within 50 yards of any vehicular entrance to or exit from a school or place of worship, unless the **[**mobile seafood dealer**]** **VENDOR** has written permission of the applicable school board or person who is responsible for the buildings and grounds of the place of worship;

(2) Within 100 yards of any vehicular entrance to or exit from any shopping center;

(3) In the parking lot of any shopping center, unless the **[**mobile seafood**]** vendor has written permission of the owner of the shopping center and conforms to applicable local laws and ordinances;

(4) Within an unsafe distance, as determined by the local authorities, from the edge of any roadway;

(5) On any roadway; or

(6) On **[**privately–owned**]** **PRIVATE** property adjoining a State highway, unless the **[**mobile seafood**]** vendor owns**[**, leases,**]** or **LEASES THE PROPERTY OR** has written permission **[**of the**]** **FROM THE PROPERTY** owner **[**of the privately–owned property**]**.

(C) THE STATE HIGHWAY ADMINISTRATION MAY ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.

24–304.

(a) A violation of this subtitle is a misdemeanor punishable by the penalty specified in § 27–101(b) of this article.

(b) The charging of a person with a violation of this subtitle shall be by means of a traffic citation in the form determined under § 1–605(d) of the Courts Article.

(c) The charging of a person with a violation of this section may be performed by any State or local police officer.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 567

(Senate Bill 478)

AN ACT concerning

Residential Child Care Facilities – Incident Reporting – Interagency Workgroup

FOR the purpose of establishing a certain interagency workgroup to develop a certain uniform incident reporting system and to ~~adopt~~ recommend certain regulations; requiring the interagency workgroup to make a certain report on or before a certain date; and generally relating to an interagency workgroup on residential child care facilities and incident reporting.

Preamble

WHEREAS, The departments that license and monitor the State's residential child care facilities have competing, conflicting, overlapping, and redundant systems for incident reporting that generate thousands of incident reports each year; and

WHEREAS, It is a wasteful use of scarce resources and not in the best interest of children in out–of–home placement for departments with shared responsibility for a child to make placement or treatment decisions without knowledge of all of the relevant incident reports that are generated on a particular child; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(a) The Department of Health and Mental Hygiene, Department of Juvenile Services, and Department of Human Resources, in conjunction with licensed providers of residential child care services, shall establish an interagency workgroup to:

(1) develop a uniform reporting system to be used by any agency in the State that licenses or purchases care and services for children who are placed in residential facilities licensed by the State;

(2) ~~adopt~~ recommend regulations requiring interagency sharing of incident reports when more than one department has responsibility for the child who is the subject of the incident report; and

(3) ~~adopt~~ recommend regulations requiring any department that licenses or monitors residential child care facilities to adhere to specific incident reporting policies and practices.

(b) On or before September 1, 2011, the interagency workgroup established under subsection (a) of this section shall report its findings and recommendations to the Governor's Office for Children, 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 October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 568

(Senate Bill 493)

AN ACT concerning

Vehicle Laws – Equipment on Motorcycles – Auxiliary Lighting

FOR the purpose of authorizing an operator of a motorcycle to use certain auxiliary lighting on the motorcycle; and generally relating to motorcycle lighting.

BY repealing and reenacting, with amendments,
Article – Transportation
Section 22–221(l)
Annotated Code of Maryland
(2009 Replacement Volume and 2009 Supplement)

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

Article – Transportation

22–221.

(l) (1) Subject to paragraph (2) of this subsection, a motorcycle may be equipped with**, AND AN OPERATOR OF A MOTORCYCLE MAY USE,** the following auxiliary lighting:

(i) Blue dot illumination;

(ii) Standard bulb running lights; or

(iii) Light–emitting diode pods and strips added to protect the driver.

(2) (i) Lighting under this subsection shall be:

1. Nonblinking;

2. Nonflashing;

3. Nonoscillating; and

4. Directed toward the engine and the drive train of the motorcycle.

(ii) Lighting under this subsection may not:

1. Be attached to the wheels of the motorcycle; or

2. Emit a red or blue light.

(iii) Blue dot illumination:

1. May be located only on the rear of a motorcycle as part of or adjacent to the rear brake light; and

2. May not exceed three–quarters of an inch in diameter.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 569

(House Bill 676)

AN ACT concerning

Vehicle Laws – Equipment on Motorcycles – Auxiliary Lighting

FOR the purpose of authorizing an operator of a motorcycle to use certain auxiliary lighting on the motorcycle; and generally relating to motorcycle lighting.

BY repealing and reenacting, with amendments,
Article – Transportation
Section 22–221(l)
Annotated Code of Maryland
(2009 Replacement Volume and 2009 Supplement)

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

Article – Transportation

22–221.

(l) (1) Subject to paragraph (2) of this subsection, a motorcycle may be equipped with**, AND AN OPERATOR OF A MOTORCYCLE MAY USE,** the following auxiliary lighting:

(i) Blue dot illumination;

(ii) Standard bulb running lights; or

(iii) Light–emitting diode pods and strips added to protect the driver.

(2) (i) Lighting under this subsection shall be:

1. Nonblinking;

2. Nonflashing;

3. Nonoscillating; and

4. Directed toward the engine and the drive train of the motorcycle.

(ii) Lighting under this subsection may not:

1. Be attached to the wheels of the motorcycle; or

2. Emit a red or blue light.

(iii) Blue dot illumination:

1. May be located only on the rear of a motorcycle as part of or adjacent to the rear brake light; and

2. May not exceed three–quarters of an inch in diameter.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 570

(Senate Bill 495)

AN ACT concerning

State Police Retirement System – Deferred Vested Members – Survivor Benefits

FOR the purpose of clarifying that a certain death benefit is payable on behalf of certain former members of the State Police Retirement System; and generally relating to death benefits payable on behalf of former members receiving a deferred vested retirement allowance from the State Retirement and Pension System.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 24–403
Annotated Code of Maryland
(2009 Replacement Volume and 2009 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

24–403.

(a) This section applies only to a retiree who has retired with a service retirement allowance or a disability retirement allowance **OR A FORMER MEMBER WHO HAS RETIRED WITH A DEFERRED VESTED ALLOWANCE**.

(b) On the death of a retiree **OR FORMER MEMBER**, the Board of Trustees shall pay 80% of the retiree's retirement allowance:

(1) to the surviving spouse; or

(2) if there is not a surviving spouse or if the surviving spouse dies before the youngest child is 18 years old, to any children of the deceased retiree who are under 18 years of age.

(c) If the Board of Trustees pays an allowance to more than one child, the Board of Trustees shall divide the allowance among the children under the age of 18 years in a manner that provides for payments to continue until each child dies or becomes 18 years old.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 571

(Senate Bill 520)

AN ACT concerning

Homestead Property Tax Credit – Eligibility of Employees of the Federal Government Stationed Outside the State

FOR the purpose of providing that under certain circumstances a homeowner who is an employee of the federal government stationed outside the State may qualify for the homestead property tax credit if the homeowner is otherwise eligible for the credit but does not actually reside in a dwelling for the required time period; providing for the calculation of the homestead property tax credit ~~for a certain taxable year~~ under certain circumstances; providing for the application of this Act; and generally relating to the homestead property tax credit.

BY repealing and reenacting, without amendments,
Article – Tax – Property
Section 9–105(a)(1) through (3) and (b)
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

BY adding to
Article – Tax – Property
Section 9–105(c)(6)
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

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

Article – Tax – Property

9–105.

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

(2) (i) "Dwelling" means:

1. a house that is:

A. used as the principal residence of the homeowner; and

B. actually occupied or expected to be actually occupied by the homeowner for more than 6 months of a 12–month period beginning with the date of finality for the taxable year for which the property tax credit under this section is sought; and

2. the lot or curtilage on which the house is erected.

(ii) "Dwelling" includes:

1. a condominium unit that is occupied by an individual who has a legal interest in the condominium;

2. an apartment in a cooperative apartment corporation that is occupied by an individual who has a legal interest in the apartment; and

3. a part of real property used other than primarily for residential purposes, if the real property is used as a principal residence by an individual who has a legal interest in the real property.

(3) "Homeowner" means an individual who has a legal interest in a dwelling or who is an active member of an agricultural ownership entity that has a legal interest in a dwelling.

(b) If there is an increase in property assessment as calculated under this section, the State and the governing body of each county and of each municipal corporation shall grant a property tax credit under this section against the State, county, and municipal corporation property tax imposed on real property by the State, county, or municipal corporation.

(c) **(6) (I) THIS PARAGRAPH APPLIES IF:**

1. THE CREDIT UNDER THIS SECTION HAS BEEN DENIED FOR A DWELLING FOR ANY TAXABLE YEAR BECAUSE OF THE HOMEOWNER'S FAILURE TO OCCUPY THE DWELLING FOR THE REQUIRED TIME PERIOD; AND

2. THE HOMEOWNER'S FAILURE TO OCCUPY THE DWELLING FOR THE REQUIRED TIME PERIOD WAS THE RESULT OF THE HOMEOWNER'S BEING AN EMPLOYEE OF THE UNITED STATES GOVERNMENT ~~TEMPORARILY~~ STATIONED OUTSIDE THE STATE FOR A PERIOD NOT EXCEEDING 6 CONSECUTIVE YEARS.

(II) SUBJECT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH, A HOMEOWNER OTHERWISE ELIGIBLE FOR A CREDIT UNDER THIS SECTION MAY QUALIFY FOR THE CREDIT FOR A DWELLING TO WHICH THIS PARAGRAPH APPLIES FOR THE NEXT TAXABLE YEAR FOLLOWING THE HOMEOWNER'S RESUMPTION OF RESIDENCY IN THE DWELLING.

(III) THE CREDIT ALLOWED UNDER THIS PARAGRAPH SHALL BE CALCULATED BASED ON THE PRIOR YEAR'S TAXABLE ASSESSMENT OF THE DWELLING DETERMINED AS IF THE CREDIT HAD NOT BEEN LOST FOR THE INTERVENING TAXABLE YEARS WHEN THE HOMEOWNER WAS AN EMPLOYEE OF THE UNITED STATES GOVERNMENT STATIONED OUTSIDE THE STATE.

~~SECTION 2. AND BE IT FURTHER ENACTED, That, if a homeowner was denied the homestead property tax credit for a dwelling under § 9–105 of the Tax – Property Article for any taxable year beginning before July 1, 2010, because of the homeowner's failure to occupy the dwelling in accordance with § 9–105 of the Tax – Property Article and the homeowner's failure to occupy the dwelling was the result of the homeowner's being a federal government employee temporarily stationed outside the State, the homeowner may qualify for the homestead property tax credit for the next taxable year following the homeowner's resumption of residency. The homestead property tax credit for the taxable year beginning July 1, 2010, shall be calculated based on the prior year's taxable assessment of the property determined as if the homeowner had continuously qualified for the homestead property tax credit.~~

SECTION ~~3.~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010, and shall be applicable to all taxable years beginning after June 30, 2010.

Approved by the Governor, May 20, 2010.

Chapter 572

(House Bill 199)

AN ACT concerning

Homestead Property Tax Credit – Eligibility of Employees of the Federal Government Stationed Outside the State

FOR the purpose of providing that under certain circumstances a homeowner who is an employee of the federal government stationed outside the State may qualify for the homestead property tax credit if the homeowner is otherwise eligible for the credit but does not actually reside in a dwelling for the required time period; providing for the calculation of the homestead property tax credit ~~for a certain taxable year~~ under certain circumstances; providing for the application of this Act; and generally relating to the homestead property tax credit.

BY repealing and reenacting, without amendments,
Article – Tax – Property
Section 9–105(a)(1) through (3) and (b)
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

BY adding to
Article – Tax – Property
Section 9–105(c)(6)
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

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

Article – Tax – Property

9–105.

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

(2) (i) "Dwelling" means:

1. a house that is:

A. used as the principal residence of the homeowner; and

B. actually occupied or expected to be actually occupied by the homeowner for more than 6 months of a 12–month period beginning with the

date of finality for the taxable year for which the property tax credit under this section is sought; and

2. the lot or curtilage on which the house is erected.

(ii) "Dwelling" includes:

1. a condominium unit that is occupied by an individual who has a legal interest in the condominium;

2. an apartment in a cooperative apartment corporation that is occupied by an individual who has a legal interest in the apartment; and

3. a part of real property used other than primarily for residential purposes, if the real property is used as a principal residence by an individual who has a legal interest in the real property.

(3) "Homeowner" means an individual who has a legal interest in a dwelling or who is an active member of an agricultural ownership entity that has a legal interest in a dwelling.

(b) If there is an increase in property assessment as calculated under this section, the State and the governing body of each county and of each municipal corporation shall grant a property tax credit under this section against the State, county, and municipal corporation property tax imposed on real property by the State, county, or municipal corporation.

(c) **(6) (I) THIS PARAGRAPH APPLIES IF:**

1. THE CREDIT UNDER THIS SECTION HAS BEEN DENIED FOR A DWELLING FOR ANY TAXABLE YEAR BECAUSE OF THE HOMEOWNER'S FAILURE TO OCCUPY THE DWELLING FOR THE REQUIRED TIME PERIOD; AND

2. THE HOMEOWNER'S FAILURE TO OCCUPY THE DWELLING FOR THE REQUIRED TIME PERIOD WAS THE RESULT OF THE HOMEOWNER'S BEING AN EMPLOYEE OF THE UNITED STATES GOVERNMENT ~~TEMPORARILY~~ STATIONED OUTSIDE THE STATE FOR A PERIOD NOT EXCEEDING 6 CONSECUTIVE YEARS.

(II) SUBJECT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH, A HOMEOWNER OTHERWISE ELIGIBLE FOR A CREDIT UNDER THIS SECTION MAY QUALIFY FOR THE CREDIT FOR A DWELLING TO WHICH THIS PARAGRAPH APPLIES FOR THE NEXT TAXABLE YEAR FOLLOWING THE HOMEOWNER'S RESUMPTION OF RESIDENCY IN THE DWELLING.

(III) THE CREDIT ALLOWED UNDER THIS PARAGRAPH SHALL BE CALCULATED BASED ON THE PRIOR YEAR'S TAXABLE ASSESSMENT OF THE DWELLING DETERMINED AS IF THE CREDIT HAD NOT BEEN LOST FOR THE INTERVENING TAXABLE YEARS WHEN THE HOMEOWNER WAS AN EMPLOYEE OF THE UNITED STATES GOVERNMENT STATIONED OUTSIDE THE STATE.

~~SECTION 2. AND BE IT FURTHER ENACTED, That, if a homeowner was denied the homestead property tax credit for a dwelling under § 9–105 of the Tax – Property Article for any taxable year beginning before July 1, 2010, because of the homeowner's failure to occupy the dwelling in accordance with § 9–105 of the Tax – Property Article and the homeowner's failure to occupy the dwelling was the result of the homeowner's being a federal government employee temporarily stationed outside the State, the homeowner may qualify for the homestead property tax credit for the next taxable year following the homeowner's resumption of residency. The homestead property tax credit for the taxable year beginning July 1, 2010, shall be calculated based on the prior year's taxable assessment of the property determined as if the homeowner had continuously qualified for the homestead property tax credit.~~

SECTION ~~3.~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010, and shall be applicable to all taxable years beginning after June 30, 2010.

Approved by the Governor, May 20, 2010.

Chapter 573

(Senate Bill 529)

AN ACT concerning

Net Energy Metering – Fuel Cell

FOR the purpose of including, among the list of eligible customer–generators that are eligible for net energy metering, a customer that uses a certain fuel cell electric generating facility that meets certain conditions; defining a certain term; and generally relating to net energy metering.

BY repealing and reenacting, with amendments,
Article – Public Utility Companies
Section 7–306(a)
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,

Article – Public Utility Companies
Section 7–306(b)
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

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

Article – Public Utility Companies

7–306.

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

(2) "Biomass" means "qualified biomass" as defined in § 7–701 of this title.

(3) "Eligible customer–generator" means a customer that owns and operates, leases and operates, or contracts with a third party that owns and operates a biomass, micro combined heat and power, solar, **FUEL CELL,** or wind electric generating facility that:

(i) is located on the customer's premises or contiguous property;

(ii) is interconnected and operated in parallel with an electric company's transmission and distribution facilities; and

(iii) is intended primarily to offset all or part of the customer's own electricity requirements.

(4) **"FUEL CELL" MEANS AN ELECTRIC GENERATING FACILITY THAT:**

(I) INCLUDES INTEGRATED POWER PLANT SYSTEMS CONTAINING A STACK, TUBULAR ARRAY, OR OTHER FUNCTIONALLY SIMILAR CONFIGURATION USED TO ELECTROCHEMICALLY CONVERT FUEL TO ELECTRIC ENERGY; AND

(II) MAY INCLUDE:

1. AN INVERTER AND FUEL PROCESSING SYSTEM; AND

2. OTHER PLANT EQUIPMENT TO SUPPORT THE PLANT'S OPERATION OR ITS ENERGY CONVERSION, INCLUDING HEAT RECOVERY EQUIPMENT.

(5) "Micro combined heat and power" means the simultaneous or sequential production of useful thermal energy and electrical or mechanical power not exceeding 30 kilowatts.

[(5)**] (6)** "Net energy metering" means measurement of the difference between the electricity that is supplied by an electric company and the electricity that is generated by an eligible customer–generator and fed back to the electric company over the eligible customer–generator's billing period.

(b) The General Assembly finds and declares that a program to provide net energy metering for eligible customer–generators is a means to encourage private investment in renewable energy resources, stimulate in–State economic growth, enhance continued diversification of the State's energy resource mix, and reduce costs of interconnection and administration.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 574

(House Bill 821)

AN ACT concerning

Net Energy Metering – Fuel Cell

FOR the purpose of including, among the list of eligible customer–generators that are eligible for net energy metering, a customer that uses a certain fuel cell electric generating facility that meets certain conditions; defining a certain term; and generally relating to net energy metering.

BY repealing and reenacting, with amendments,
Article – Public Utility Companies
Section 7–306(a)
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,

Article – Public Utility Companies
Section 7–306(b)
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

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

Article – Public Utility Companies

7–306.

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

(2) "Biomass" means "qualified biomass" as defined in § 7–701 of this title.

(3) "Eligible customer–generator" means a customer that owns and operates, leases and operates, or contracts with a third party that owns and operates a biomass, micro combined heat and power, solar, **FUEL CELL,** or wind electric generating facility that:

(i) is located on the customer's premises or contiguous property;

(ii) is interconnected and operated in parallel with an electric company's transmission and distribution facilities; and

(iii) is intended primarily to offset all or part of the customer's own electricity requirements.

(4) **"FUEL CELL" MEANS AN ELECTRIC GENERATING FACILITY THAT:**

(I) INCLUDES INTEGRATED POWER PLANT SYSTEMS CONTAINING A STACK, TUBULAR ARRAY, OR OTHER FUNCTIONALLY SIMILAR CONFIGURATION USED TO ELECTROCHEMICALLY CONVERT FUEL TO ELECTRIC ENERGY; AND

(II) MAY INCLUDE:

1. AN INVERTER AND FUEL PROCESSING SYSTEM; AND

2. OTHER PLANT EQUIPMENT TO SUPPORT THE PLANT'S OPERATION OR ITS ENERGY CONVERSION, INCLUDING HEAT RECOVERY EQUIPMENT.

(5) "Micro combined heat and power" means the simultaneous or sequential production of useful thermal energy and electrical or mechanical power not exceeding 30 kilowatts.

[(5)**] (6)** "Net energy metering" means measurement of the difference between the electricity that is supplied by an electric company and the electricity that is generated by an eligible customer–generator and fed back to the electric company over the eligible customer–generator's billing period.

(b) The General Assembly finds and declares that a program to provide net energy metering for eligible customer–generators is a means to encourage private investment in renewable energy resources, stimulate in–State economic growth, enhance continued diversification of the State's energy resource mix, and reduce costs of interconnection and administration.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 575

(Senate Bill 536)

AN ACT concerning

State Board of Education – Student Member ~~– Full~~ Voting Rights Act

FOR the purpose of repealing certain limits on the right of the student member of the State Board of Education to vote on certain matters; and generally relating to the student member of the State Board of Education.

BY repealing and reenacting, with amendments,
Article – Education
Section 2–202(c)
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

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

Article – Education

2–202.

(c) (1) The student member shall be:

(i) A regularly enrolled student; and

(ii) In good standing in a public high school in the State.

(2) The student member may attend and participate in an executive session of the Board.

~~[~~(3) The student member may not vote on any matter that relates to:

(i) The dismissal of or other disciplinary action involving personnel; **OR**

~~(ii) Budget; or~~

~~(iii)~~ **(II)** Appeals to the State Board under § 2–205, § 4–205, or § 6–202 of this article.~~]~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 576

(Senate Bill 542)

AN ACT concerning

~~Health~~ Business Regulation – Lodging Establishments – National Human Trafficking Resource Center Hotline ~~– Posting of~~ Information

FOR the purpose of ~~requiring the Department of Health and Mental Hygiene to adopt certain regulations related to the posting of a certain notice regarding the National Human Trafficking Resource Center hotline;~~ requiring the Department of Labor, Licensing, and Regulation to design a sign that contains certain information regarding the National Human Trafficking Resource Center Hotline; requiring the sign to meet certain requirements and be placed on the

Department's website; requiring a lodging establishment to post a certain sign in certain places for a certain period of time if certain conditions are met; providing a certain penalty for the violation of a certain provision of this Act; and generally relating to ~~the posting of~~ lodging establishments and information regarding the National Human Trafficking Resource Center ~~hotline~~ Hotline.

~~BY adding to~~
~~Article – Health – General~~
~~Section 24–213~~
~~Annotated Code of Maryland~~
~~(2009 Replacement Volume)~~

BY adding to
Article – Business Regulation
Section 15–207
Annotated Code of Maryland
(2004 Replacement Volume and 2009 Supplement)

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

~~**Article – Health – General**~~

~~**24–213.**~~

~~**(A) THE DEPARTMENT SHALL ADOPT REGULATIONS REQUIRING THE POSTING OF A NOTICE INFORMING INDIVIDUALS OF THE PHONE NUMBER FOR AND OTHER INFORMATION ABOUT THE NATIONAL HUMAN TRAFFICKING RESOURCE CENTER HOTLINE.**~~

~~**(B) THE REGULATIONS SHALL ESTABLISH:**~~

~~**(1) THE BUILDINGS AND COMMERCIAL ESTABLISHMENTS WHERE THE NOTICE IS REQUIRED TO BE POSTED;**~~

~~**(2) STANDARDS FOR THE SIZE AND FORMAT OF THE NOTICE;**~~

~~**(3) THE INFORMATION REQUIRED TO BE INCLUDED IN THE NOTICE; AND**~~

~~**(4) THE LANGUAGES IN WHICH THE NOTICE SHALL BE DISPLAYED.**~~

Article – Business Regulation

15–207.

(A) (1) THE DEPARTMENT SHALL DESIGN A SIGN THAT STATES THE FOLLOWING:

"REPORT HUMAN TRAFFICKING: NATIONAL HUMAN TRAFFICKING RESOURCE CENTER – 1–888–373–7888. CALL FOR HELP IF YOU OR SOMEONE YOU KNOW:

- IS BEING FORCED TO HAVE SEX WITHOUT CONSENT
- HAS HAD AN ID OR DOCUMENTS TAKEN AWAY
- IS BEING THREATENED BY OR IS IN DEBT TO AN EMPLOYER
- WANTS TO LEAVE A JOB BUT CANNOT FREELY *DO* SO.

TOLL–FREE. 24/7. CONFIDENTIAL. INTERPRETERS AVAILABLE.

THIS SIGN IS REQUIRED UNDER STATE LAW."

(2) THE SIGN SHALL:

(I) BE AT LEAST 3 BY 5 INCHES IN SIZE;

(II) CONTAIN THE TEXT REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION IN ENGLISH, SPANISH, AND ANY OTHER LANGUAGES REQUIRED BY THE FEDERAL VOTING RIGHTS ACT;

(III) DRAW ATTENTION TO THE PHONE NUMBER OF THE NATIONAL HUMAN TRAFFICKING RESOURCE CENTER HOTLINE BY SHOWING THE PHONE NUMBER IN BOLD TYPE; AND

(IV) BE PLACED ON THE DEPARTMENT WEBSITE.

(B) (1) A STATE, COUNTY, OR MUNICIPAL LAW ENFORCEMENT AGENCY MAY ISSUE A CIVIL CITATION TO A LODGING ESTABLISHMENT REQUIRING IT TO POST PROMINENTLY IN EACH GUEST ROOM FOR 1 YEAR THE SIGN THAT IS IDENTICAL TO THE NOTICE REQUIRED TO BE PLACED ON THE WEBSITE OF THE DEPARTMENT UNDER SUBSECTION (A) OF THIS SECTION, IF THE LODGING ESTABLISHMENT IS LOCATED ON PROPERTY WHERE ARRESTS LEADING TO CONVICTIONS OF PROSTITUTION, SOLICITATION OF A MINOR, OR HUMAN TRAFFICKING UNDER TITLE 11, SUBTITLE 13 OF THE CRIMINAL LAW ARTICLE HAVE OCCURRED.

(2) A STATE, COUNTY, OR MUNICIPAL LAW ENFORCEMENT AGENCY SHALL CONSIDER ANY ASSISTANCE IT RECEIVES FROM A LODGING

ESTABLISHMENT IN AN INVESTIGATION LEADING TO A CONVICTION UNDER PARAGRAPH (1) OF THIS SUBSECTION IN DETERMINING WHETHER TO ISSUE A CITATION UNDER THIS SUBSECTION.

(C) (1) THE OWNER OF A LODGING ESTABLISHMENT THAT VIOLATES SUBSECTION (B)(1) OF THIS SECTION IS SUBJECT TO A CIVIL PENALTY NOT EXCEEDING $1,000.

(2) EACH GUEST ROOM THAT DOES NOT HAVE A SIGN IS NOT A SEPARATE VIOLATION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 577

(House Bill 1322)

AN ACT concerning

Business Regulation – Lodging Establishments – National Human Trafficking Resource Center Hotline Information

FOR the purpose of requiring the Department of Labor, Licensing, and Regulation to design a sign that contains certain information regarding the National Human Trafficking Resource Center Hotline; requiring the sign to meet certain requirements and be placed on the ~~Department~~ Department's website; requiring ~~an innkeeper of~~ a lodging establishment to post a certain sign in certain places for a certain period of time if certain conditions are met; providing a certain ~~penalties~~ penalty for the violation of a certain provision of this Act; and generally relating to lodging establishments and information regarding the National Human Trafficking Resource Center Hotline.

BY adding to
Article – Business Regulation
Section 15–207
Annotated Code of Maryland
(2004 Replacement Volume and 2009 Supplement)

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

Article – Business Regulation

15–207.

(A) (1) THE DEPARTMENT SHALL DESIGN A SIGN THAT STATES THE FOLLOWING:

~~"IF YOU OR SOMEONE YOU KNOW IS BEING FORCED TO ENGAGE IN ANY ACTIVITY AND CANNOT LEAVE – WHETHER IT IS COMMERCIAL SEX, HOUSEWORK, FARM WORK, OR ANY OTHER ACTIVITY — CALL THE NATIONAL HUMAN TRAFFICKING RESOURCE CENTER HOTLINE AT 1–888–373–7888 TO ACCESS HELP AND SERVICES.~~

~~VICTIMS OF HUMAN TRAFFICKING ARE PROTECTED UNDER U.S. AND MARYLAND LAW. THE HOTLINE IS:~~

- ~~TOLL–FREE, AVAILABLE 24/7~~
- ~~ANONYMOUS AND CONFIDENTIAL~~
- ~~OPERATED BY A NONPROFIT, NONGOVERNMENTAL ORGANIZATION~~
- ~~ACCESSIBLE IN 170 LANGUAGES~~
- ~~ABLE TO PROVIDE HELP, REFERRAL TO SERVICES, TRAINING, AND GENERAL INFORMATION".~~

~~(2) THE SIGN SHALL:~~

~~(I) BE AT LEAST 8.5 BY 11 INCHES IN SIZE;~~

~~(II) CONTAIN THE TEXT REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION IN ENGLISH, SPANISH, AND ANY OTHER LANGUAGES REQUIRED BY THE FEDERAL VOTING RIGHTS ACT;~~

~~(III) DRAW ATTENTION TO THE PHONE NUMBER OF THE NATIONAL HUMAN TRAFFICKING RESOURCE CENTER HOTLINE BY SHOWING THE PHONE NUMBER IN BOLD TYPE; AND~~

~~(IV) BE PLACED ON THE DEPARTMENT WEBSITE.~~

~~(B) AN INNKEEPER OF A LODGING ESTABLISHMENT SHALL POST PROMINENTLY IN EACH GUEST ROOM FOR 1 YEAR THE SIGN THAT IS PLACED ON THE WEBSITE OF THE DEPARTMENT UNDER SUBSECTION (A) OF THIS SECTION IF THE LODGING ESTABLISHMENT:~~

~~(1) HAS BEEN FOUND TO KEEP A COMMON NUISANCE UNDER § 5–605 OF THE CRIMINAL LAW ARTICLE; OR~~

~~(2) IS A LOCATION WHERE AN INDIVIDUAL HAS BEEN ARRESTED FOR PROSTITUTION, SOLICITATION OF A MINOR, OR HUMAN TRAFFICKING UNDER TITLE 11, SUBTITLE 13 OF THE CRIMINAL LAW ARTICLE.~~

~~(C) (1) A PERSON WHO VIOLATES SUBSECTION (B) OF THIS SECTION IS GUILTY OF A MISDEMEANOR AND, ON CONVICTION, IS SUBJECT TO A FINE NOT EXCEEDING $1,000 OR IMPRISONMENT NOT EXCEEDING 10 DAYS, OR BOTH.~~

~~(2) EACH GUEST ROOM THAT DOES NOT HAVE A SIGN IS NOT A SEPARATE VIOLATION.~~

"REPORT HUMAN TRAFFICKING: NATIONAL HUMAN TRAFFICKING RESOURCE CENTER — 1–888–373–7888. CALL FOR HELP IF YOU OR SOMEONE YOU KNOW:

- IS BEING FORCED TO HAVE SEX WITHOUT CONSENT
- HAS HAD AN ID OR DOCUMENTS TAKEN AWAY
- IS BEING THREATENED BY OR IS IN DEBT TO AN EMPLOYER
- WANTS TO LEAVE A JOB BUT CANNOT FREELY DO SO.

TOLL–FREE. 24/7. CONFIDENTIAL. INTERPRETERS AVAILABLE.

THIS SIGN IS REQUIRED UNDER STATE LAW."

(2) THE SIGN SHALL:

(I) BE AT LEAST 3 BY 5 INCHES IN SIZE;

(II) CONTAIN THE TEXT REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION IN ENGLISH, SPANISH, AND ANY OTHER LANGUAGES REQUIRED BY THE FEDERAL VOTING RIGHTS ACT;

(III) DRAW ATTENTION TO THE PHONE NUMBER OF THE NATIONAL HUMAN TRAFFICKING RESOURCE CENTER HOTLINE BY SHOWING THE PHONE NUMBER IN BOLD TYPE; AND

(IV) BE PLACED ON THE DEPARTMENT WEBSITE.

(B) (1) A STATE, COUNTY, OR MUNICIPAL LAW ENFORCEMENT AGENCY MAY ISSUE A CIVIL CITATION TO A LODGING ESTABLISHMENT

REQUIRING IT TO POST PROMINENTLY IN EACH GUEST ROOM FOR 1 YEAR THE SIGN THAT IS IDENTICAL TO THE NOTICE REQUIRED TO BE PLACED ON THE WEBSITE OF THE DEPARTMENT UNDER SUBSECTION (A) OF THIS SECTION, IF THE LODGING ESTABLISHMENT IS LOCATED ON PROPERTY WHERE ARRESTS LEADING TO CONVICTIONS OF PROSTITUTION, SOLICITATION OF A MINOR, OR HUMAN TRAFFICKING UNDER TITLE 11, SUBTITLE 13 OF THE CRIMINAL LAW ARTICLE HAVE OCCURRED.

(2) A STATE, COUNTY, OR MUNICIPAL LAW ENFORCEMENT AGENCY SHALL CONSIDER ANY ASSISTANCE IT RECEIVES FROM A LODGING ESTABLISHMENT IN AN INVESTIGATION LEADING TO A CONVICTION UNDER PARAGRAPH (1) OF THIS SUBSECTION IN DETERMINING WHETHER TO ISSUE A CITATION UNDER THIS SUBSECTION.

(C) (1) THE OWNER OF A LODGING ESTABLISHMENT THAT VIOLATES SUBSECTION (B)(1) OF THIS SECTION IS SUBJECT TO A CIVIL PENALTY NOT EXCEEDING $1,000.

(2) EACH GUEST ROOM THAT DOES NOT HAVE A SIGN IS NOT A SEPARATE VIOLATION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 578

(Senate Bill 546)

AN ACT concerning

Procurement – Minority Business Enterprises – Review of Application for Certification and Notice to Applicant

FOR the purpose of requiring the Board of Public Works to adopt regulations that require the agency designated to certify minority business enterprises to complete its review and provide notice of its decision to the applicant~~, absent extenuating circumstances,~~ within a certain period of time ~~and that authorize the agency, after giving certain notice and explanation to a certain applicant, to extend the time period once for completion of the agency's review of, and decision on, a certain application for a certain time period~~; *authorizing the agency to extend a certain notification requirement for a certain period of time if*

the agency provides the applicant with a certain notice and explanation; and generally relating to review and notice concerning an application for certification as a minority business enterprise.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 14–303
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – State Finance and Procurement

14–303.

(a) (1) (i) In accordance with Title 10, Subtitle 1 of the State Government Article, the Board shall adopt regulations consistent with the purposes of this Division II to carry out the requirements of this subtitle.

(ii) The Board shall keep a record of the number of waivers requested and the number of waivers granted each year under subsection (b)(8) of this section and submit a copy of the record to the General Assembly on or before October 1 of each year, in accordance with § 2–1246 of the State Government Article.

(2) The regulations shall establish procedures to be followed by units, prospective contractors, and successful bidders or offerors to maximize notice to, and the opportunity to participate in the procurement process by, a broad range of minority business enterprises.

(b) These regulations shall include:

(1) provisions**:**

(I) designating one agency to certify and decertify minority business enterprises for all units through a single process that meets applicable federal requirements**;** ~~AND~~

(II) REQUIRING THE AGENCY DESIGNATED TO CERTIFY MINORITY BUSINESS ENTERPRISES~~**, ABSENT EXTENUATING CIRCUMSTANCES,**~~ **TO COMPLETE THE AGENCY'S REVIEW OF AN APPLICATION FOR CERTIFICATION AND NOTIFY THE APPLICANT OF THE AGENCY'S DECISION WITHIN** ~~**120**~~ **90 DAYS OF RECEIPT OF** ~~**THE**~~ ***A*** **COMPLETE APPLICATION** ***THAT INCLUDES ALL OF THE INFORMATION NECESSARY FOR THE AGENCY TO MAKE A DECISION*****; AND**

(III) **AUTHORIZING THE AGENCY**~~**, AFTER GIVING WRITTEN NOTICE AND EXPLANATION TO THE APPLICANT,**~~ ***DESIGNATED TO CERTIFY MINORITY BUSINESS ENTERPRISES*** **TO EXTEND THE** ~~**TIME PERIOD ONCE FOR COMPLETION OF THE AGENCY'S REVIEW OF, AND DECISION ON AN APPLICATION FOR CERTIFICATION FOR A PERIOD OF NOT MORE THAN**~~ ***NOTIFICATION REQUIREMENT ESTABLISHED UNDER ITEM (II) OF THIS ITEM ONCE, FOR NO MORE THAN AN ADDITIONAL*** **60 DAYS,** ***IF THE AGENCY PROVIDES THE APPLICANT WITH A WRITTEN NOTICE AND EXPLANATION*****;**

(2) a requirement that the solicitation document accompanying each solicitation set forth the expected degree of minority business enterprise participation based, in part, on:

(i) the potential subcontract opportunities available in the prime procurement contract; and

(ii) the availability of certified minority business enterprises to respond competitively to the potential subcontract opportunities;

(3) a requirement that the unit provide a current list of certified minority business enterprises to each prospective contractor;

(4) provisions to ensure the uniformity of requests for bids on subcontracts;

(5) provisions relating to the timing of requests for bids on subcontracts and of submission of bids on subcontracts;

(6) provisions designed to ensure that a fiscal disadvantage to the State does not result from an inadequate response by minority business enterprises to a request for bids;

(7) provisions relating to joint ventures, under which a bidder may count toward meeting its minority business enterprise participation goal, the minority business enterprise portion of the joint venture;

(8) consistent with § 14–302(a)(6) of this subtitle, provisions relating to any circumstances under which a unit may waive obligations of the contractor relating to minority business enterprise participation;

(9) provisions requiring a monthly submission to the unit by minority business enterprises acknowledging all payments received in the preceding 30 days under a contract governed by this subtitle;

(10) a requirement that a unit shall verify and maintain data concerning payments received by minority business enterprises, including a

requirement that, upon completion of a project, the unit shall compare the total dollar value actually received by minority business enterprises with the amount of contract dollars initially awarded, and an explanation of any discrepancies therein;

(11) a requirement that a unit verify that minority business enterprises listed in a successful bid are actually participating to the extent listed in the project for which the bid was submitted;

(12) provisions establishing a graduation program based on the financial viability of the minority business enterprise, using annual gross receipts or other economic indicators as may be determined by the Board;

(13) a requirement that a bid or proposal based on a solicitation with an expected degree of minority business enterprise participation identify the specific commitment of certified minority business enterprises at the time of submission;

(14) provisions promoting and providing for the counting and reporting of certified minority business enterprises as prime contractors; and

(15) other provisions that the Board considers necessary or appropriate to encourage participation by minority business enterprises and to protect the integrity of the procurement process.

(c) The regulations adopted under this section shall specify that a unit may not allow a business to participate as if it were a certified minority business enterprise if the business's certification is pending.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 579

(House Bill 923)

AN ACT concerning

Procurement – Minority Business Enterprises – Review of Application for Certification and Notice to Applicant

FOR the purpose of requiring the Board of Public Works to adopt regulations that require the agency designated to certify minority business enterprises to complete its review and provide notice of its decision to the applicant~~, absent extenuating circumstances,~~ within a certain period of time; authorizing the

agency to extend a certain notification requirement for a certain period of time if the agency provides the applicant with a certain notice and explanation; and generally relating to review and notice concerning an application for certification as a minority business enterprise.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 14–303
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – State Finance and Procurement

14–303.

(a) (1) (i) In accordance with Title 10, Subtitle 1 of the State Government Article, the Board shall adopt regulations consistent with the purposes of this Division II to carry out the requirements of this subtitle.

(ii) The Board shall keep a record of the number of waivers requested and the number of waivers granted each year under subsection (b)(8) of this section and submit a copy of the record to the General Assembly on or before October 1 of each year, in accordance with § 2–1246 of the State Government Article.

(2) The regulations shall establish procedures to be followed by units, prospective contractors, and successful bidders or offerors to maximize notice to, and the opportunity to participate in the procurement process by, a broad range of minority business enterprises.

(b) These regulations shall include:

(1) provisions**:**

(I) designating one agency to certify and decertify minority business enterprises for all units through a single process that meets applicable federal requirements**;** ~~**AND**~~

(II) REQUIRING THE AGENCY DESIGNATED TO CERTIFY MINORITY BUSINESS ENTERPRISES~~**, ABSENT EXTENUATING CIRCUMSTANCES,**~~ **TO COMPLETE THE AGENCY'S REVIEW OF AN APPLICATION FOR CERTIFICATION AND NOTIFY THE APPLICANT OF THE AGENCY'S DECISION WITHIN** ~~**120**~~ **90 DAYS OF RECEIPT OF** ~~**THE APPLICATION**~~ **A COMPLETE APPLICATION THAT INCLUDES**

ALL OF THE INFORMATION NECESSARY FOR THE AGENCY TO MAKE A DECISION; AND

(III) AUTHORIZING THE AGENCY DESIGNATED TO CERTIFY MINORITY BUSINESS ENTERPRISES TO EXTEND THE NOTIFICATION REQUIREMENT ESTABLISHED UNDER ITEM (II) OF THIS ITEM ONCE, FOR NO MORE THAN AN ADDITIONAL 60 DAYS, IF THE AGENCY PROVIDES THE APPLICANT WITH A WRITTEN NOTICE AND EXPLANATION;

(2) a requirement that the solicitation document accompanying each solicitation set forth the expected degree of minority business enterprise participation based, in part, on:

(i) the potential subcontract opportunities available in the prime procurement contract; and

(ii) the availability of certified minority business enterprises to respond competitively to the potential subcontract opportunities;

(3) a requirement that the unit provide a current list of certified minority business enterprises to each prospective contractor;

(4) provisions to ensure the uniformity of requests for bids on subcontracts;

(5) provisions relating to the timing of requests for bids on subcontracts and of submission of bids on subcontracts;

(6) provisions designed to ensure that a fiscal disadvantage to the State does not result from an inadequate response by minority business enterprises to a request for bids;

(7) provisions relating to joint ventures, under which a bidder may count toward meeting its minority business enterprise participation goal, the minority business enterprise portion of the joint venture;

(8) consistent with § 14–302(a)(6) of this subtitle, provisions relating to any circumstances under which a unit may waive obligations of the contractor relating to minority business enterprise participation;

(9) provisions requiring a monthly submission to the unit by minority business enterprises acknowledging all payments received in the preceding 30 days under a contract governed by this subtitle;

(10) a requirement that a unit shall verify and maintain data concerning payments received by minority business enterprises, including a

requirement that, upon completion of a project, the unit shall compare the total dollar value actually received by minority business enterprises with the amount of contract dollars initially awarded, and an explanation of any discrepancies therein;

(11) a requirement that a unit verify that minority business enterprises listed in a successful bid are actually participating to the extent listed in the project for which the bid was submitted;

(12) provisions establishing a graduation program based on the financial viability of the minority business enterprise, using annual gross receipts or other economic indicators as may be determined by the Board;

(13) a requirement that a bid or proposal based on a solicitation with an expected degree of minority business enterprise participation identify the specific commitment of certified minority business enterprises at the time of submission;

(14) provisions promoting and providing for the counting and reporting of certified minority business enterprises as prime contractors; and

(15) other provisions that the Board considers necessary or appropriate to encourage participation by minority business enterprises and to protect the integrity of the procurement process.

(c) The regulations adopted under this section shall specify that a unit may not allow a business to participate as if it were a certified minority business enterprise if the business's certification is pending.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 580

(Senate Bill 550)

AN ACT concerning

State Retirement and Pension System – Eligible Governmental Units

FOR the purpose of providing that the effective date of certain eligible governmental units to join the State Retirement and Pension System shall be postponed to a certain date if the Board of Trustees for the State Retirement and Pension System does not receive certain documents on or before a certain date from the eligible governmental unit; making certain technical and clarifying changes to

the State Personnel and Pensions Article; deleting certain obsolete provisions in the State Personnel and Pensions Article; defining certain terms; and generally relating to eligible governmental units participating in the State Retirement and Pension System.

BY repealing
Article – State Personnel and Pensions
Section 31–201 through 31–205 and the subtitle "Subtitle 2. Participation in the Local Fire and Police System"
Annotated Code of Maryland
(2009 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,
Article – State Personnel and Pensions
Section 31–101(a), 31–2A–01(a), and 31–2B–01(a)
Annotated Code of Maryland
(2009 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 31–101(e) and (h), 31–109.1, 31–2A–01(f), 31–2A–03, 31–2A–03.1, 31–2A–05, 31–2B–01(e), 31–2B–03, 31–2B–05, 31–301, 31–302, 31–304, 31–305, and 31–306
Annotated Code of Maryland
(2009 Replacement Volume and 2009 Supplement)

BY adding to
Article – State Personnel and Pensions
Section 31–2A–01(g), 31–2B–01(f), and 31–2B–03.1
Annotated Code of Maryland
(2009 Replacement Volume and 2009 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 31–201 through 31–205 and the subtitle "Subtitle 2. Participation in the Local Fire and Police System" of Article – State Personnel and Pensions of the Annotated Code of Maryland be repealed.

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

Article – State Personnel and Pensions

31–101.

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

(e) (1) "Employee" means **[**an**]** **A REGULAR** employee of an eligible governmental unit.

(2) "Employee" includes an officer of an eligible governmental unit.

(3) "EMPLOYEE" DOES NOT INCLUDE A CONTRACTUAL, EMERGENCY, OR TEMPORARY EXTRA EMPLOYEE.

(h) "Local pension system" means a retirement or pension system **ESTABLISHED BY THE LEGISLATIVE BODY** of an eligible governmental unit **[**that exists before participation by the governmental unit in the employees' systems**]**.

31–109.1.

(A) [The**]** **EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE** effective date of participation for an eligible governmental unit is July 1 of the year following the fiscal year in which the eligible governmental unit elects to participate in the Employees' Pension System.

(B) IF AN ELIGIBLE GOVERNMENTAL UNIT DOES NOT PROVIDE THE BOARD OF TRUSTEES WITH THE NECESSARY DOCUMENTATION TO JOIN THE EMPLOYEES' PENSION SYSTEM ON OR BEFORE THE EFFECTIVE DATE FOR THE ELIGIBLE GOVERNMENTAL UNIT, THE EFFECTIVE DATE SHALL BE POSTPONED UNTIL JULY 1 OF THE SECOND YEAR FOLLOWING THE FISCAL YEAR IN WHICH THE ELIGIBLE GOVERNMENTAL UNIT ELECTS TO PARTICIPATE IN THE EMPLOYEES' PENSION SYSTEM.

31–2A–01.

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

(f) **[**(1)**]** "Local pension system" means a retirement or pension system **ESTABLISHED BY THE LEGISLATIVE BODY** of an eligible governmental unit.

[(2) "Local pension system" includes the Employees' Retirement System and the Employees' Pension System if the eligible governmental unit participates under Subtitle 1 of this title.**]**

(G) "STATE SYSTEM" HAS THE MEANING STATED IN § 20–101(PP) OF THIS ARTICLE.

31–2A–03.

(a) If at least 60% of the law enforcement officers of an eligible governmental unit who are members of a local pension system **OR STATE SYSTEM** petition to

become members of the Law Enforcement Officers' Pension System, the legislative body of the eligible governmental unit may approve the participation of these law enforcement officers in the Law Enforcement Officers' Pension System as though the local pension system were not in operation.

(b) If at least 60% of the firefighters and paramedics employed by the Salisbury Fire Department petition to become members of the Law Enforcement Officers' Pension System, the legislative body of the City of Salisbury, as an eligible governmental unit, may approve the participation of these firefighters and paramedics in the Law Enforcement Officers' Pension System.

(c) If at least 60% of the firefighters of an eligible governmental unit who are members of a local pension system **OR STATE SYSTEM** petition to become members of the Law Enforcement Officers' Pension System, the legislative body of the eligible governmental unit may approve the participation of these firefighters in the Law Enforcement Officers' Pension System as though the local pension system were not in operation.

31–2A–03.1.

(A) [The] **EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE** effective date of participation for an eligible governmental unit is July 1 of the year following the fiscal year in which the eligible governmental unit elects to participate in the Law Enforcement Officers' Pension System.

(B) IF AN ELIGIBLE GOVERNMENTAL UNIT DOES NOT PROVIDE THE BOARD OF TRUSTEES WITH THE NECESSARY DOCUMENTATION TO JOIN THE LAW ENFORCEMENT OFFICERS' PENSION SYSTEM ON OR BEFORE THE EFFECTIVE DATE FOR THE ELIGIBLE GOVERNMENTAL UNIT, THE EFFECTIVE DATE SHALL BE POSTPONED UNTIL JULY 1 OF THE SECOND YEAR FOLLOWING THE FISCAL YEAR IN WHICH THE ELIGIBLE GOVERNMENTAL UNIT ELECTS TO PARTICIPATE IN THE LAW ENFORCEMENT OFFICERS' PENSION SYSTEM.

31–2A–05.

(a) If an eligible governmental unit approves participation in the Law Enforcement Officers' Pension System, the operation of the local pension system **OR STATE SYSTEM** with respect to the law enforcement officers, firefighters, or paramedics terminates on the effective date.

(b) (1) On the effective date:

(i) the assets to the credit of the local pension system **OR STATE SYSTEM** that relate to the law enforcement officers, firefighters, or paramedics who elect to become members shall be transferred to the Law Enforcement Officers' Pension System; and

(ii) the trustee or other administrative head of the local pension system ***OR STATE SYSTEM*** shall certify the proportion of the funds of the local pension system **OR STATE SYSTEM** that represents the accumulated contributions of the members as of that date.

(2) The accumulated contributions shall be credited to the respective annuity savings accounts of the members in the Law Enforcement Officers' Pension System.

(3) The balance of the funds transferred to the Law Enforcement Officers' Pension System shall be offset against the special accrued liability to be funded by the participating governmental unit as provided by § 21–306.1(d) of this article.

31–2B–01.

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

(e) **[**(1)**]** "Local pension system" means a retirement or pension system **ESTABLISHED BY THE LEGISLATIVE BODY** of an eligible governmental unit.

[(2) "Local pension system" includes the Employees' Retirement System and the Employees' Pension System if the eligible governmental unit participates under Subtitle 1 of this title.**]**

(F) "STATE SYSTEM" HAS THE MEANING STATED IN § 20–101(PP) OF THIS ARTICLE.

31–2B–03.

If at least 60% of the local detention center officers of an eligible governmental unit who are members of a local pension system **OR STATE SYSTEM** petition to become members of the Correctional Officers' Retirement System, the legislative body of the eligible governmental unit may approve the participation of these local detention center officers in the Correctional Officers' Retirement System as though the local pension system were not in operation.

31–2B–03.1.

(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE EFFECTIVE DATE OF PARTICIPATION FOR AN ELIGIBLE GOVERNMENTAL UNIT IS JULY 1 OF THE YEAR FOLLOWING THE FISCAL YEAR IN WHICH THE ELIGIBLE GOVERNMENTAL UNIT ELECTS TO PARTICIPATE IN THE CORRECTIONAL OFFICERS' RETIREMENT SYSTEM.

(B) IF AN ELIGIBLE GOVERNMENTAL UNIT DOES NOT PROVIDE THE BOARD OF TRUSTEES WITH THE NECESSARY DOCUMENTATION TO JOIN THE CORRECTIONAL OFFICERS' RETIREMENT SYSTEM ON OR BEFORE THE EFFECTIVE DATE FOR THE ELIGIBLE GOVERNMENTAL UNIT, THE EFFECTIVE DATE SHALL BE POSTPONED UNTIL JULY 1 OF THE SECOND YEAR FOLLOWING THE FISCAL YEAR IN WHICH THE ELIGIBLE GOVERNMENTAL UNIT ELECTS TO PARTICIPATE IN THE CORRECTIONAL OFFICERS' RETIREMENT SYSTEM.

31–2B–05.

(a) If an eligible governmental unit approves participation in the Correctional Officers' Retirement System, the operation of the local pension system **OR STATE SYSTEM** with respect to the local detention center officers terminates on the effective date.

(b) (1) On the effective date:

(i) the assets to the credit of the local pension system **OR STATE SYSTEM** that relate to the local detention center officers who elect to become members shall be transferred to the Correctional Officers' Retirement System; and

(ii) the trustee or other administrative head of the local pension system **OR STATE SYSTEM** shall certify the proportion of the funds of the local pension system that represents the accumulated contributions of the members as of that date.

(2) The accumulated contributions shall be credited to the respective annuity savings accounts of the members in the Correctional Officers' Retirement System.

(3) The balance of the funds transferred to the Correctional Officers' Retirement System shall be offset against the special accrued liability to be funded by the participating governmental unit as provided by § 21–306.1(d) of this article.

31–301.

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

(b) "Employees' system" has the meaning stated in § 31–101 of this title.

(c) "Legislative body" has the meaning stated in § 31–101 of this title.

(d) **[**(1)**]** "Local pension system" means a retirement or pension system **ESTABLISHED BY THE LEGISLATIVE BODY** of an eligible governmental unit.

[(2) "Local pension system" includes the Employees' Retirement System, Employees' Pension System, Law Enforcement Officers' Pension System, or Correctional Officers' Retirement System if the eligible governmental unit participates under this title.**]**

(E) "STATE SYSTEM" HAS THE MEANING STATED IN § 20–101(PP) OF THIS ARTICLE.

[(e)**] (F)** "Withdrawal date" means the date that a withdrawal by a participating governmental unit from **[**the employees' systems, the Local Fire and Police System, the Law Enforcement Officers' Pension System, or the Correctional Officers' Retirement System**] A STATE SYSTEM** takes effect.

31–302.

[(a)**]** The legislative body of a participating governmental unit may withdraw from participation in **[**the employees' systems**] A STATE SYSTEM** and transfer to a local pension system **OR ANOTHER STATE SYSTEM** any of the following groups of employees of the governmental unit who consent to the withdrawal**, AND WHO QUALIFY FOR MEMBERSHIP IN THE STATE SYSTEM OR LOCAL PENSION SYSTEM**:

(1) all employees of the participating governmental unit;

(2) fire fighters;

(3) law enforcement personnel; **[**or**]**

(4) DETENTION CENTER OFFICERS; OR

[(4)**] (5)** subject to the approval of the Board of Trustees, a homogeneous unit of at least 10 employees.

[(b) The legislative body of a participating governmental unit may withdraw from participation in the Local Fire and Police System and shall transfer to a local pension system all employees of the participating governmental unit.

(c) The legislative body of a participating governmental unit may withdraw from participation in the Law Enforcement Officers' Pension System and transfer to a local pension system the law enforcement officers of the participating governmental unit who consent to the withdrawal.

(d) The legislative body of a participating governmental unit may withdraw from participation in the Correctional Officers' Retirement System and transfer to a local pension system the detention center officers of the participating governmental unit who consent to the withdrawal.**]**

31–304.

If a participating governmental unit withdraws from **[**the employees' systems, the Local Fire and Police System, the Law Enforcement Officers' Pension System, or the Correctional Officers' Retirement System**]** **A STATE SYSTEM**, the accumulated contributions of the withdrawn employees shall be transferred on the withdrawal date to the administrative board of the local pension system **OR NEW STATE SYSTEM** and credited to the account of those employees.

31–305.

(a) As of the effective date of withdrawal of a participating governmental unit, the Board of Trustees shall transfer to the administrative board of the local pension system **OR NEW STATE SYSTEM** the portion of the assets that are allocable to the withdrawn employees as determined under § 21–305.5, § 21–305.6, § 21–306, § 21–306.1, or § 26–306.2 of this article.

(b) The administrative board of the local pension system **OR NEW STATE SYSTEM** shall hold the transferred assets in trust to provide retirement benefits for the withdrawn employees.

31–306.

A participating governmental unit shall pay all administrative costs involved in the withdrawal or reentry if the participating governmental unit:

(1) withdraws **ALL OR SOME OF** its employees from **[**the employees' systems, Local Fire and Police System, Law Enforcement Officers' Pension System, or the Correctional Officers' Retirement System**]** **A STATE SYSTEM**; or

(2) elects to participate in **[**the employees' systems, Local Fire and Police System, Law Enforcement Officers' Pension System, or the Correctional Officers' Retirement System**]** **A STATE SYSTEM** for employees who were previously withdrawn.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 581

(Senate Bill 551)

AN ACT concerning

Education – Public School Construction – Procurement – Preference for State and Local Business Entities

FOR the purpose of authorizing a local governing body to adopt a preference–based arrangement that gives a certain order of preference to ~~local~~ certain business entities for certain procurement for public school construction; requiring the Board of Public Works to adopt regulations that specify elements to be included in any preference–based arrangement adopted by a local governing body that gives a certain order of preference to ~~local~~ certain business entities for certain procurement for public school construction; providing for the construction of this Act; and generally relating to procurement for public school construction and a preference for ~~local~~ certain business entities.

BY repealing and reenacting, with amendments,
Article – Education
Section 4–126
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

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

Article – Education

4–126.

(a) In this section, "alternative financing methods" includes:

(1) Sale–leaseback arrangements, in which a county board agrees to transfer title to a property, including improvements, to a private entity that simultaneously agrees to lease the property back to the county board and, on a specified date, transfer title back to the county board;

(2) Lease–leaseback arrangements, in which a county board leases a property to a private entity that improves the property and leases the property, with the improvements, back to the county board;

(3) Public–private partnership agreements, in which a county board contracts with a private entity for the acquisition, design, construction, improvement, renovation, expansion, equipping, or financing of a public school, and may include provisions for cooperative use of the school or an adjacent property and generation of revenue to offset the cost of construction or use of the school;

(4) Performance–based contracting, in which a county board enters into an energy performance contract to obtain funding for a project with guaranteed energy savings over a specified time period; **[**and**]**

(5) PREFERENCE–BASED ARRANGEMENTS, BY WHICH A LOCAL GOVERNING BODY GIVES PREFERENCE FIRST TO ~~LOCAL~~ BUSINESS ENTITIES LOCATED IN THE COUNTY AND THEN TO BUSINESS ENTITIES LOCATED IN OTHER COUNTIES IN THE STATE FOR ANY CONSTRUCTION THAT IS NOT SUBJECT TO PREVAILING WAGE RATES UNDER TITLE 17, SUBTITLE 2 OF THE STATE FINANCE AND PROCUREMENT ARTICLE; AND

[(5)**] (6)** Design–build arrangements, that permit a county board to contract with a design–build business entity for the combined design and construction of qualified education facilities, including financing mechanisms where the business entity assists the local governing body in obtaining project financing.

(b) Except when prohibited by local law, in order to finance or to speed delivery of, transfer risks of, or otherwise enhance the delivery of public school construction, a county may:

(1) Use alternative financing methods;

(2) Engage in competitive negotiation, rather than competitive bidding, in limited circumstances, including construction management at–risk arrangements and other alternative project delivery arrangements, as provided in regulations adopted by the Board of Public Works;

(3) Accept unsolicited proposals for the development of public schools in limited circumstances, as provided in regulations adopted by the Board of Public Works; and

(4) Use quality–based selection, in which selection is based on a combination of qualifications and cost factors, to select developers and builders, as provided in regulations adopted by the Board of Public Works.

(c) The Board of Public Works shall adopt regulations requiring a project that qualifies for alternative financing methods under this section to meet requirements regarding the advantages of the project to the public that include provisions addressing:

(1) The probable scope, complexity, or urgency of the project;

(2) Any risk sharing, added value, education enhancements, increase in funding, or economic benefit from the project that would not otherwise be available;

(3) The public need for the project; and

(4) The estimated cost or timeliness of executing the project.

(d) Projects that qualify for alternative financing methods under this subsection:

(1) Shall meet the educational standards, design standards, and procedural requirements under this article and under regulations adopted by the Board of Public Works; and

(2) Consistent with the requirements of this article, shall be approved by:

(i) The county governing body;

(ii) The State Superintendent of Schools; or

(iii) The Interagency Committee on School Construction and the Board of Public Works.

(e) Use of alternative financing methods under this section may not be construed to prohibit the allocation of State funds for public school construction to a project under the Public School Construction Program.

(f) A county board may not use alternative financing methods under this section without the approval of the county governing body.

(g) The Board of Public Works shall adopt regulations recommended by the Interagency Committee on School Construction to implement the provisions of this section, including:

(1) Guidelines for the content of proposals, for the acceptance and evaluation of unsolicited proposals, and for accepting competing unsolicited proposals;

(2) Requirements for the content and execution of a comprehensive agreement governing an arrangement authorized under this section;

(3) Guidelines for content and issuance of solicitations;

(4) Requirements for the prequalification of bidders or offerors;

(5) Requirements for public notice of solicited and unsolicited proposals and proposed execution of a comprehensive agreement;

(6) Regulations that require compliance with requirements applicable to qualified projects that would otherwise be in effect under the State procurement law if the procurement were competitively bid; and

(7) **(I)** Regulations that require that contracts and subcontracts adhere to the requirements of Title 17, Subtitle 2 and Title 14 of the State Finance and Procurement Article if the requirements would otherwise be applicable**; AND**

(II) REGULATIONS THAT SPECIFY ELEMENTS TO BE INCLUDED IN ANY PREFERENCE–BASED ARRANGEMENT ADOPTED BY A LOCAL GOVERNING BODY THAT GIVES PREFERENCE FIRST TO ~~LOCAL~~ BUSINESS ENTITIES LOCATED IN THE COUNTY AND THEN TO BUSINESS ENTITIES LOCATED IN OTHER COUNTIES IN THE STATE FOR ANY CONSTRUCTION THAT IS NOT SUBJECT TO PREVAILING WAGE RATES UNDER TITLE 17, SUBTITLE 2 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not be construed to impair an obligation of a local governing body under the State Minority Business Enterprise law.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 582

(Senate Bill 552)

AN ACT concerning

Allegany County – Property Tax Credit – Memorial Hilltop Centre

FOR the purpose of authorizing the governing body of Allegany County or of a municipal corporation in Allegany County to grant, by law, a property tax credit against the county or municipal corporation property tax imposed on certain property located in a certain area; providing for a certain limitation on the tax credit; authorizing the governing body of Allegany County or of a municipal corporation in Allegany County to provide, by law, for ~~certain provisions relating to the property tax~~ the amount of the credit, eligibility criteria for the credit, certain regulations and procedures, and any other provision necessary to carry out the credit; providing for the application of this Act; and generally relating to property tax credits for certain property in Allegany County.

BY adding to
Article – Tax – Property

Section 9–302(l)
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

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

Article – Tax – Property

9–302.

(L) (1) TO ENCOURAGE THE LOCATION AND DEVELOPMENT OF BUSINESS OPERATIONS AND EXPANSION OF THE EMPLOYMENT BASE IN ALLEGANY COUNTY, THE GOVERNING BODY OF ALLEGANY COUNTY OR OF A MUNICIPAL CORPORATION IN ALLEGANY COUNTY MAY GRANT, BY LAW, A PROPERTY TAX CREDIT AGAINST THE COUNTY OR MUNICIPAL CORPORATION PROPERTY TAX IMPOSED ON ANY PROPERTY WITHIN THE AREA KNOWN AS THE MEMORIAL HILLTOP CENTRE.

(2) IN AUTHORIZING A CREDIT UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE GOVERNING BODY OF THE COUNTY OR MUNICIPAL CORPORATION MAY PROVIDE, BY LAW, FOR:

(I) THE AMOUNT OF THE CREDIT; ~~AND~~

(II) ELIGIBILITY CRITERIA FOR THE CREDIT;

(III) REGULATIONS AND PROCEDURES FOR THE APPLICATION AND UNIFORM PROCESSING OF REQUESTS FOR THE CREDIT; AND

~~(II)~~ (IV) ANY OTHER PROVISION NECESSARY TO ADMINISTER THE CREDIT.

(3) A TAX CREDIT GRANTED UNDER THIS SUBSECTION MAY NOT BE GRANTED FOR MORE THAN 10 YEARS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010, and shall be applicable to all taxable years beginning after June 30, 2010.

Approved by the Governor, May 20, 2010.

Chapter 583

(Senate Bill 576)

AN ACT concerning

Residential Child and Youth Care Practitioners – Certification Requirement – Extension

FOR the purpose of extending by a certain number of years the date by which an individual is required to receive a certificate by the State Board for Certification of Residential Child Care Program Professionals to qualify as a residential child and youth care practitioner; and generally relating to certification of residential child and youth care practitioners.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 20–301
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – Health Occupations

20–301.

(a) (1) Except as otherwise provided in this subsection, on or after October 1, 2007, an individual shall receive a certificate from the Board before the individual may be a program administrator in this State.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, if a program administrator leaves or is removed from a position as program administrator by death or for any other unexpected cause, the owner of a residential child care program or other appropriate program authority shall immediately designate a certified program administrator to serve in that capacity.

(ii) 1. In the event a certified program administrator is not available, the owner or other appropriate program authority may appoint a noncertified person to serve in the capacity of acting program administrator for a period not to exceed 180 days.

2. The owner or other appropriate program authority shall immediately notify the Board of the appointment and forward the credentials of the person appointed to the Board for evaluation to assure that the person appointed is experienced, trained, and competent.

3. The 180–day period begins on the date that the program administrator leaves or is removed from the position as a program administrator.

4. The Board may extend the 180–day period for a further period of not more than 30 days.

(b) On or before October 1, **[**2013**]** **2015**, an individual shall receive a certificate from the Board before the individual may be a residential child and youth care practitioner in this State.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 584

(Senate Bill 597)

AN ACT concerning

Condominiums and Homeowners Associations – Common Elements and Common Areas – Implied Warranties

FOR the purpose of requiring the description of the common elements in a condominium declaration that is recorded on or after a certain date to include certain improvements; providing that certain provisions of this Act do not apply to a condominium that is occupied and used solely for nonresidential purposes; prohibiting under certain circumstances the amending of the description and designation of the common elements in a condominium declaration that is recorded after a certain date; altering the duration of a certain implied warranty on the common elements of a condominium; altering the duration of a certain implied warranty on the common areas of a homeowners association; making stylistic changes; providing for the application of this Act; and generally relating to implied warranties on common elements in condominiums and common areas in homeowners associations.

BY repealing and reenacting, with amendments,
Article – Real Property
Section 11–103(a), 11–131(d), and 11B–110(a)
Annotated Code of Maryland
(2003 Replacement Volume and 2009 Supplement)

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

Article – Real Property

11–103.

(a) The declaration shall express at least the following particulars:

(1) The name by which the condominium is to be identified, which name shall include the word "condominium" or be followed by the phrase "a condominium".

(2) A description of the condominium sufficient to identify it with reasonable certainty together with a statement of the owner's intent to subject the property to the condominium regime established under this title.

(3) A general description of each unit, including its perimeters, location, and any other data sufficient to identify it with reasonable certainty. As to condominiums created on or after July 1, 1981, except as provided by the declaration or the plat **AND SUBJECT TO PARAGRAPH (4)(II) OF THIS SUBSECTION**:

(i) If walls, floors, or ceilings are designated as boundaries of a unit, all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring, and any other materials constituting any part of the finished surfaces thereof are a part of the unit, and all other portions of the walls, floors, or ceilings are a part of the common elements.

(ii) If any chute, flue, duct, wire, conduit, or any other fixture lies partially within and partially outside the designated boundaries of a unit, any portion thereof serving only that unit is a part of that unit, and any portion thereof serving more than one unit or any portion of the common elements is a part of the common elements.

(iii) Subject to the provisions of subparagraph (ii) of this paragraph, all spaces, interior partitions, and other fixtures and improvements within the boundaries of a unit are a part of the unit.

(iv) Any shutters, awnings, window boxes, doorsteps, stoops, porches, balconies, patios, and all exterior doors and windows or other fixtures designed to serve a single unit, but located outside the unit's boundaries, are limited common elements allocated exclusively to that unit.

(4) **(I)** A general description of the common elements together with a designation of those portions of the common elements that are limited common elements and the unit to which the use of each is restricted initially.

(II) 1. A. THIS SUBPARAGRAPH APPLIES TO ANY CONDOMINIUM FOR WHICH A DECLARATION, BYLAWS, AND PLAT ARE RECORDED IN THE LAND RECORDS OF THE COUNTY WHERE THE PROPERTY IS LOCATED ON OR AFTER OCTOBER 1, 2010.

B. THIS SUBPARAGRAPH DOES NOT APPLY TO A CONDOMINIUM THAT IS OCCUPIED AND USED SOLELY FOR NONRESIDENTIAL PURPOSES.

2. THE DESCRIPTION OF THE COMMON ELEMENTS SHALL INCLUDE THE FOLLOWING IMPROVEMENTS TO THE EXTENT THAT THE IMPROVEMENTS ARE SHARED BY OR SERVE MORE THAN ONE UNIT OR SERVE ANY PORTION OF THE COMMON ELEMENTS:

A. ROOFS;

B. FOUNDATIONS;

C. EXTERNAL AND SUPPORTING WALLS;

D. MECHANICAL, ELECTRICAL, AND PLUMBING SYSTEMS; AND

E. OTHER STRUCTURAL ELEMENTS.

3. ~~THE~~ WITH THE EXCEPTION OF CORRECTIVE AMENDMENTS NECESSARY TO COMPLY WITH SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, THE DESCRIPTION AND DESIGNATION OF THE COMMON ELEMENTS REQUIRED UNDER SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH MAY NOT BE AMENDED UNTIL AFTER THE DATE ON WHICH THE ~~DEVELOPER TRANSFERS CONTROL OF THE COUNCIL OF UNIT OWNERS UNDER § 11–109(C)(16) OF THIS TITLE~~ UNIT OWNERS, OTHER THAN THE DEVELOPER AND ITS AFFILIATES, FIRST ELECT A CONTROLLING MAJORITY OF THE MEMBERS OF THE BOARD OF DIRECTORS FOR THE COUNCIL OF UNIT OWNERS.

(5) The percentage interests appurtenant to each unit as provided in § 11–107 of this title.

(6) The number of votes at meetings of the council of unit owners appurtenant to each unit.

11–131.

(d) (1) In addition to the implied warranties set forth in § 10–203 of this article there shall be an implied warranty on common elements from a developer to

the council of unit owners. The warranty shall apply to: the roof, foundation, external and supporting walls, mechanical, electrical, and plumbing systems, and other structural elements.

(2) The warranty shall provide that the developer is responsible for correcting any defect in materials or workmanship, and that the specified common elements are within acceptable industry standards in effect when the building was constructed.

(3) **(I)** The warranty on common elements commences with the first transfer of title to a unit owner.

(II) The warranty of any common elements not completed at ~~that time~~ **THE FIRST TRANSFER OF TITLE TO A UNIT OWNER** shall commence with the completion of that element or with its availability for use by all unit owners, whichever occurs later.

(III) The warranty extends for a period of **[**3**]** ~~**THREE**~~ years **FROM COMMENCEMENT UNDER SUBPARAGRAPH (I) OR (II) OF THIS PARAGRAPH OR** ~~**TWO**~~ **2 YEARS FROM THE DATE ON WHICH THE** ~~**DEVELOPER TRANSFERS CONTROL OF THE COUNCIL OF UNIT OWNERS UNDER § 11–109(C)(16) OF THIS TITLE**~~ **UNIT OWNERS, OTHER THAN THE DEVELOPER AND ITS AFFILIATES, FIRST ELECT A CONTROLLING MAJORITY OF THE MEMBERS OF THE BOARD OF DIRECTORS FOR THE COUNCIL OF UNIT OWNERS, WHICHEVER OCCURS LATER**.

(4) A suit for enforcement of the warranty on general common elements shall be brought only by the council of unit owners. A suit for enforcement of the warranty on limited common elements may be brought by the council of unit owners or any unit owner to whose use it is reserved.

11B–110.

(a) (1) In addition to the implied warranties on private dwelling units under § 10–203 of this article and the express warranties on private dwelling units under § 10–202 of this article, there shall be an implied warranty to the homeowners association that the improvements to common areas are:

(i) Free from faulty materials;

(ii) Constructed in accordance with sound engineering standards; and

(iii) Constructed in a workmanlike manner.

(2) (i) Subject to the provisions of subparagraph (ii) of this paragraph, if the improvements to the common areas were constructed by the vendor,

its agents, servants, employees, contractors, or subcontractors, then the warranty on improvements shall be from the vendor of the lots within the development.

(ii) If the improvements to the common areas were constructed on the common areas prior to its conveyance to the homeowners association, then the warranty on improvements shall be from the grantor of the common areas.

(3) **(I)** The warranty on improvements to the common areas begins with the first transfer of title to a lot to a member of the public by the vendor of the lot.

(II) The warranty on improvements to common areas not completed at ~~that time~~ **THE FIRST TRANSFER OF TITLE TO A LOT** shall begin with the completion of the improvement or with its availability for use by lot owners, whichever occurs later.

(III) The warranty extends for a period of **[**one year**]** ~~**TWO**~~ **2 YEARS FROM COMMENCEMENT UNDER SUBPARAGRAPH (I) OR (II) OF THIS PARAGRAPH OR** ~~**TWO**~~ **2 YEARS FROM THE DATE ON WHICH THE** ~~**DECLARANT TRANSFERS CONTROL OF THE HOMEOWNERS ASSOCIATION UNDER § 11B–106.1 OF THIS TITLE**~~ **LOT OWNERS, OTHER THAN THE DECLARANT AND ITS AFFILIATES, FIRST ELECT A CONTROLLING MAJORITY OF THE MEMBERS OF THE GOVERNING BODY OF THE HOMEOWNERS ASSOCIATION, WHICHEVER OCCURS LATER**.

(4) Suit for enforcement of the warranty on improvements to the common areas may be brought by either the homeowners association or by an individual lot owner.

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 condominium or homeowners association for which a declaration, bylaws, and plat have been recorded in the land records of the county where the property is located before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 585

(Senate Bill 632)

AN ACT concerning

Registered Nurses, Licensed Practical Nurses, Nursing Assistants, and Medication Technicians – Changes to Licensure Requirements

FOR the purpose of requiring that if the State Board of Nursing has reason to believe and objective evidence that a certain applicant, licensee, or certificate holder may cause harm to certain individuals, the Board require the applicant, licensee, or certificate holder to submit to a certain examination; adding certain individuals who have applied for a certain license, have passed a certain examination, and are awaiting receipt of certain criminal history record information to those individuals who are exempt from certain licensure requirements; adding certain individuals who provide gratuitous care for friends and family to those individuals who are exempt from certain licensure requirements; requiring that certain applicants pass a certain national examination; providing that practicing nursing in certain states or territories for at least a certain number of years is acceptable proof of proficiency in English; repealing the requirement that the Board give certain examinations; requiring the Board to issue certain licensees and certificate holders a license or certification number and a registration certificate that indicates certain information; requiring the Board to record electronically certain licenses and certificates, including inactive status, in certain databases and on certain websites; extending the period of time the Board has to send certain renewal notices; altering the term of certain licenses; authorizing the Board to send certain renewal notices by electronic means; requiring the Board to send certain renewal applicants certain documents necessary for initiating criminal history records checks in conjunction with certain renewal notices; authorizing certain licensees to submit certain renewal applications by paper application or electronic means; extending the period of time between criminal history records checks for certain renewal applicants; repealing provisions concerning skilled nursing assistants; extending the period of time certain certificate holders have to notify the Board of certain changes in name or address; requiring the Board to stagger certain renewals of licenses in a certain manner; and generally relating to registered nurses, licensed practical nurses, nursing assistants, and medication technicians.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 8–205.1, 8–301(c), 8–302(e) and (f)(2), 8–305(d) through (f), 8–308(a) and (b), 8–309(b), ~~8–312(b)~~ 8–312(a), (b), (c), and (g)(1), 8–6A–05(a), 8–6A–07, 8–6A–08, and 8–6A–15
Annotated Code of Maryland
(2009 Replacement Volume)

BY repealing
Article – Health Occupations
Section 8–305(c) and 8–6A–01(k)
Annotated Code of Maryland

(2009 Replacement Volume)

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

Article – Health Occupations

8–205.1.

(a) If the Board, while **REVIEWING AN APPLICATION FOR LICENSURE OR** investigating an allegation brought against a licensee under this title, has reason to believe **AND OBJECTIVE EVIDENCE** that the **APPLICANT OR** licensee may cause harm to individuals affected by the **APPLICANT'S OR** licensee's practice of nursing, the Board shall require the **APPLICANT OR** licensee to submit to an appropriate examination by a health care provider designated by the Board.

(b) In return for the privilege **[**given to a licensee**]** to practice nursing in the State, the **APPLICANT OR** licensee is deemed to have:

(1) Consented to submit to an examination under this section, if requested by the Board in writing; and

(2) Waived any claim of privilege as to the testimony or examination reports of the examining health care professional.

(c) The failure or refusal of the **APPLICANT OR** licensee to submit to an examination required under subsection (b) of this section is prima facie evidence of the **APPLICANT'S OR** licensee's inability to practice nursing competently, unless the Board finds that the failure or refusal was beyond the control of the licensee.

(d) The Board shall pay the cost of any examination made under this section.

8–301.

(c) This section does not apply to:

(1) A student enrolled in an approved education program while practicing registered nursing or licensed practical nursing in that program;

(2) An individual employed by the federal government to practice registered nursing or licensed practical nursing while practicing within the scope of that employment, if the individual is authorized by any state to practice registered nursing or licensed practical nursing;

(3) An individual permitted to practice registered nursing or licensed practical nursing under rules and regulations adopted by the Board, if the individual:

(i) Otherwise has qualified to practice registered nursing or licensed practical nursing in any other state or country and is in this State temporarily; or

(ii) Has an application for a license pending before the Board:

1. But has not taken the examination required under this title; **[**or**]**

2. Has taken an examination under this title, but the results of the examination are not yet known; **[**and**]** **OR**

3. HAS TAKEN AND PASSED ~~THE~~ AN EXAMINATION ~~REQUIRED~~ UNDER THIS TITLE ~~AND~~, BUT IS WAITING FOR THE COMPLETION OF THE CRIMINAL HISTORY ~~RECORD INFORMATION~~ RECORDS CHECK;

(4) AN INDIVIDUAL WHO PROVIDES GRATUITOUS CARE FOR FRIENDS OR FAMILY; OR

[(4)**]** **(5)** An individual who is assigned by the American Red Cross to a disaster situation in this State to practice registered nursing or licensed practical nursing, if the individual is licensed to practice registered nursing or licensed practical nursing in another state.

8–302.

(e) Except as otherwise provided in this title, the applicant shall pass an examination **[**approved by the Board**]** **DEVELOPED BY THE NATIONAL COUNCIL OF STATE BOARDS OF NURSING AND ADMINISTERED AT A TESTING SITE APPROVED BY THE NATIONAL COUNCIL**.

(f) (2) **[**Graduation from a recognized English–speaking undergraduate school after at least 3 years of enrollment, or from a recognized English–speaking professional school is acceptable as**]** **ACCEPTABLE** proof of proficiency in the oral communication of the English language under this section **INCLUDES:**

(I) AFTER AT LEAST 3 YEARS OF ENROLLMENT, GRADUATION FROM A RECOGNIZED ENGLISH–SPEAKING UNDERGRADUATE SCHOOL;

(II) GRADUATION FROM A RECOGNIZED ENGLISH–SPEAKING PROFESSIONAL SCHOOL; OR

(III) COMPLETION OF AT LEAST 5 YEARS OF PRACTICING NURSING IN ANOTHER STATE OR ENGLISH–SPEAKING TERRITORY OF THE UNITED STATES.

8–305.

[(c) The Board shall give examinations to applicants at least once each calendar year at the times and places that the Board determines.**]**

[(d)**] (C)** The Board shall determine the subjects, scope, form, and passing score for each examination given under this title.

[(e)**] (D)** An applicant whose nursing education program was completed 5 or more years prior to passing the licensure examination and who has not practiced for at least 1,000 hours in the previous 5 years may only be issued an inactive license until submission to the Board of satisfactory evidence that the applicant has successfully completed:

(1) A nursing review course approved by the Board; or

(2) A preceptorship program provided by an employer and approved by the Board.

[(f)**] (E)** (1) Except as provided in paragraph (2) of this subsection, an applicant who fails an examination may retake the examination if the applicant pays the reexamination fee set by the Board for each reexamination.

(2) The Board, by rule or regulation, may limit the number of times that an applicant may be reexamined after two failures and may limit the interval of time between reexaminations.

8–308.

(a) Subject to subsection (c) of this section, the Board shall **[**issue the appropriate**]** license **[**to**]** any applicant who meets the requirements for a license as:

(1) A registered nurse under this title; **[**and**] OR**

(2) A licensed practical nurse under this title.

(b) **(1)** The Board shall **[**show on each license**]**:

(I) ISSUE EACH NEW LICENSEE A LICENSE NUMBER AND REGISTRATION CERTIFICATE THAT INDICATES THAT THE INITIAL LICENSE WAS ISSUED BY THE BOARD; AND

(II) ELECTRONICALLY RECORD EACH LICENSE IN THE BOARD'S DATABASE AND ON THE BOARD'S WEBSITE.

(2) EACH LICENSE SHALL INCLUDE:

[(1)**] (I)** Any expiration date;

[(2)**] (II)** The type of license; and

[(3)**] (III)** Any certification.

8–309.

(b) The Board shall place a licensee on inactive status and **[**issue an**] RECORD THE** inactive status **[**registration certificate**] IN THE BOARD'S DATABASE AND ON THE BOARD'S WEBSITE** if the licensee:

(1) (i) Has not satisfactorily completed 1,000 hours of active nursing practice within the 5–year period immediately preceding the date of anticipated renewal; or

(ii) Chooses inactive status;

(2) Completes the annual application for inactive status; and

(3) Pays the fee established by the Board.

8–312.

(a) **(1)** **[**A**] ON OR BEFORE DECEMBER 31, ~~2013~~ *2012*, A** license expires on the 28th day of the birth month of the licensee, unless the license is renewed for a 1–year term as provided in this section.

~~**(2) ON OR AFTER JANUARY 1, 2013, A LICENSE EXPIRES ON THE 28TH DAY OF THE BIRTH MONTH OF THE LICENSEE, UNLESS THE LICENSE IS RENEWED FOR A 2–YEAR TERM AS PROVIDED IN THIS SECTION.**~~

(2) ON OR AFTER JANUARY 1, 2013, A LICENSE EXPIRES ON THE DATE SET BY THE BOARD AND MAY NOT BE RENEWED FOR A TERM LONGER THAN 2 YEARS.

(b) **(1)** At least **[**1 month**] 3 MONTHS** before **[**the**] A** license expires, the Board shall send to the licensee a renewal notice **BY:**

(I) FIRST–CLASS MAIL TO THE LAST KNOWN MAILING ADDRESS OF THE LICENSEE; OR

(II) ELECTRONIC MEANS TO THE LAST KNOWN ELECTRONIC ADDRESS OF THE LICENSEE.

(2) IF A LICENSEE IS REQUIRED TO HAVE A CRIMINAL HISTORY RECORDS CHECK BEFORE A LICENSE MAY BE RENEWED, THE BOARD SHALL SEND THE LICENSEE THE DOCUMENTS NECESSARY FOR INITIATING THE CRIMINAL HISTORY RECORDS CHECK IN CONJUNCTION WITH THE RENEWAL NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(c) 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:

(i) A renewal fee set by the Board; or

(ii) A renewal fee that is set by the Board if the licensee certifies to the Board that the licensee provides professional services only as a volunteer; and

(3) Submits to the Board **BY PAPER APPLICATION OR ELECTRONIC MEANS**:

(i) A renewal application on the form that the Board requires; and

(ii) Satisfactory evidence of completion of:

1. 1,000 hours of active nursing practice within the 5–year period immediately preceding the date of renewal;

2. A course of instruction, commonly known as a refresher course, approved by the Board; or

3. A preceptorship program provided by an employer and approved by the Board.

(g) (1) (i) Beginning July 2009, the Board shall begin a process requiring criminal history records checks in accordance with § 8–303 of this subtitle on:

1. Selected annual renewal applicants as determined by regulations adopted by the Board; and

2. Each former licensee who files for reinstatement under § 8–313 of this subtitle after failing to renew the license for a period of 1 year or more.

(ii) An additional criminal history records check shall be performed every **[**10**] 12** years thereafter.

8–6A–01.

[(k) "Skilled nursing assistant" means a certified nursing assistant who may perform additional tasks based on the successful completion of a Board–approved supplemental training program within a specific category of nursing assistant.**]**

8–6A–05.

(a) The Board shall adopt regulations establishing:

(1) Categories of certified nursing assistants, including geriatric nursing assistants, home health aides, school health aides, dialysis technicians, individuals working in developmental disabilities administration facilities, and medicine aides;

[(2) Categories of skilled nursing assistants in the following settings:

(i) Licensed nursing homes; and

(ii) Licensed developmental disabilities administration group homes;**]**

[(3)**] (2)** Qualifications for each category of certified nursing assistant **[**and skilled nursing assistant**]**;

[(4)**] (3)** Qualifications for certified medication technicians; and

[(5)**] (4)** Standards for qualification of applicants for certification, including the applicant's criminal history, work record, and prohibitions against behavior which may be potentially harmful to patients.

8–6A–07.

(a) Subject to subsection (g) of this section, the Board shall **[**issue a certificate to**] CERTIFY** any applicant who meets the requirements of this subtitle.

(B) (1) THE BOARD SHALL:

(I) ISSUE EACH NEW CERTIFIED NURSING ASSISTANT OR MEDICATION TECHNICIAN A CERTIFICATE NUMBER AND REGISTRATION CERTIFICATE THAT INDICATES THE INITIAL CERTIFICATE WAS ISSUED BY THE BOARD; AND

(II) ELECTRONICALLY RECORD EACH CERTIFICATE IN THE BOARD'S DATABASE AND ON THE BOARD'S WEBSITE.

(2) EACH CERTIFICATE SHALL INCLUDE:

(I) ANY EXPIRATION DATE;

(II) THE TYPE OF CERTIFICATE; AND

(III) ANY SPECIFIC CATEGORY OF NURSING ASSISTANT.

[(b)**] (C) [**The certificate of an**] AN** individual who has met the requirements for a certified nursing assistant shall **[**include**] BE CERTIFIED WITH** the title **OF** "certified nursing assistant".

[(c)**] (D) [**The certificate of an**] AN** individual who routinely performs nursing tasks delegated by a registered nurse or licensed practical nurse for compensation and has also completed a Board–approved course in medication administration shall **[**also include**] BE CERTIFIED WITH** the title **OF** "certified medicine aide".

[(d)**] (E) [**The certificate of an**] AN** individual who has met the requirements for a certified medication technician shall **[**include**] BE CERTIFIED WITH** the title **OF** "certified medication technician".

[(e)**] (F)** The Board may issue a **REGISTRATION** certificate to replace a lost, destroyed, or mutilated certificate, if the certificate holder pays the certificate replacement fee set by the Board.

[(f)**] (G)** (1) The Board may issue a temporary practice certificate to an applicant who:

(i) Has met the appropriate certification requirements of this subtitle to the satisfaction of the Board;

(ii) Does not have a criminal record and has not been the subject of a health professional disciplinary action in this State or another jurisdiction; and

(iii) Does not have a criminal charge or a health professional disciplinary action pending in this State or another jurisdiction.

(2) Unless the Board suspends or revokes a temporary practice certificate, the temporary practice certificate expires 90 days after issuance.

(3) A temporary practice certificate may be extended up to an additional 90 days if the applicant is awaiting the completion of criminal history record information.

[(g)**] (H)** A medication technician graduate may practice for no more than 90 days from the date of completion of a medication technician training program without certification by the Board.

[(h)**] (I)** (1) On receipt of the criminal history record information of an applicant for certification as a certified nursing assistant forwarded to the Board in accordance with § 8–303 of this title, in determining whether to grant a certificate, the Board shall consider:

(i) The age at which the crime was committed;

(ii) The circumstances surrounding the crime;

(iii) The length of time that has passed since the crime;

(iv) Subsequent work history;

(v) Employment and character references; and

(vi) Other evidence that demonstrates whether the applicant poses a threat to the public health or safety.

(2) The Board may not issue a certificate if the criminal history record information required under § 8–303 of this title has not been received.

8–6A–08.

(a) A certificate expires on the 28th day of the birth month of the nursing assistant or medication technician, unless the certificate is renewed for a 2–year term as provided in this section.

(b) **(1)** At least 3 months before **[**the**] A** certificate expires, the Board shall send **A RENEWAL NOTICE** to the nursing assistant or medication technician **BY:**

(I) FIRST–CLASS MAIL TO THE LAST KNOWN MAILING ADDRESS OF THE NURSING ASSISTANT OR MEDICATION TECHNICIAN; OR

(II) ELECTRONIC MEANS TO THE LAST KNOWN ELECTRONIC ADDRESS OF THE LICENSEE.

(2) **[**a**] A** renewal notice **[**that states**] SHALL STATE**:

[(1)**] (I)** The date on which the current certificate expires;

[(2)**] (II)** The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the certificate expires; and

[(3)**] (III)** The amount of the renewal fee.

(3) IF A NURSING ASSISTANT OR MEDICATION TECHNICIAN IS REQUIRED TO HAVE A CRIMINAL HISTORY RECORDS CHECK BEFORE A CERTIFICATE MAY BE RENEWED, THE BOARD SHALL SEND THE NURSING ASSISTANT OR MEDICATION TECHNICIAN THE DOCUMENTS NECESSARY FOR INITIATING THE CRIMINAL HISTORY RECORDS CHECK IN CONJUNCTION WITH THE RENEWAL NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(c) Before a certificate expires, a nursing assistant periodically may renew it for an additional term, if the certificate holder:

(1) Otherwise is entitled to be certified;

(2) Submits to the Board a renewal application on the form that the Board requires;

(3) Pays to the Board a renewal fee set by the Board; and

(4) Provides satisfactory evidence of completion of:

(i) 16 hours of active nursing assistant practice within the 2–year period immediately preceding the date of renewal; or

(ii) An approved nursing assistant training program.

[(d) In addition to the requirements in subsection (c)(1), (2), and (3) of this section, a skilled nursing assistant shall:

(1) Provide satisfactory evidence of completion of 1,000 hours of practice as a skilled nursing assistant within the individual's specific category of nursing assistant, in the 2–year period preceding the date of renewal; and

(2) Successfully complete a Board–approved refresher course within the individual's specific category of nursing assistant.**]**

[(e)**] (D)** In addition to the requirements in subsection (c)(1), (2), and (3) of this section, a certified medicine aide shall:

(1) Provide satisfactory evidence of completion of 100 hours of practice as a certified medicine aide in the 2–year period preceding the date of renewal; and

(2) Successfully complete a Board–approved medicine aide continuing education program.

[(f)**] (E)** Before a certificate expires, a medication technician periodically may renew it for an additional term, if the certificate holder:

(1) Otherwise is entitled to be certified;

(2) Submits to the Board a renewal application on the form that the Board requires;

(3) Pays to the Board a renewal fee set by the Board;

(4) Every 2 years, provides satisfactory evidence of completion of a Board–approved clinical refresher course; and

(5) Provides satisfactory evidence of completion of 100 hours of practice as a certified medication technician within the 2–year period preceding the date of renewal.

[(g)**] (F)** (1) The Board may grant a 30–day extension, beyond a certificate's expiration date, to a certificate holder so that the certificate holder may renew the certificate before it expires.

(2) The Board may grant two 90–day extensions beyond a certificate's expiration date pending receipt of criminal history record information.

[(h)**] (G)** The Board shall reinstate the certificate of a former certificate holder who has failed to renew the certificate for any reason if the former certificate holder meets the applicable renewal requirements of subsections (c) through **[**(f)**](E)** and **[**(l)(1)(i)2**] (K)(1)(I)2** of this section.

[(i)**] (H)** Subject to subsection **[**(j)**] (I)** of this section, the Board shall renew the certificate of each nursing assistant or medication technician who meets the requirements of this section.

[(j)**] (I)** (1) Within **[**30**] 60** days after a change has occurred, each certificate holder shall notify the Board in writing of any change in a name or address.

(2) If the certificate holder fails to notify the Board within the time required under this subsection, the Board may impose an administrative penalty of $25 on the certificate holder.

[(k)**] (J)** The Board shall pay any penalty collected under this subsection to the General Fund of the State.

[(l)**] (K)** (1) (i) Beginning July 2009, the Board shall begin a process requiring criminal history records checks in accordance with § 8–303 of this title on:

1. Selected applicants for certification as a certified nursing assistant who renew their certificates every 2 years as determined by regulations adopted by the Board; and

2. Each former certified nursing assistant who files for reinstatement under subsection **[**(h)**] (G)** of this section after failing to renew the license for a period of 1 year or more.

(ii) An additional criminal history records check shall be performed every **[**10**] 12** years thereafter.

(2) On receipt of the criminal history record information of a certificate holder forwarded to the Board in accordance with § 8–303 of this title, in determining whether to renew the certificate, the Board shall consider:

(i) The age at which the crime was committed;

(ii) The circumstances surrounding the crime;

(iii) The length of time that has passed since the crime;

(iv) Subsequent work history;

(v) Employment and character references; and

(vi) Other evidence that demonstrates whether the certificate holder poses a threat to the public health or safety.

(3) The Board may not renew a certificate if the criminal history record information required under § 8–303 of this title has not been received.

8–6A–15.

(a) If, during the **REVIEW OF AN APPLICATION FOR CERTIFICATION OR** investigation of an allegation brought against a certified nursing assistant or certified medication technician under this subtitle, the Board has reason to believe **AND OBJECTIVE EVIDENCE** that the **APPLICANT,** certified nursing assistant**,** or certified medication technician may cause harm to a person affected by the practice of the **APPLICANT,** certified nursing assistant**,** or certified medication technician, the Board, on its own initiative, shall direct the **APPLICANT,** certified nursing assistant**,** or certified medication technician to submit to an appropriate examination by a health care provider designated by the Board.

(b) In return for the privilege **[**given**]** to **PRACTICE AS** a certified nursing assistant or certified medication technician **[**to practice**]** in the State, **[**the**] AN APPLICANT,** certified nursing assistant**,** or certified medication technician is deemed to have:

(1) Consented to submit to an examination under this section if requested by the Board in writing; and

(2) Waived any legal claim of privilege as to the testimony or examination reports of the examining health care provider.

(c) The failure or refusal of **[**a**] AN APPLICANT,** certified nursing assistant**,** or certified medication technician to submit to an examination required under subsection (b) of this section is prima facie evidence of the inability of the **APPLICANT,** certified nursing assistant**,** or certified medication technician to competently practice as a certified nursing assistant or certified medication technician, unless the Board finds that the failure or refusal was beyond the control of the **APPLICANT,** certified nursing assistant**,** or certified medication technician.

(d) The Board shall pay the cost of any examination made in accordance with the provisions of this section.

SECTION 2. AND BE IT FURTHER ENACTED, That the State Board of Nursing shall stagger the renewal of licenses required under § 8–312(a) of the Health Occupations Article as enacted by this Act so that licensees born in even years renew in even years and licensees born in odd years renew in odd years.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 586

(House Bill 624)

AN ACT concerning

Registered Nurses, Licensed Practical Nurses, Nursing Assistants, and Medication Technicians – Changes to Licensure Requirements

FOR the purpose of requiring that if the State Board of Nursing has reason to believe and objective evidence that a certain applicant, licensee, or certificate holder may cause harm to certain individuals, the Board require the applicant, licensee, or certificate holder to submit to a certain examination; adding certain individuals who have applied for a certain license, have passed a certain examination, and are awaiting receipt of certain criminal history record information to those individuals who are exempt from certain licensure requirements; adding certain individuals who provide gratuitous care for friends and family to those individuals who are exempt from certain licensure requirements; requiring that certain applicants pass a certain national examination; providing that practicing nursing in certain states or territories for at least a certain number of years is acceptable proof of proficiency in English; repealing the requirement that the Board give certain examinations; requiring the Board to issue certain licensees and certificate holders a license or certification number and a registration certificate that indicates certain information; requiring the Board to record electronically certain licenses and certificates, including inactive status, in certain databases and on certain websites; extending the period of time the Board has to send certain renewal notices; altering the term of certain licenses; authorizing the Board to send certain renewal notices by electronic means; requiring the Board to send certain renewal applicants certain documents necessary for initiating criminal history records checks in conjunction with certain renewal notices; authorizing certain licensees to submit certain renewal applications by paper application or electronic means; extending the period of time between criminal history records checks for certain renewal applicants; repealing provisions concerning skilled nursing assistants; extending the period of time certain certificate holders have to notify the Board of certain changes in name or address; requiring the Board to stagger certain renewals of licenses in a certain manner; and generally relating to registered nurses, licensed practical nurses, nursing assistants, and medication technicians.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 8–205.1, 8–301(c), 8–302(e) and (f)(2), 8–305(d) through (f), 8–308(a) and (b), 8–309(b), ~~8–312(b)~~ 8–312(a), (b), (c), and (g)(1), 8–6A–05(a), 8–6A–07, 8–6A–08, and 8–6A–15
Annotated Code of Maryland
(2009 Replacement Volume)

BY repealing
Article – Health Occupations
Section 8–305(c) and 8–6A–01(k)
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – Health Occupations

8–205.1.

(a) If the Board, while **REVIEWING AN APPLICATION FOR LICENSURE OR** investigating an allegation brought against a licensee under this title, has reason to believe **AND OBJECTIVE EVIDENCE** that the **APPLICANT OR** licensee may cause harm to individuals affected by the **APPLICANT'S OR** licensee's practice of nursing, the Board shall require the **APPLICANT OR** licensee to submit to an appropriate examination by a health care provider designated by the Board.

(b) In return for the privilege **[**given to a licensee**]** to practice nursing in the State, the **APPLICANT OR** licensee is deemed to have:

(1) Consented to submit to an examination under this section, if requested by the Board in writing; and

(2) Waived any claim of privilege as to the testimony or examination reports of the examining health care professional.

(c) The failure or refusal of the **APPLICANT OR** licensee to submit to an examination required under subsection (b) of this section is prima facie evidence of the **APPLICANT'S OR** licensee's inability to practice nursing competently, unless the Board finds that the failure or refusal was beyond the control of the licensee.

(d) The Board shall pay the cost of any examination made under this section.

8–301.

(c) This section does not apply to:

(1) A student enrolled in an approved education program while practicing registered nursing or licensed practical nursing in that program;

(2) An individual employed by the federal government to practice registered nursing or licensed practical nursing while practicing within the scope of

that employment, if the individual is authorized by any state to practice registered nursing or licensed practical nursing;

(3) An individual permitted to practice registered nursing or licensed practical nursing under rules and regulations adopted by the Board, if the individual:

(i) Otherwise has qualified to practice registered nursing or licensed practical nursing in any other state or country and is in this State temporarily; or

(ii) Has an application for a license pending before the Board:

1. But has not taken the examination required under this title; **[**or**]**

2. Has taken an examination under this title, but the results of the examination are not yet known; **[**and**] OR**

3. HAS TAKEN AND PASSED ~~THE~~ AN EXAMINATION ~~REQUIRED~~ UNDER THIS TITLE ~~AND~~, BUT IS WAITING FOR THE COMPLETION OF THE CRIMINAL HISTORY ~~RECORD INFORMATION~~ RECORDS CHECK;

(4) AN INDIVIDUAL WHO PROVIDES GRATUITOUS CARE FOR FRIENDS OR FAMILY; OR

[(4)**] (5)** An individual who is assigned by the American Red Cross to a disaster situation in this State to practice registered nursing or licensed practical nursing, if the individual is licensed to practice registered nursing or licensed practical nursing in another state.

8–302.

(e) Except as otherwise provided in this title, the applicant shall pass an examination **[**approved by the Board**] DEVELOPED BY THE NATIONAL COUNCIL OF STATE BOARDS OF NURSING AND ADMINISTERED AT A TESTING SITE APPROVED BY THE NATIONAL COUNCIL**.

(f) (2) **[**Graduation from a recognized English–speaking undergraduate school after at least 3 years of enrollment, or from a recognized English–speaking professional school is acceptable as**] ACCEPTABLE** proof of proficiency in the oral communication of the English language under this section **INCLUDES:**

(I) AFTER AT LEAST 3 YEARS OF ENROLLMENT, GRADUATION FROM A RECOGNIZED ENGLISH–SPEAKING UNDERGRADUATE SCHOOL;

(II) GRADUATION FROM A RECOGNIZED ENGLISH–SPEAKING PROFESSIONAL SCHOOL; OR

(III) COMPLETION OF AT LEAST 5 YEARS OF PRACTICING NURSING IN ANOTHER STATE OR <u>ENGLISH–SPEAKING</u> TERRITORY OF THE UNITED STATES.

8–305.

[(c) The Board shall give examinations to applicants at least once each calendar year at the times and places that the Board determines.**]**

[(d)**] (C)** The Board shall determine the subjects, scope, form, and passing score for each examination given under this title.

[(e)**] (D)** An applicant whose nursing education program was completed 5 or more years prior to passing the licensure examination and who has not practiced for at least 1,000 hours in the previous 5 years may only be issued an inactive license until submission to the Board of satisfactory evidence that the applicant has successfully completed:

(1) A nursing review course approved by the Board; or

(2) A preceptorship program provided by an employer and approved by the Board.

[(f)**] (E)** (1) Except as provided in paragraph (2) of this subsection, an applicant who fails an examination may retake the examination if the applicant pays the reexamination fee set by the Board for each reexamination.

(2) The Board, by rule or regulation, may limit the number of times that an applicant may be reexamined after two failures and may limit the interval of time between reexaminations.

8–308.

(a) Subject to subsection (c) of this section, the Board shall **[**issue the appropriate**]** license **[**to**]** any applicant who meets the requirements for a license as:

(1) A registered nurse under this title; **[**and**] OR**

(2) A licensed practical nurse under this title.

(b) **(1)** The Board shall **[**show on each license**]**:

(I) ISSUE EACH NEW LICENSEE A LICENSE NUMBER AND REGISTRATION CERTIFICATE THAT INDICATES THAT THE INITIAL LICENSE WAS ISSUED BY THE BOARD; AND

(II) ELECTRONICALLY RECORD EACH LICENSE IN THE BOARD'S DATABASE AND ON THE BOARD'S WEBSITE.

(2) EACH LICENSE SHALL INCLUDE:

[(1)**]** **(I)** Any expiration date;

[(2)**]** **(II)** The type of license; and

[(3)**]** **(III)** Any certification.

8–309.

(b) The Board shall place a licensee on inactive status and **[**issue an**]** **RECORD THE** inactive status **[**registration certificate**]** **IN THE BOARD'S DATABASE AND ON THE BOARD'S WEBSITE** if the licensee:

(1) (i) Has not satisfactorily completed 1,000 hours of active nursing practice within the 5–year period immediately preceding the date of anticipated renewal; or

(ii) Chooses inactive status;

(2) Completes the annual application for inactive status; and

(3) Pays the fee established by the Board.

8–312.

(a) **(1)** **[**A**]** **ON OR BEFORE DECEMBER 31, ~~2013~~** ***2012*****,** A license expires on the 28th day of the birth month of the licensee, unless the license is renewed for a 1–year term as provided in this section.

~~**(2) ON OR AFTER JANUARY 1, 2013, A LICENSE EXPIRES ON THE 28TH DAY OF THE BIRTH MONTH OF THE LICENSEE, UNLESS THE LICENSE IS RENEWED FOR A 2–YEAR TERM AS PROVIDED IN THIS SECTION.**~~

(2) ON OR AFTER JANUARY 1, 2013, A LICENSE EXPIRES ON THE DATE SET BY THE BOARD AND MAY NOT BE RENEWED FOR A TERM LONGER THAN 2 YEARS.

(b) **(1)** At least **[**1 month**] 3 MONTHS** before **[**the**] A** license expires, the Board shall send to the licensee a renewal notice **BY:**

(I) FIRST–CLASS MAIL TO THE LAST KNOWN MAILING ADDRESS OF THE LICENSEE; OR

(II) ELECTRONIC MEANS TO THE LAST KNOWN ELECTRONIC ADDRESS OF THE LICENSEE.

(2) IF A LICENSEE IS REQUIRED TO HAVE A CRIMINAL HISTORY RECORDS CHECK BEFORE A LICENSE MAY BE RENEWED, THE BOARD SHALL SEND THE LICENSEE THE DOCUMENTS NECESSARY FOR INITIATING THE CRIMINAL HISTORY RECORDS CHECK IN CONJUNCTION WITH THE RENEWAL NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(c) 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:

(i) A renewal fee set by the Board; or

(ii) A renewal fee that is set by the Board if the licensee certifies to the Board that the licensee provides professional services only as a volunteer; and

(3) Submits to the Board **BY PAPER APPLICATION OR ELECTRONIC MEANS**:

(i) A renewal application on the form that the Board requires; and

(ii) Satisfactory evidence of completion of:

1. 1,000 hours of active nursing practice within the 5–year period immediately preceding the date of renewal;

2. A course of instruction, commonly known as a refresher course, approved by the Board; or

3. A preceptorship program provided by an employer and approved by the Board.

(g) (1) (i) Beginning July 2009, the Board shall begin a process requiring criminal history records checks in accordance with § 8–303 of this subtitle on:

1. Selected annual renewal applicants as determined by regulations adopted by the Board; and

2. Each former licensee who files for reinstatement under § 8–313 of this subtitle after failing to renew the license for a period of 1 year or more.

(ii) An additional criminal history records check shall be performed every **[**10**] 12** years thereafter.

8–6A–01.

[(k) "Skilled nursing assistant" means a certified nursing assistant who may perform additional tasks based on the successful completion of a Board–approved supplemental training program within a specific category of nursing assistant.**]**

8–6A–05.

(a) The Board shall adopt regulations establishing:

(1) Categories of certified nursing assistants, including geriatric nursing assistants, home health aides, school health aides, dialysis technicians, individuals working in developmental disabilities administration facilities, and medicine aides;

[(2) Categories of skilled nursing assistants in the following settings:

(i) Licensed nursing homes; and

(ii) Licensed developmental disabilities administration group homes;**]**

[(3)**] (2)** Qualifications for each category of certified nursing assistant **[**and skilled nursing assistant**]**;

[(4)**] (3)** Qualifications for certified medication technicians; and

[(5)**] (4)** Standards for qualification of applicants for certification, including the applicant's criminal history, work record, and prohibitions against behavior which may be potentially harmful to patients.

8–6A–07.

(a) Subject to subsection (g) of this section, the Board shall **[**issue a certificate to**]** **CERTIFY** any applicant who meets the requirements of this subtitle.

(B) (1) THE BOARD SHALL:

(I) ISSUE EACH NEW CERTIFIED NURSING ASSISTANT OR MEDICATION TECHNICIAN A CERTIFICATE NUMBER AND REGISTRATION CERTIFICATE THAT INDICATES THE INITIAL CERTIFICATE WAS ISSUED BY THE BOARD; AND

(II) ELECTRONICALLY RECORD EACH CERTIFICATE IN THE BOARD'S DATABASE AND ON THE BOARD'S WEBSITE.

(2) EACH CERTIFICATE SHALL INCLUDE:

(I) ANY EXPIRATION DATE;

(II) THE TYPE OF CERTIFICATE; AND

(III) ANY SPECIFIC CATEGORY OF NURSING ASSISTANT.

[(b)**]** **(C)** **[**The certificate of an**]** **AN** individual who has met the requirements for a certified nursing assistant shall **[**include**]** **BE CERTIFIED WITH** the title **OF** "certified nursing assistant".

[(c)**]** **(D)** **[**The certificate of an**]** **AN** individual who routinely performs nursing tasks delegated by a registered nurse or licensed practical nurse for compensation and has also completed a Board–approved course in medication administration shall **[**also include**]** **BE CERTIFIED WITH** the title **OF** "certified medicine aide".

[(d)**]** **(E)** **[**The certificate of an**]** **AN** individual who has met the requirements for a certified medication technician shall **[**include**]** **BE CERTIFIED WITH** the title **OF** "certified medication technician".

[(e)**]** **(F)** The Board may issue a **REGISTRATION** certificate to replace a lost, destroyed, or mutilated certificate, if the certificate holder pays the certificate replacement fee set by the Board.

[(f)**]** **(G)** (1) The Board may issue a temporary practice certificate to an applicant who:

(i) Has met the appropriate certification requirements of this subtitle to the satisfaction of the Board;

(ii) Does not have a criminal record and has not been the subject of a health professional disciplinary action in this State or another jurisdiction; and

(iii) Does not have a criminal charge or a health professional disciplinary action pending in this State or another jurisdiction.

(2) Unless the Board suspends or revokes a temporary practice certificate, the temporary practice certificate expires 90 days after issuance.

(3) A temporary practice certificate may be extended up to an additional 90 days if the applicant is awaiting the completion of criminal history record information.

[(g)**] (H)** A medication technician graduate may practice for no more than 90 days from the date of completion of a medication technician training program without certification by the Board.

[(h)**] (I)** (1) On receipt of the criminal history record information of an applicant for certification as a certified nursing assistant forwarded to the Board in accordance with § 8–303 of this title, in determining whether to grant a certificate, the Board shall consider:

(i) The age at which the crime was committed;

(ii) The circumstances surrounding the crime;

(iii) The length of time that has passed since the crime;

(iv) Subsequent work history;

(v) Employment and character references; and

(vi) Other evidence that demonstrates whether the applicant poses a threat to the public health or safety.

(2) The Board may not issue a certificate if the criminal history record information required under § 8–303 of this title has not been received.

8–6A–08.

(a) A certificate expires on the 28th day of the birth month of the nursing assistant or medication technician, unless the certificate is renewed for a 2–year term as provided in this section.

(b) **(1)** At least 3 months before **[**the**] A** certificate expires, the Board shall send **A RENEWAL NOTICE** to the nursing assistant or medication technician **BY:**

(I) FIRST–CLASS MAIL TO THE LAST KNOWN MAILING ADDRESS OF THE NURSING ASSISTANT OR MEDICATION TECHNICIAN; OR

(II) ELECTRONIC MEANS TO THE LAST KNOWN ELECTRONIC ADDRESS OF THE LICENSEE.

(2) **[**a**] A** renewal notice **[**that states**] SHALL STATE**:

[(1)**] (I)** The date on which the current certificate expires;

[(2)**] (II)** The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the certificate expires; and

[(3)**] (III)** The amount of the renewal fee.

(3) IF A NURSING ASSISTANT OR MEDICATION TECHNICIAN IS REQUIRED TO HAVE A CRIMINAL HISTORY RECORDS CHECK BEFORE A CERTIFICATE MAY BE RENEWED, THE BOARD SHALL SEND THE NURSING ASSISTANT OR MEDICATION TECHNICIAN THE DOCUMENTS NECESSARY FOR INITIATING THE CRIMINAL HISTORY RECORDS CHECK IN CONJUNCTION WITH THE RENEWAL NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(c) Before a certificate expires, a nursing assistant periodically may renew it for an additional term, if the certificate holder:

(1) Otherwise is entitled to be certified;

(2) Submits to the Board a renewal application on the form that the Board requires;

(3) Pays to the Board a renewal fee set by the Board; and

(4) Provides satisfactory evidence of completion of:

(i) 16 hours of active nursing assistant practice within the 2–year period immediately preceding the date of renewal; or

(ii) An approved nursing assistant training program.

[(d) In addition to the requirements in subsection (c)(1), (2), and (3) of this section, a skilled nursing assistant shall:

(1) Provide satisfactory evidence of completion of 1,000 hours of practice as a skilled nursing assistant within the individual's specific category of nursing assistant, in the 2–year period preceding the date of renewal; and

(2) Successfully complete a Board–approved refresher course within the individual's specific category of nursing assistant.**]**

[(e)**] (D)** In addition to the requirements in subsection (c)(1), (2), and (3) of this section, a certified medicine aide shall:

(1) Provide satisfactory evidence of completion of 100 hours of practice as a certified medicine aide in the 2–year period preceding the date of renewal; and

(2) Successfully complete a Board–approved medicine aide continuing education program.

[(f)**] (E)** Before a certificate expires, a medication technician periodically may renew it for an additional term, if the certificate holder:

(1) Otherwise is entitled to be certified;

(2) Submits to the Board a renewal application on the form that the Board requires;

(3) Pays to the Board a renewal fee set by the Board;

(4) Every 2 years, provides satisfactory evidence of completion of a Board–approved clinical refresher course; and

(5) Provides satisfactory evidence of completion of 100 hours of practice as a certified medication technician within the 2–year period preceding the date of renewal.

[(g)**] (F)** (1) The Board may grant a 30–day extension, beyond a certificate's expiration date, to a certificate holder so that the certificate holder may renew the certificate before it expires.

(2) The Board may grant two 90–day extensions beyond a certificate's expiration date pending receipt of criminal history record information.

[(h)**] (G)** The Board shall reinstate the certificate of a former certificate holder who has failed to renew the certificate for any reason if the former certificate holder meets the applicable renewal requirements of subsections (c) through **[**(f)**](E)** and **[**(l)(1)(i)2**] (K)(1)(I)2** of this section.

[(i)**] (H)** Subject to subsection **[**(j)**] (I)** of this section, the Board shall renew the certificate of each nursing assistant or medication technician who meets the requirements of this section.

[(j)**] (I)** (1) Within **[**30**] 60** days after a change has occurred, each certificate holder shall notify the Board in writing of any change in a name or address.

(2) If the certificate holder fails to notify the Board within the time required under this subsection, the Board may impose an administrative penalty of $25 on the certificate holder.

[(k)**] (J)** The Board shall pay any penalty collected under this subsection to the General Fund of the State.

[(l)**] (K)** (1) (i) Beginning July 2009, the Board shall begin a process requiring criminal history records checks in accordance with § 8–303 of this title on:

1. Selected applicants for certification as a certified nursing assistant who renew their certificates every 2 years as determined by regulations adopted by the Board; and

2. Each former certified nursing assistant who files for reinstatement under subsection **[**(h)**] (G)** of this section after failing to renew the license for a period of 1 year or more.

(ii) An additional criminal history records check shall be performed every **[**10**] 12** years thereafter.

(2) On receipt of the criminal history record information of a certificate holder forwarded to the Board in accordance with § 8–303 of this title, in determining whether to renew the certificate, the Board shall consider:

(i) The age at which the crime was committed;

(ii) The circumstances surrounding the crime;

(iii) The length of time that has passed since the crime;

(iv) Subsequent work history;

(v) Employment and character references; and

(vi) Other evidence that demonstrates whether the certificate holder poses a threat to the public health or safety.

(3) The Board may not renew a certificate if the criminal history record information required under § 8–303 of this title has not been received.

8–6A–15.

(a) If, during the **REVIEW OF AN APPLICATION FOR CERTIFICATION OR** investigation of an allegation brought against a certified nursing assistant or certified medication technician under this subtitle, the Board has reason to believe **AND OBJECTIVE EVIDENCE** that the **APPLICANT,** certified nursing assistant**,** or certified medication technician may cause harm to a person affected by the practice of the **APPLICANT,** certified nursing assistant**,** or certified medication technician, the Board, on its own initiative, shall direct the **APPLICANT,** certified nursing assistant**,** or certified medication technician to submit to an appropriate examination by a health care provider designated by the Board.

(b) In return for the privilege **[**given**]** to **PRACTICE AS** a certified nursing assistant or certified medication technician **[**to practice**]** in the State, **[**the**] AN APPLICANT,** certified nursing assistant**,** or certified medication technician is deemed to have:

(1) Consented to submit to an examination under this section if requested by the Board in writing; and

(2) Waived any legal claim of privilege as to the testimony or examination reports of the examining health care provider.

(c) The failure or refusal of **[**a**] AN APPLICANT,** certified nursing assistant**,** or certified medication technician to submit to an examination required under subsection (b) of this section is prima facie evidence of the inability of the **APPLICANT,** certified nursing assistant**,** or certified medication technician to competently practice as a certified nursing assistant or certified medication technician, unless the Board finds that the failure or refusal was beyond the control of the **APPLICANT,** certified nursing assistant**,** or certified medication technician.

(d) The Board shall pay the cost of any examination made in accordance with the provisions of this section.

SECTION 2. AND BE IT FURTHER ENACTED, That the State Board of Nursing shall stagger the renewal of licenses required under § 8–312(a) of the Health Occupations Article as enacted by this Act so that licensees born in even years renew in even years and licensees born in odd years renew in odd years.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 587

(Senate Bill 654)

AN ACT concerning

Real Property – Tenants in Foreclosure – Conforming to Federal Law

FOR the purpose of providing that an immediate successor in interest who has acquired legal title to certain residential property pursuant to a foreclosure shall assume the interest subject to the provision of a certain notice to vacate and certain rights of a certain bona fide tenant; establishing the circumstances under which a lease or tenancy shall be considered bona fide; authorizing termination of a lease if the purchaser will occupy the property as the purchaser's primary residence; establishing certain requirements for a notice to vacate; providing for the construction of a certain provision of this Act; altering the contents of certain notices required to be sent to occupants of certain residential property in foreclosure; ~~requiring a certain notice to be sent to certain persons if a foreclosure action is dismissed, withdrawn, or terminated;~~ defining a certain term; ~~making this Act an emergency measure~~ providing for the application of this Act; and generally relating to tenants in foreclosure.

BY repealing and reenacting, with amendments,
Article – Real Property
Section 7–105.6 and 7–105.9
Annotated Code of Maryland
(2003 Replacement Volume and 2009 Supplement)

Preamble

WHEREAS, President Obama signed the Helping Families Save Their Homes Act (Public Law No: 111–22) into law on May 20, 2009; and

WHEREAS, The new federal law preempts Chapter 615 of the Acts of the General Assembly of 2009, making it necessary to make changes to conform to the federal requirements; now, therefore,

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

Article – Real Property

7–105.6.

(a) **[**Any**]** **EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, ANY** purchaser at a foreclosure sale of a mortgage or deed of trust has the same rights and remedies against the tenants of the mortgagor or grantor as the mortgagor or

grantor had, and the tenants have the same rights and remedies against the purchaser as they would have had against the mortgagor or grantor on the date the mortgage or deed of trust was recorded.

(B) (1) FOR PURPOSES OF THIS SUBSECTION, A LEASE OR TENANCY SHALL BE CONSIDERED "BONA FIDE" ONLY IF:

(I) THE MORTGAGOR OR GRANTOR OR THE CHILD, SPOUSE, OR PARENT OF THE MORTGAGOR OR GRANTOR UNDER THE CONTRACT IS NOT THE TENANT;

(II) THE LEASE OR TENANCY WAS THE RESULT OF AN ARM'S LENGTH TRANSACTION; AND

(III) THE LEASE OR TENANCY REQUIRES THE RECEIPT OF RENT THAT IS NOT SUBSTANTIALLY LESS THAN FAIR MARKET RENT FOR THE PROPERTY OR THE UNIT'S RENT IS REDUCED OR SUBSIDIZED DUE TO A FEDERAL, STATE, OR LOCAL SUBSIDY.

(2) IN THE CASE OF A FORECLOSURE ON ANY RESIDENTIAL PROPERTY, AN IMMEDIATE SUCCESSOR IN INTEREST WHO HAS ACQUIRED LEGAL TITLE TO THE PROPERTY UNDER THE FORECLOSURE SHALL ASSUME THE INTEREST SUBJECT TO:

(I) THE PROVISION BY THE SUCCESSOR IN INTEREST OF A NOTICE TO VACATE TO ANY BONA FIDE TENANT AT LEAST 90 DAYS BEFORE THE EFFECTIVE DATE OF THE NOTICE; AND

(II) THE RIGHTS OF ANY BONA FIDE TENANT AS OF THE DATE OF TRANSFER OF LEGAL TITLE UNDER THE FORECLOSURE:

1. EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, UNDER A BONA FIDE LEASE ENTERED INTO BEFORE THE TRANSFER OF LEGAL TITLE, TO OCCUPY THE PREMISES UNTIL THE END OF THE REMAINING TERM OF THE LEASE; OR

2. WITHOUT A LEASE OR WITH A LEASE TERMINABLE AT WILL UNDER STATE LAW, SUBJECT TO THE RECEIPT BY THE TENANT OF THE NOTICE REQUIRED UNDER ITEM (I) OF THIS PARAGRAPH.

(3) SUBJECT TO THE RECEIPT BY THE TENANT OF THE NOTICE TO VACATE UNDER PARAGRAPH (2)(I) OF THIS SUBSECTION, A SUCCESSOR IN INTEREST MAY TERMINATE A LEASE EFFECTIVE ON THE DATE OF THE SALE OF

THE RESIDENTIAL PROPERTY TO A PURCHASER WHO WILL OCCUPY THE PROPERTY AS THE PURCHASER'S PRIMARY RESIDENCE.

(4) THE NOTICE REQUIRED UNDER PARAGRAPH (2)(I) OF THIS SUBSECTION SHALL:

(I) BE IN WRITING;

(II) BE SENT BY FIRST–CLASS AND CERTIFIED MAIL, RETURN RECEIPT REQUESTED;

(III) STATE THE DATE ON WHICH THE NOTICE IS BEING GIVEN;

(IV) STATE THE DATE ON WHICH THE TERMINATION OF THE TENANCY IS EFFECTIVE; AND

(V) STATE WHETHER THE BASIS FOR TERMINATION OF THE TENANCY IS:

1. EXPIRATION OF THE TERM OF THE LEASE;

2. SALE OF THE PROPERTY TO A PURCHASER WHO WILL OCCUPY THE PROPERTY AS THE PURCHASER'S PRIMARY RESIDENCE; OR

3. TERMINATION OF A MONTH–TO–MONTH OR OTHER TERMINABLE–AT–WILL TENANCY.

(5) THIS SECTION DOES NOT AFFECT THE REQUIREMENTS FOR TERMINATION OF ANY FEDERAL– OR STATE–SUBSIDIZED TENANCY OR OF ANY STATE OR LOCAL LAW THAT PROVIDES LONGER TIME PERIODS OR ADDITIONAL PROTECTION FOR TENANTS.

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

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

7–105.9.

(a) **(1)** In this section**[**, "residential property"**]** **THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

(2) "BONA FIDE TENANT" MEANS A TENANT UNDER A LEASE OR TENANCY DESCRIBED IN § 7–105.6(B)(1) OF THIS SUBTITLE.

(3) "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 § 7–105.1(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. ~~**IF YOU ARE RENTING THE PROPERTY NOW, YOU MAY HAVE THE RIGHT TO CONTINUE RENTING THE PROPERTY EVEN AFTER THE PROPERTY IS SOLD TO A NEW OWNER THROUGH A FORECLOSURE SALE.**~~

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**]** **TO DETERMINE WHETHER YOU ARE A BONA FIDE TENANT WITH THE RIGHT TO CONTINUE RENTING THE PROPERTY AFTER FORECLOSURE. IF YOU ARE A BONA FIDE TENANT WITH A LEASE FOR A SPECIFIC PERIOD OF TIME, YOU HAVE THE RIGHT TO CONTINUE RENTING THE PROPERTY UNTIL THE END OF YOUR LEASE TERM OR 90 DAYS AFTER THE NEW LEGAL TITLE HOLDER SENDS YOU A WRITTEN NOTICE TO VACATE, WHICHEVER IS LONGER. THERE IS ONE EXCEPTION TO THIS RIGHT: IF A NEW OWNER INTENDS TO OCCUPY THE PROPERTY AS HIS OR HER PRIMARY RESIDENCE, AFTER ACQUIRING LEGAL TITLE, THE NEW OWNER MAY SEND YOU A WRITTEN NOTICE TO VACATE IN 90 DAYS.~~

~~**IF YOU ARE A BONA FIDE TENANT WITH A MONTH–TO–MONTH OR OTHER TERMINABLE–AT–WILL TENANCY, YOU HAVE THE RIGHT TO CONTINUE RENTING THE PROPERTY FOR UP TO 90 DAYS AFTER RECEIVING A WRITTEN NOTICE TO VACATE FROM THE NEW OWNER.**~~

~~**IF YOU ARE NOT A BONA FIDE TENANT AND A FORECLOSURE SALE OF THE PROPERTY OCCURS, YOU COULD BE EVICTED SHORTLY AFTER THE**~~

~~**FORECLOSURE SALE, EVEN IF YOU HAVE PAID THE RENT DUE AND COMPLIED WITH YOUR LEASE**~~ **MOST RENTERS HAVE THE RIGHT TO CONTINUE RENTING THE PROPERTY AFTER IT IS SOLD AT FORECLOSURE. THE FORECLOSURE SALE PURCHASER BECOMES THE NEW LANDLORD.**

MOST RENTERS WITH A LEASE FOR A SPECIFIC PERIOD OF TIME HAVE THE RIGHT TO CONTINUE RENTING THE PROPERTY UNTIL THE END OF THE LEASE TERM. MOST MONTH–TO–MONTH RENTERS HAVE THE RIGHT TO CONTINUE RENTING THE PROPERTY FOR 90 DAYS AFTER RECEIVING A WRITTEN NOTICE TO VACATE FROM THE NEW OWNER.

YOU SHOULD GET LEGAL ADVICE TO DETERMINE IF YOU HAVE THESE RIGHTS.

Below you will find the name, address, and telephone number of the person authorized to sell the property. You may contact this person to **NOTIFY HIM OR HER THAT YOU ARE A TENANT AT THE PROPERTY AND 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 (insert telephone number), or consult the Department's website, (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.

(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. ~~**IF YOU ARE RENTING THE PROPERTY NOW, YOU MAY HAVE THE RIGHT TO CONTINUE RENTING THE PROPERTY EVEN AFTER THE PROPERTY IS SOLD TO A NEW OWNER THROUGH A FORECLOSURE SALE.**~~

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.**]**

~~**YOU MAY WANT TO CONSULT AN ATTORNEY TO DETERMINE WHETHER YOU ARE A BONA FIDE TENANT WITH THE RIGHT TO CONTINUE RENTING THE PROPERTY AFTER FORECLOSURE. IF YOU ARE A BONA FIDE TENANT WITH A LEASE FOR A SPECIFIC PERIOD OF TIME, YOU HAVE THE RIGHT TO CONTINUE RENTING THE PROPERTY UNTIL THE END OF YOUR LEASE TERM OR 90 DAYS AFTER THE NEW LEGAL TITLE HOLDER SENDS YOU A WRITTEN NOTICE TO VACATE, WHICHEVER IS LONGER. THERE IS ONE EXCEPTION TO THIS RIGHT: IF A NEW OWNER INTENDS TO OCCUPY THE PROPERTY AS HIS OR HER PRIMARY RESIDENCE, AFTER ACQUIRING LEGAL TITLE, THE NEW OWNER MAY SEND YOU A WRITTEN NOTICE TO VACATE IN 90 DAYS.**~~

~~**IF YOU ARE A BONA FIDE TENANT WITH A MONTH-TO-MONTH OR OTHER TERMINABLE-AT-WILL TENANCY, YOU HAVE THE RIGHT TO CONTINUE RENTING THE PROPERTY FOR UP TO 90 DAYS AFTER RECEIVING A WRITTEN NOTICE TO VACATE FROM THE NEW OWNER.**~~

~~**IF YOU ARE NOT A BONA FIDE TENANT AND A FORECLOSURE SALE OF THE PROPERTY OCCURS, YOU COULD BE EVICTED SHORTLY AFTER THE FORECLOSURE SALE, EVEN IF YOU HAVE PAID THE RENT DUE AND COMPLIED WITH YOUR LEASE.**~~

MOST RENTERS HAVE THE RIGHT TO CONTINUE RENTING THE PROPERTY AFTER IT IS SOLD AT FORECLOSURE. THE FORECLOSURE SALE PURCHASER BECOMES THE NEW LANDLORD.

MOST RENTERS WITH A LEASE FOR A SPECIFIC PERIOD OF TIME HAVE THE RIGHT TO CONTINUE RENTING THE PROPERTY UNTIL THE END OF THE LEASE TERM. MOST MONTH–TO–MONTH RENTERS HAVE THE RIGHT TO CONTINUE RENTING THE PROPERTY FOR 90 DAYS AFTER RECEIVING A WRITTEN NOTICE TO VACATE FROM THE NEW OWNER.

YOU SHOULD GET LEGAL ADVICE TO DETERMINE IF YOU HAVE THESE RIGHTS.

Below you will find the name, address, and telephone number of the person authorized to sell the property. You may contact this person to **NOTIFY HIM OR HER THAT YOU ARE A TENANT AT THE PROPERTY AND 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 (insert telephone number), or consult the Department's website, (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.

(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 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 **FIRST** date **AFTER WHICH EVICTION COULD LEGALLY OCCUR UNDER STATE AND LOCAL LAW**).

Below you will find the name, address, and telephone number of the person 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 (insert telephone number), or consult the Department's website, (insert website address), for assistance.

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 first–class mail.

(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.

~~**(G) IF A FORECLOSURE ACTION IS DISMISSED, WITHDRAWN, OR TERMINATED FOR ANY REASON BEFORE TRANSFER OF LEGAL TITLE, A NOTICE OF THE DISMISSAL, WITHDRAWAL, OR TERMINATION SHALL BE SENT TO EACH TENANT WHOSE IDENTITY IS KNOWN AND TO "ALL OCCUPANTS" BY FIRST–CLASS MAIL.**~~

~~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.~~

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 foreclosures docketed before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 588

(House Bill 711)

AN ACT concerning

Real Property – Tenants in Foreclosure – Conforming to Federal Law

FOR the purpose of providing that an immediate successor in interest who has acquired legal title to certain residential property pursuant to a foreclosure shall assume the interest subject to the provision of a certain notice to vacate and certain rights of a certain bona fide tenant; establishing the circumstances under which a lease or tenancy shall be considered bona fide; authorizing termination of a lease if the purchaser will occupy the property as the purchaser's primary residence; establishing certain requirements for a notice to vacate; providing for the construction of a certain provision of this Act; altering the contents of certain notices required to be sent to occupants of certain residential property in foreclosure; ~~requiring a certain notice to be sent to certain persons if a foreclosure action is dismissed, withdrawn, or terminated;~~ defining a certain term; ~~making this Act an emergency measure~~ providing for the application of this Act; and generally relating to tenants in foreclosure.

BY repealing and reenacting, with amendments,
Article – Real Property
Section 7–105.6 and 7–105.9
Annotated Code of Maryland
(2003 Replacement Volume and 2009 Supplement)

Preamble

WHEREAS, President Obama signed the Helping Families Save Their Homes Act (Public Law No: 111–22) into law on May 20, 2009; and

WHEREAS, The new federal law preempts Chapter 615 of the Acts of the General Assembly of 2009, making it necessary to make changes to conform to the federal requirements; now, therefore,

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

Article – Real Property

7–105.6.

(a) **[**Any**]** **EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, ANY** purchaser at a foreclosure sale of a mortgage or deed of trust has the same rights and remedies against the tenants of the mortgagor or grantor as the mortgagor or grantor had, and the tenants have the same rights and remedies against the purchaser as they would have had against the mortgagor or grantor on the date the mortgage or deed of trust was recorded.

(B) (1) FOR PURPOSES OF THIS SUBSECTION, A LEASE OR TENANCY SHALL BE CONSIDERED "BONA FIDE" ONLY IF:

(I) THE MORTGAGOR OR GRANTOR OR THE CHILD, SPOUSE, OR PARENT OF THE MORTGAGOR OR GRANTOR UNDER THE CONTRACT IS NOT THE TENANT;

(II) THE LEASE OR TENANCY WAS THE RESULT OF AN ARM'S LENGTH TRANSACTION; AND

(III) THE LEASE OR TENANCY REQUIRES THE RECEIPT OF RENT THAT IS NOT SUBSTANTIALLY LESS THAN FAIR MARKET RENT FOR THE PROPERTY OR THE UNIT'S RENT IS REDUCED OR SUBSIDIZED DUE TO A FEDERAL, STATE, OR LOCAL SUBSIDY.

(2) IN THE CASE OF A FORECLOSURE ON ANY RESIDENTIAL PROPERTY, ~~AS DEFINED IN § 7-105.1 OF THIS SUBTITLE,~~ AN IMMEDIATE SUCCESSOR IN INTEREST WHO HAS ACQUIRED LEGAL TITLE TO THE PROPERTY UNDER THE FORECLOSURE SHALL ASSUME THE INTEREST SUBJECT TO:

(I) THE PROVISION BY THE SUCCESSOR IN INTEREST OF A NOTICE TO VACATE TO ANY BONA FIDE TENANT AT LEAST 90 DAYS BEFORE THE EFFECTIVE DATE OF THE NOTICE; AND

(II) THE RIGHTS OF ANY BONA FIDE TENANT AS OF THE DATE OF TRANSFER OF LEGAL TITLE UNDER THE FORECLOSURE:

1. EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, UNDER A BONA FIDE LEASE ENTERED INTO BEFORE THE TRANSFER OF LEGAL TITLE, TO OCCUPY THE PREMISES UNTIL THE END OF THE REMAINING TERM OF THE LEASE; OR

2. WITHOUT A LEASE OR WITH A LEASE TERMINABLE AT WILL UNDER STATE LAW, SUBJECT TO THE RECEIPT BY THE TENANT OF THE NOTICE REQUIRED UNDER ITEM (I) OF THIS PARAGRAPH.

(3) SUBJECT TO THE RECEIPT BY THE TENANT OF THE NOTICE TO VACATE UNDER PARAGRAPH (2)(I) OF THIS SUBSECTION, A SUCCESSOR IN INTEREST MAY TERMINATE A LEASE EFFECTIVE ON THE DATE OF THE SALE OF THE RESIDENTIAL PROPERTY TO A PURCHASER WHO WILL OCCUPY THE PROPERTY AS THE PURCHASER'S PRIMARY RESIDENCE.

(4) THE NOTICE REQUIRED UNDER PARAGRAPH (2)(I) OF THIS SUBSECTION SHALL:

(I) BE IN WRITING;

(II) BE SENT BY FIRST–CLASS AND CERTIFIED MAIL, RETURN RECEIPT REQUESTED;

(III) STATE THE DATE ON WHICH THE NOTICE IS BEING GIVEN;

(IV) STATE THE DATE ON WHICH THE TERMINATION OF THE TENANCY IS EFFECTIVE; AND

(V) STATE WHETHER THE BASIS FOR TERMINATION OF THE TENANCY IS:

1. EXPIRATION OF THE TERM OF THE LEASE;

2. SALE OF THE PROPERTY TO A PURCHASER WHO WILL OCCUPY THE PROPERTY AS THE PURCHASER'S PRIMARY RESIDENCE; OR

3. TERMINATION OF A MONTH–TO–MONTH OR OTHER TERMINABLE–AT–WILL TENANCY.

(5) THIS SECTION DOES NOT AFFECT THE REQUIREMENTS FOR TERMINATION OF ANY FEDERAL– OR STATE–SUBSIDIZED TENANCY OR OF ANY STATE OR LOCAL LAW THAT PROVIDES LONGER TIME PERIODS OR ADDITIONAL PROTECTION FOR TENANTS.

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

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

7–105.9.

(a) **(1)** In this section**[**, "residential property"**] THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

(2) "BONA FIDE TENANT" MEANS A TENANT UNDER A LEASE OR TENANCY DESCRIBED IN § 7–105.6(B)(1) OF THIS SUBTITLE.

(3) "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 § 7–105.1(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. ~~**IF YOU ARE RENTING THE PROPERTY NOW, YOU MAY HAVE THE RIGHT TO CONTINUE RENTING THE PROPERTY EVEN AFTER THE PROPERTY IS SOLD TO A NEW OWNER THROUGH A FORECLOSURE SALE.**~~

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**]** **TO DETERMINE WHETHER YOU ARE A BONA FIDE TENANT WITH THE RIGHT TO CONTINUE RENTING THE PROPERTY AFTER FORECLOSURE. IF YOU ARE A BONA FIDE TENANT WITH A LEASE FOR A SPECIFIC PERIOD OF TIME, YOU HAVE THE RIGHT TO CONTINUE RENTING THE PROPERTY UNTIL THE END OF YOUR LEASE TERM OR 90 DAYS AFTER THE NEW LEGAL TITLE HOLDER SENDS YOU A WRITTEN NOTICE TO VACATE, WHICHEVER IS LONGER. THERE IS ONE EXCEPTION TO THIS RIGHT: IF A NEW OWNER INTENDS TO OCCUPY THE PROPERTY AS HIS OR HER PRIMARY RESIDENCE, AFTER ACQUIRING LEGAL TITLE, THE NEW OWNER MAY SEND YOU A WRITTEN NOTICE TO VACATE IN 90 DAYS.~~

~~**IF YOU ARE A BONA FIDE TENANT WITH A MONTH-TO-MONTH OR OTHER TERMINABLE-AT-WILL TENANCY, YOU HAVE THE RIGHT TO CONTINUE RENTING THE PROPERTY FOR UP TO 90 DAYS AFTER RECEIVING A WRITTEN NOTICE TO VACATE FROM THE NEW OWNER.**~~

~~**IF YOU ARE NOT A BONA FIDE TENANT AND A FORECLOSURE SALE OF THE PROPERTY OCCURS, YOU COULD BE EVICTED SHORTLY AFTER THE FORECLOSURE SALE, EVEN IF YOU HAVE PAID THE RENT DUE AND COMPLIED WITH YOUR LEASE.**~~

MOST RENTERS HAVE THE RIGHT TO CONTINUE RENTING THE PROPERTY AFTER IT IS SOLD AT FORECLOSURE. THE FORECLOSURE SALE PURCHASER BECOMES THE NEW LANDLORD.

MOST RENTERS WITH A LEASE FOR A SPECIFIC PERIOD OF TIME HAVE THE RIGHT TO CONTINUE RENTING THE PROPERTY UNTIL THE END OF THE LEASE TERM. MOST MONTH–TO–MONTH RENTERS HAVE THE RIGHT TO CONTINUE RENTING THE PROPERTY FOR 90 DAYS AFTER RECEIVING A WRITTEN NOTICE TO VACATE FROM THE NEW OWNER.

YOU SHOULD GET LEGAL ADVICE TO DETERMINE IF YOU HAVE THESE RIGHTS.

Below you will find the name, address, and telephone number of the person authorized to sell the property. You may contact this person to **NOTIFY HIM OR HER THAT YOU ARE A TENANT AT THE PROPERTY AND 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 (insert telephone number), or consult the Department's website, (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.

(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. ~~**IF YOU ARE RENTING THE PROPERTY NOW, YOU MAY HAVE THE RIGHT TO CONTINUE RENTING THE PROPERTY EVEN AFTER THE PROPERTY IS SOLD TO A NEW OWNER THROUGH A FORECLOSURE SALE.**~~

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.**]**

~~**YOU MAY WANT TO CONSULT AN ATTORNEY TO DETERMINE WHETHER YOU ARE A BONA FIDE TENANT WITH THE RIGHT TO CONTINUE RENTING THE PROPERTY AFTER FORECLOSURE. IF YOU ARE A BONA FIDE TENANT WITH A LEASE FOR A SPECIFIC PERIOD OF TIME, YOU HAVE THE RIGHT TO CONTINUE RENTING THE PROPERTY UNTIL THE END OF YOUR LEASE TERM OR 90 DAYS AFTER THE NEW LEGAL TITLE HOLDER SENDS YOU A WRITTEN NOTICE TO VACATE, WHICHEVER IS LONGER. THERE IS ONE EXCEPTION TO THIS RIGHT: IF A NEW OWNER INTENDS TO OCCUPY THE PROPERTY AS HIS OR HER PRIMARY RESIDENCE, AFTER ACQUIRING LEGAL TITLE, THE NEW OWNER MAY SEND YOU A WRITTEN NOTICE TO VACATE IN 90 DAYS.**~~

~~**IF YOU ARE A BONA FIDE TENANT WITH A MONTH–TO–MONTH OR OTHER TERMINABLE–AT–WILL TENANCY, YOU HAVE THE RIGHT TO CONTINUE RENTING THE PROPERTY FOR UP TO 90 DAYS AFTER RECEIVING A WRITTEN NOTICE TO VACATE FROM THE NEW OWNER.**~~

~~**IF YOU ARE NOT A BONA FIDE TENANT AND A FORECLOSURE SALE OF THE PROPERTY OCCURS, YOU COULD BE EVICTED SHORTLY AFTER THE**~~

~~FORECLOSURE SALE, EVEN IF YOU HAVE PAID THE RENT DUE AND COMPLIED WITH YOUR LEASE.~~

MOST RENTERS HAVE THE RIGHT TO CONTINUE RENTING THE PROPERTY AFTER IT IS SOLD AT FORECLOSURE. THE FORECLOSURE SALE PURCHASER BECOMES THE NEW LANDLORD.

MOST RENTERS WITH A LEASE FOR A SPECIFIC PERIOD OF TIME HAVE THE RIGHT TO CONTINUE RENTING THE PROPERTY UNTIL THE END OF THE LEASE TERM. MOST MONTH–TO–MONTH RENTERS HAVE THE RIGHT TO CONTINUE RENTING THE PROPERTY FOR 90 DAYS AFTER RECEIVING A WRITTEN NOTICE TO VACATE FROM THE NEW OWNER.

YOU SHOULD GET LEGAL ADVICE TO DETERMINE IF YOU HAVE THESE RIGHTS.

Below you will find the name, address, and telephone number of the person authorized to sell the property. You may contact this person to **NOTIFY HIM OR HER THAT YOU ARE A TENANT AT THE PROPERTY AND 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~~]~~ ~~CONSUMER PROTECTION DIVISION, OFFICE OF THE ATTORNEY GENERAL~~, at (insert telephone number), or consult the ~~[~~Department's~~]~~ ~~DIVISION'S~~ website, (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.

(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 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 **FIRST** date **AFTER WHICH EVICTION COULD LEGALLY OCCUR UNDER STATE AND LOCAL LAW**).

Below you will find the name, address, and telephone number of the person 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 (insert telephone number), or consult the Department's website, (insert website address), for assistance.

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 first–class mail.

(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.

~~**(G) IF A FORECLOSURE ACTION IS DISMISSED, WITHDRAWN, OR TERMINATED FOR ANY REASON BEFORE TRANSFER OF LEGAL TITLE, A NOTICE OF THE DISMISSAL, WITHDRAWAL, OR TERMINATION SHALL BE SENT TO EACH TENANT WHOSE IDENTITY IS KNOWN AND TO "ALL OCCUPANTS" BY FIRST–CLASS MAIL.**~~

~~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.~~

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 foreclosures docketed before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 589

(Senate Bill 657)

AN ACT concerning

Recordation Taxes and State and County Transfer ~~Tax~~ *Taxes* – Debt Forgiven in "Short Sale"

FOR the purpose of clarifying that for the purposes of recordation taxes and the State and county transfer ~~tax~~ taxes, the consideration payable for an instrument of writing to which the tax applies ~~does not include the amount of any debt forgiven or assumed by a person other than the grantee~~ includes only the amount paid or delivered in return for the sale of the property and does not include the amount of any debt forgiven or no longer secured by a mortgage or deed of trust; making this Act an emergency measure; and generally relating to recordation taxes and State and county transfer ~~tax~~ taxes.

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 12–103(a) and 13–203(a)
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

BY adding to
Article – Tax – Property
Section 13–412
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

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

Article – Tax – Property

12–103.

(a) **(1)** The recordation tax rates under this section are applied to each $500 or fraction of $500 of consideration payable or of the principal amount of the debt secured for an instrument of writing.

(2) The consideration**:**

(I) includes the amount of any mortgage or deed of trust assumed by the grantee**; AND**

(II) SUBJECT TO ITEM (I) OF THIS PARAGRAPH, INCLUDES ONLY THE AMOUNT PAID OR DELIVERED IN RETURN FOR THE SALE OF THE PROPERTY AND DOES NOT INCLUDE THE AMOUNT OF ANY DEBT FORGIVEN OR ~~ASSUMED BY A PERSON OTHER THAN THE GRANTEE~~ NO LONGER SECURED BY A MORTGAGE OR DEED OF TRUST ON THE PROPERTY.

13–203.

(a) **(1)** Except as provided in subsection (b) of this section, the rate of the transfer tax is 0.5% of the consideration payable for the instrument of writing.

(2) The consideration**:**

(I) includes the amount of any mortgage or deed of trust assumed by the grantee**; AND**

(II) SUBJECT TO ITEM (I) OF THIS PARAGRAPH, INCLUDES ONLY THE AMOUNT PAID OR DELIVERED IN RETURN FOR THE SALE OF THE PROPERTY AND DOES NOT INCLUDE THE AMOUNT OF ANY DEBT FORGIVEN OR ~~ASSUMED BY A PERSON OTHER THAN THE GRANTEE~~ NO LONGER SECURED BY A MORTGAGE OR DEED OF TRUST ON THE PROPERTY.

13–412.

(A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A COUNTY TRANSFER TAX SHALL APPLY TO THE CONSIDERATION PAYABLE FOR AN INSTRUMENT OF WRITING~~; AND~~.

(2) IF A COUNTY TRANSFER TAX APPLIES TO MORTGAGES OR DEEDS OF ~~TRUSTS~~ *TRUST*, THE COUNTY TRANSFER TAX SHALL APPLY TO THE CONSIDERATION PAYABLE OR THE PRINCIPAL AMOUNT OF THE DEBT SECURED FOR AN INSTRUMENT OF WRITING.

(B) THE CONSIDERATION:

(1) INCLUDES THE AMOUNT OF ANY MORTGAGE OR DEED OF TRUST ASSUMED BY THE GRANTEE; AND

(2) SUBJECT TO ITEM (1) OF THIS SUBSECTION, INCLUDES ONLY THE AMOUNT PAID OR DELIVERED IN RETURN FOR THE SALE OF THE PROPERTY AND DOES NOT INCLUDE THE AMOUNT OF ANY DEBT FORGIVEN OR NO LONGER SECURED BY A MORTGAGE OR DEED OF TRUST ON THE PROPERTY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three–fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, May 20, 2010.

Chapter 590

(House Bill 590)

AN ACT concerning

Recordation Taxes and State and County Transfer ~~Tax~~ *Taxes* – Debt Forgiven in "Short Sale"

FOR the purpose of clarifying that for the purposes of recordation taxes and the State and county transfer ~~tax~~ taxes, the consideration payable for an instrument of writing to which the tax applies ~~does not include the amount of any debt forgiven or assumed by a person other than the grantee~~ includes only the amount paid or delivered in return for the sale of the property and does not include the amount of any debt forgiven or no longer secured by a mortgage or deed of trust; *making this Act an emergency measure;* ~~making this Act an emergency measure;~~ and generally relating to recordation taxes and State and county transfer ~~tax~~ taxes.

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 12–103(a) and 13–203(a)
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

BY adding to
Article – Tax – Property
Section 13–412
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

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

Article – Tax – Property

12–103.

(a) **(1)** The recordation tax rates under this section are applied to each $500 or fraction of $500 of consideration payable or of the principal amount of the debt secured for an instrument of writing.

(2) The consideration**:**

(I) includes the amount of any mortgage or deed of trust assumed by the grantee**; AND**

(II) SUBJECT TO ITEM (I) OF THIS PARAGRAPH, INCLUDES ONLY THE AMOUNT PAID OR DELIVERED IN RETURN FOR THE SALE OF THE PROPERTY AND DOES NOT INCLUDE THE AMOUNT OF ANY DEBT FORGIVEN OR ~~ASSUMED BY A PERSON OTHER THAN THE GRANTEE~~ NO LONGER SECURED BY A MORTGAGE OR DEED OF TRUST ON THE PROPERTY.

13–203.

(a) **(1)** Except as provided in subsection (b) of this section, the rate of the transfer tax is 0.5% of the consideration payable for the instrument of writing.

(2) The consideration**:**

(I) includes the amount of any mortgage or deed of trust assumed by the grantee**; AND**

(II) SUBJECT TO ITEM (I) OF THIS PARAGRAPH, INCLUDES ONLY THE AMOUNT PAID OR DELIVERED IN RETURN FOR THE SALE OF THE PROPERTY AND DOES NOT INCLUDE THE AMOUNT OF ANY DEBT FORGIVEN OR ~~ASSUMED BY A PERSON OTHER THAN THE GRANTEE~~ NO LONGER SECURED BY A MORTGAGE OR DEED OF TRUST ON THE PROPERTY.

13–412.

(A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A COUNTY TRANSFER TAX SHALL APPLY TO THE CONSIDERATION PAYABLE FOR AN INSTRUMENT OF WRITING.

(2) IF A COUNTY TRANSFER TAX APPLIES TO MORTGAGES OR DEEDS OF ~~TRUSTS~~ *TRUST*, THE COUNTY TRANSFER TAX SHALL APPLY TO THE CONSIDERATION PAYABLE OR THE PRINCIPAL AMOUNT OF THE DEBT SECURED FOR AN INSTRUMENT OF WRITING.

(B) THE CONSIDERATION:

(1) INCLUDES THE AMOUNT OF ANY MORTGAGE OR DEED OF TRUST ASSUMED BY THE GRANTEE; AND

(2) SUBJECT TO ITEM (1) OF THIS SUBSECTION, INCLUDES ONLY THE AMOUNT PAID OR DELIVERED IN RETURN FOR THE SALE OF THE PROPERTY

AND DOES NOT INCLUDE THE AMOUNT OF ANY DEBT FORGIVEN OR NO LONGER SECURED BY A MORTGAGE OR DEED OF TRUST ON THE PROPERTY.

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* ~~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~~ ~~shall take effect June 1, 2010~~.

Approved by the Governor, May 20, 2010.

Chapter 591

(Senate Bill 658)

AN ACT concerning

Anne Arundel County – Property Tax Credit – ~~Habitat for Humanity of the Chesapeake ReStore~~ *Arundel Habitat for Humanity, Inc.*

FOR the purpose of authorizing the governing body of Anne Arundel County or of a municipal corporation in Anne Arundel County to grant, by law, a property tax credit against the county or municipal tax imposed on certain real property that is owned by ~~Habitat for Humanity of the Chesapeake ReStore~~ *Arundel Habitat for Humanity, Inc.*; authorizing the governing body of Anne Arundel County or of a municipal corporation in Anne Arundel County to provide, by law, for the amount, terms, scope, and duration of the credit and to provide for any other provision necessary to carry out the tax credit; providing for the application of this Act; and generally relating to a property tax credit for certain real property owned by ~~Habitat for Humanity of the Chesapeake ReStore~~ *Arundel Habitat for Humanity, Inc.*~~.~~

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 9–303(b)
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

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

Article – Tax – Property

9–303.

(b) (1) The governing body of Anne Arundel County or of a municipal corporation in Anne Arundel County may grant, by law, a property tax credit under this section against the county or municipal corporation tax imposed on real property that is:

(i) owned by a nonprofit community civic association or corporation; and

(ii) dedicated by plat or deed restriction to the use of the lot owners in the community, if the use is not contingent on the payment of:

1. dues to the association or corporation, unless the dues are used only to improve or maintain the property of the community; or

2. compensation for admission to or use of the property, unless the compensation is used only to improve or maintain the property of the community.

(2) The governing body of Anne Arundel County may grant, by law, a property tax credit under this section against the county tax imposed on real property that is:

(i) owned by the Village Commons Community Center, Incorporated; or

(ii) leased by Anne Arundel Community College at Arundel Mills.

(3) (I) THE GOVERNING BODY OF ANNE ARUNDEL COUNTY OR OF A MUNICIPAL CORPORATION IN ANNE ARUNDEL COUNTY MAY GRANT, BY LAW, A PROPERTY TAX CREDIT UNDER THIS SECTION AGAINST THE COUNTY OR MUNICIPAL CORPORATION TAX IMPOSED ON REAL PROPERTY THAT IS OWNED BY ~~HABITAT FOR HUMANITY OF THE CHESAPEAKE RESTORE~~ *ARUNDEL HABITAT FOR HUMANITY, INC.*, AND IS LOCATED AT 8101 ~~FT.~~ *FORT* SMALLWOOD ROAD, *BALTIMORE, MARYLAND* ~~AND~~ *OR* 8104 PARKWAY DRIVE ~~IN~~, BALTIMORE, MARYLAND ~~21226~~.

(II) THE GOVERNING BODY OF ANNE ARUNDEL COUNTY OR OF A MUNICIPAL CORPORATION IN ANNE ARUNDEL COUNTY MAY PROVIDE, BY LAW, FOR:

1. THE AMOUNT, TERMS, SCOPE, AND DURATION OF THE CREDIT GRANTED UNDER THIS PARAGRAPH; AND

2. ANY OTHER PROVISION NECESSARY TO ADMINISTER THE CREDIT GRANTED UNDER THIS PARAGRAPH.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010, and shall be applicable to all taxable years beginning after June 30, 2010.

Approved by the Governor, May 20, 2010.

Chapter 592

(Senate Bill 664)

AN ACT concerning

Environment – Dental Radiation Machines – Inspections

FOR the purpose of requiring a State inspector to provide a dental office or dental facility a certain written notice under certain circumstances; prohibiting the Department of the Environment from imposing a fine on a dental office or dental facility for a certain violation under certain circumstances; and generally relating to inspections of dental radiation machines.

BY repealing and reenacting, with amendments,
Article – Environment
Section 8–301(c)
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

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

Article – Environment

8–301.

(c) (1) For a dental office or dental facility operated by a licensed dentist, a partnership of licensed dentists, a professional association of licensed dentists, or a public health dental facility, the Secretary may adopt regulations that establish a fee to offset the costs of monitoring and regulating sources of radiation within that dental facility.

(2) Except as provided in paragraphs (3) and (4) of this subsection, the fees established under this subsection may not exceed:

(i) For the first 2 years beginning July 1, 2002, $60 per dental radiation machine per year;

(ii) From June 30, 2004, through June 30, 2006, inclusive, $70 per dental radiation machine per year; and

(iii) 1. After June 30, 2006, through at least June 30, 2010, $80 per dental radiation machine per year; and

2. After June 30, 2010, the fee per dental radiation machine shall continue to be $80 per year unless altered by the General Assembly.

(3) The Secretary shall reduce fees proportionately to reflect the balance of any unspent or unencumbered fees collected under this subsection in the previous fiscal year.

(4) If a dental radiation machine is not inspected within any 3–year period and all annual fees were paid during that 3–year period, an additional annual inspection fee is not required to be paid until a dental radiation machine inspection is performed by a State inspector.

(5) (i) Except as provided in subparagraph (ii) of this paragraph, inspection of the dental radiation machines at each dental office or facility may not be performed more than once every 3 years.

(ii) Inspection of the dental radiation machines at a dental office or facility may be performed more than once every 3 years if the Department has grounds to believe that:

1. A violation of this title or any rule, regulation, order, registration, certificate, or license adopted or issued under this title may exist; or

2. A hazard associated with the use of radiation may exist.

(6) (I) IF, BASED ON AN INSPECTION OF A DENTAL RADIATION MACHINE AT A DENTAL OFFICE OR FACILITY, THE STATE INSPECTOR DETERMINES THAT THERE IS A VIOLATION OF THIS TITLE AND THE VIOLATION

DOES NOT PRESENT A SERIOUS AND ~~IMMEDIATE~~ PROBABLE DANGER TO THE PATIENTS OR EMPLOYEES OF THE DENTAL OFFICE OR FACILITY, THE STATE INSPECTOR SHALL PROVIDE THE DENTAL OFFICE OR FACILITY A WRITTEN NOTICE:

1. SETTING FORTH THE NATURE OF THE VIOLATION AND THE REQUIRED CORRECTIVE ACTION;

2. INFORMING THE DENTAL OFFICE OR FACILITY THAT THE DENTAL OFFICE OR FACILITY HAS 20 WORKING DAYS TO COMPLY WITH THE CORRECTIVE ACTION; AND

3. INFORMING THE DENTAL OFFICE OR FACILITY OF THE REQUIRED PROCEDURE TO INFORM THE DEPARTMENT THAT THE CORRECTIVE ACTION HAS BEEN COMPLETED.

(II) IF THE CORRECTIVE ACTION IS COMPLETED WITHIN 20 WORKING DAYS IN ACCORDANCE WITH SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE DEPARTMENT MAY NOT IMPOSE A FINE ON A DENTAL OFFICE OR DENTAL FACILITY FOR A VIOLATION OF THIS TITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 593

(Senate Bill 693)

AN ACT concerning

Green Maryland Act of 2010

FOR the purpose of altering the minimum requirement for the purchase of recycled paper by the Department of General Services; ~~requiring the Board of Public Works to adopt regulations that require certain State units, on or before a certain date, to establish a certain increased price preference for the purchase of certain products;~~ requiring State units to review annually and revise certain procurement specifications in accordance with a certain manual and strategy; requiring the Department to study the use of compost as a fertilizer and report findings of the study on or before a certain date; making it the goal of the Department to increase the use of compost in landscaping activities;

establishing a Maryland Green Purchasing Committee; providing for the membership of the Committee; requiring the ~~Department~~ Committee to provide assistance to State units in developing strategies and best practices for implementing environmentally preferable purchasing, including the development of a best practices manual; requiring the Committee to submit an annual report of its activities and progress on or before a certain date; requiring bidders and offerors for a procurement contract with the Department to certify certain product claims; requiring the Committee to develop certain guidelines on or before a certain date; defining certain terms; providing for the application of certain provisions of this Act; making technical changes; providing for the construction of this Act; repealing obsolete provisions; and generally relating to procurement and use of environmentally beneficial products and practices.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 14–402 and 14–405
Annotated Code of Maryland
(2009 Replacement Volume)

BY adding to
Article – State Finance and Procurement
Section 14–409 and 14–410
Annotated Code of Maryland
(2009 Replacement Volume)

BY repealing
Article – Environment
Section 9–1722
Annotated Code of Maryland
(2007 Replacement Volume and 2009 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

14–402.

(a) In this section, "recycled paper" means a paper product at least 80% of the total weight of which consists of the product of a manufacturing process that:

(1) has converted a raw material into a valuable commodity; and

(2) includes a total gross content of post consumer waste of at least 80%.

(b) To the extent practicable, in procuring paper or paper products under Title 4, Subtitle 3, Part II of this article, the Secretary of General Services shall buy or approve for purchase only supplies that are produced from recycled paper.

(c) Of the total volume of paper that the Secretary of General Services buys, at least **[**40%**] 90%** shall be recycled paper.

(d) If recycled paper that meets the definition set forth in subsection (a) of this section is unavailable, then for purposes of complying with the requirements of this section, the Department of General Services may purchase recycled paper products that at a minimum conform to the definitions set forth in the Environmental Protection Agency guideline for federal procurement of paper and paper products containing recovered materials (40 C.F.R., Part **[**250**] 247**).

[(e) To encourage the maximum purchase of materials utilizing recycled materials, the Department of General Services, in consultation with the University of Maryland, the Maryland Environmental Service, the Department of Transportation, and the Department of the Environment, shall develop a plan by July 1, 1990 to increase the State purchase of materials made from recycled solid waste. The Department of General Services shall submit a report for the implementation of the plan to the Governor and General Assembly no later than July 1, 1991.

(f) Each State unit shall review the procurement specifications currently used by the unit by January 1, 1990, and, to the extent practicable, require the use of supplies and materials containing recycled materials.

(g) No later than September 1 of each year, each State unit shall report to the Department of the Environment on the unit's procurement of recycled materials and on the unit's use of the percentage price preference under § 14–405 of this subtitle during the preceding fiscal year, including the types and quantities of materials procured and the percentage of recycled materials in the unit's gross purchases.**]**

14–405.

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

(2) "Percentage price preference" means the percent by which a responsive bid from a responsible bidder whose product contains recycled materials may exceed the lowest responsive bid submitted by a responsible bidder whose products do not contain recycled materials.

(3) (i) "Recycled materials" means material recovered from or otherwise destined for the waste stream.

(ii) "Recycled materials" includes post–consumer material, industrial scrap material, compost, processed and pasteurized chicken litter, and obsolete inventories.

(b) No later than January 1, **[**1994**]** ~~**2011**~~, the Board shall adopt regulations that require the Secretary of General Services, the Secretary of Transportation, and the Chancellor of the University System of Maryland to establish a percentage price preference, not to exceed **[**5%**]** ~~**8%**~~, for the purchase of products made from recycled materials.

(c) A percentage price preference under this section may not be used in conjunction with any other percentage price preference established under this title.

(d) (1) To encourage the maximum purchase of commodities utilizing recycled materials, the Department of General Services, in consultation with the Department of the Environment, the University of Maryland, the Maryland Environmental Service, the Department of Transportation, the Department of Natural Resources, the Department of Health and Mental Hygiene, and as necessary with representatives of the recycling industry and environmental organizations, shall establish a list of acceptable products which contain recycled materials.

(2) The list shall be published for use by State agencies at least twice each year.

(e) **[**By January 1, 1991, each**] EACH** State unit shall review **ANNUALLY** the procurement specifications currently used by the unit and, to the extent practicable**[**,**]:**

(1) require the use of a percentage price preference in their purchase of supplies and commodities containing recycled materials**; AND**

(2) REVISE THE UNIT'S PROCUREMENT SPECIFICATIONS IN ACCORDANCE WITH THE BEST PRACTICES MANUAL AND STRATEGY TO INCREASE ENVIRONMENTALLY PREFERABLE PURCHASING UNDER § 14–410 OF THIS SUBTITLE.

(F) ON OR BEFORE SEPTEMBER 1 OF EACH YEAR, EACH STATE UNIT SHALL REPORT TO THE DEPARTMENT OF THE ENVIRONMENT ON THE UNIT'S PROCUREMENT OF RECYCLED MATERIALS ~~**AND THE UNIT'S USE OF THE PERCENTAGE PRICE PREFERENCE UNDER SUBSECTION (B) OF THIS SECTION**~~ **DURING THE PRECEDING FISCAL YEAR, INCLUDING THE TYPES AND QUANTITIES OF MATERIALS PROCURED AND THE PERCENTAGE OF RECYCLED MATERIALS IN THE UNIT'S GROSS PURCHASES.**

[(f)**] (G)** (1) Except as provided in paragraph (2) of this subsection, this section is broadly applicable to all procurements by the State if the quality of the product is consistent with the requirements of the bid specifications.

(2) Only to the extent necessary to prevent the denial of federal moneys or eliminate the inconsistency with federal law, this section does not apply to a procurement by the State if the procurement officer determines that compliance with this section would:

(i) cause denial of federal moneys; or

(ii) be inconsistent with the requirements of federal law.

14–409.

(A) A STATE OR LOCAL UNIT RESPONSIBLE FOR THE MAINTENANCE OF PUBLIC LANDS IN THE STATE, TO THE MAXIMUM EXTENT PRACTICABLE, SHALL GIVE CONSIDERATION AND PREFERENCE TO THE USE OF COMPOST IN ANY LAND MAINTENANCE ACTIVITY THAT IS TO BE PAID FOR WITH PUBLIC FUNDS.

(B) (1) THE DEPARTMENT OF GENERAL SERVICES SHALL STUDY THE USE OF COMPOST AS A FERTILIZER ON STATE PROPERTY THAT IS UNDER THE OPERATION OF THE DEPARTMENT OF GENERAL SERVICES TO DEVELOP A BASELINE ESTIMATE OF THE SHARE OF LANDSCAPED AREA FERTILIZED BY COMPOST.

(2) THE DEPARTMENT OF GENERAL SERVICES SHALL REPORT THE FINDINGS OF THE STUDY REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, ON OR BEFORE DECEMBER 1, 2010, AND SHALL MAKE THE REPORT AVAILABLE TO THE PUBLIC.

(C) IT IS THE GOAL OF THE DEPARTMENT TO:

(1) COMPOST, TO THE EXTENT PRACTICABLE, ALL LANDSCAPE WASTE ON STATE PROPERTY THAT IS UNDER ITS OPERATION FOR USE AS FERTILIZER IN LANDSCAPING ACTIVITIES; AND

(2) INCREASE THE PERCENTAGE OF LANDSCAPED AREA FERTILIZED BY COMPOST EACH YEAR.

14–410.

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

(2) "COMMITTEE" MEANS THE MARYLAND GREEN PURCHASING COMMITTEE.

(3) ~~IN THIS SECTION,~~ "~~ENVIRONMENTALLY~~ ENVIRONMENTALLY PREFERABLE PURCHASING" MEANS THE PROCUREMENT OR ACQUISITION OF GOODS AND SERVICES THAT HAVE A LESSER OR REDUCED EFFECT ON HUMAN HEALTH AND THE ENVIRONMENT WHEN COMPARED WITH COMPETING GOODS OR SERVICES THAT SERVE THE SAME PURPOSE, BASED ON THE RAW MATERIALS, MANUFACTURING, PACKAGING, DISTRIBUTION, USE, REUSE, OPERATION, MAINTENANCE, AND DISPOSAL OF THE GOODS OR SERVICES.

(B) (1) THERE IS A MARYLAND GREEN PURCHASING COMMITTEE.

(2) THE COMMITTEE CONSISTS OF THE FOLLOWING MEMBERS:

(I) THE SECRETARY OF GENERAL SERVICES, OR THE SECRETARY'S DESIGNEE;

(II) THE SECRETARY OF BUDGET AND MANAGEMENT, OR THE SECRETARY'S DESIGNEE;

(III) THE SECRETARY OF NATURAL RESOURCES, OR THE SECRETARY'S DESIGNEE;

(IV) THE SECRETARY OF THE ENVIRONMENT, OR THE SECRETARY'S DESIGNEE;

(V) THE SECRETARY OF HEALTH AND MENTAL HYGIENE, OR THE SECRETARY'S DESIGNEE;

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

(VII) THE SECRETARY OF TRANSPORTATION, OR THE SECRETARY'S DESIGNEE;

(VIII) THE SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL SERVICES, OR THE SECRETARY'S DESIGNEE; AND

(IX) THE CHANCELLOR OF THE UNIVERSITY SYSTEM OF MARYLAND, OR THE CHANCELLOR'S DESIGNEE.

(3) THE SECRETARY OF GENERAL SERVICES, OR THE SECRETARY'S DESIGNEE, SHALL SERVE AS THE CHAIR OF THE COMMITTEE.

~~(B)~~ (C) ~~THE DEPARTMENT OF GENERAL SERVICES, IN CONSULTATION WITH THE DEPARTMENT OF THE ENVIRONMENT,~~ THE

COMMITTEE SHALL PROVIDE THE STATE WITH INFORMATION AND ASSISTANCE REGARDING ENVIRONMENTALLY PREFERABLE PURCHASING, INCLUDING:

(1) THE PROMOTION OF ENVIRONMENTALLY PREFERABLE PURCHASING;

(2) THE DEVELOPMENT AND IMPLEMENTATION OF A STRATEGY TO INCREASE ENVIRONMENTALLY PREFERABLE PURCHASING THAT MAY INCLUDE THE DEVELOPMENT OF STATEWIDE POLICIES, GUIDELINES, PROGRAMS, AND REGULATIONS;

(3) COORDINATION WITH OTHER STATE OR FEDERAL AGENCIES, TASK FORCES, WORKGROUPS, REGULATORY EFFORTS, RESEARCH AND DATA COLLECTION EFFORTS, OR OTHER PROGRAMS AND SERVICES RELATING TO ENVIRONMENTALLY PREFERABLE PURCHASING; AND

(4) THE DEVELOPMENT OF AN ENVIRONMENTALLY PREFERABLE PURCHASING BEST PRACTICES MANUAL THAT MAY BE ADOPTED FROM OTHER GOVERNMENTAL OR NONGOVERNMENTAL INSTITUTIONS.

~~(C)~~ (D) IN DEVELOPING THE BEST PRACTICES MANUAL AND STRATEGY TO INCREASE ENVIRONMENTALLY PREFERABLE PURCHASING UNDER SUBSECTION ~~(B)~~ (C) OF THIS SECTION, THE ~~DEPARTMENT OF GENERAL SERVICES~~ COMMITTEE SHALL CONSIDER:

(1) GREATER USE AND PROCUREMENT OF METERS USED TO MEASURE ELECTRICITY CONSUMPTION THAT ARE:

(I) CAPABLE OF MEASURING THE FLOW OF ELECTRICITY IN TWO DIRECTIONS; AND

(II) COMPATIBLE WITH ADVANCED METERING INFRASTRUCTURE;

(2) ACHIEVEMENT OF GREATER ENERGY EFFICIENCY THROUGH IMPLEMENTATION OF POLICIES THAT REDUCE OPERATING TIMES FOR HEATING, VENTILATION, AND AIR–CONDITIONING SYSTEMS IN STATE–OWNED OR STATE–OPERATED BUILDINGS;

(3) INCREASING THE ENERGY EFFICIENCY OF NEW AND EXISTING COMPUTER SERVERS AND DATA STORAGE CENTER OPERATIONS; AND

(4) PROCUREMENT OF FOOD AND BEVERAGE CONTAINERS AND UTENSILS THAT ARE MADE OF BIODEGRADABLE MATERIALS OR PLANT–BASED

PLASTICS *OR RECYCLABLE PRODUCTS THAT MAY CONTAIN POST CONSUMER RECYCLED CONTENTS*~~; AND~~

~~(5) THE MOST COST-EFFECTIVE MEANS TO ELIMINATE THE PROCUREMENT OF POLYSTYRENE FOOD AND BEVERAGE CONTAINERS BY ALL UNITS OF STATE GOVERNMENT ON OR BEFORE JULY 1, 2012~~.

~~(D)~~ (E) THE ~~DEPARTMENT OF GENERAL SERVICES~~ COMMITTEE SHALL DESIGNATE A SINGLE POINT OF CONTACT FOR STATE AGENCIES, SUPPLIERS, AND OTHER INTERESTED PARTIES TO CONTACT REGARDING ENVIRONMENTALLY PREFERABLE PURCHASING ISSUES.

(F) ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE COMMITTEE SHALL REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, ON THE COMMITTEE'S ACTIVITIES AND THE PROGRESS MADE AS A RESULT OF THE IMPLEMENTATION OF THIS SECTION.

~~(E)~~ (G) THIS SECTION MAY NOT BE CONSTRUED TO:

(1) LIMIT OR SUPERSEDE RECYCLED CONTENT REQUIREMENTS UNDER ANY OTHER PROVISION OF LAW; OR

(2) REQUIRE THE ACQUISITION OF GOODS OR SERVICES THAT:

(I) DO NOT PERFORM ADEQUATELY FOR THE INTENDED USE;

(II) EXCLUDE ADEQUATE COMPETITION; OR

(III) ARE NOT AVAILABLE AT A REASONABLE PRICE IN A REASONABLE PERIOD OF TIME.

~~(F)~~ (H) A BIDDER OR OFFEROR FOR A PROCUREMENT CONTRACT WITH THE DEPARTMENT OF GENERAL SERVICES SHALL CERTIFY IN WRITING THAT ANY CLAIMS OF ENVIRONMENTAL ATTRIBUTES MADE RELATING TO A PRODUCT OR SERVICE ARE CONSISTENT WITH THE FEDERAL TRADE COMMISSION'S GUIDELINES FOR THE USE OF ENVIRONMENTAL MARKETING TERMS.

Article – Environment

[9–1722.

Any State or local unit responsible for the maintenance of public lands in the State, to the maximum extent practicable, shall give consideration and preference to the use of compost in any land maintenance activity that is to be paid for with public funds.**]**

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before April 1, 2011, the Maryland Green Purchasing Committee shall develop green purchasing guidelines to address practices, products, services, and food that reduce negative impacts on human health and the environment. The guidelines shall include consumption changes and a list of contracts that include human health and environmental specifications for at least five prioritized categories of goods or services, as determined by the Committee. The Committee may prioritize categories of goods or services based on financial impacts, impacts on human health and the environment, availability of cost–effective, environmentally preferable alternatives, and the creation of a green economy in Maryland.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 594

(House Bill 1164)

AN ACT concerning

Green Maryland Act of 2010

FOR the purpose of altering the minimum requirement for the purchase of recycled paper by the Department of General Services; ~~requiring the Board of Public Works to adopt regulations that require certain State units, on or before a certain date, to establish a certain increased price preference for the purchase of certain products;~~ requiring State units to review annually and revise certain procurement specifications in accordance with a certain manual and strategy; requiring the Department to study the use of compost as a fertilizer and report findings of the study on or before a certain date; making it the goal of the Department to increase the use of compost in landscaping activities; establishing a Maryland Green Purchasing Committee; providing for the membership of the Committee; requiring the ~~Department~~ Committee to provide assistance to State units in developing strategies and best practices for implementing environmentally preferable purchasing, including the development of a best practices manual; requiring the Committee to submit an annual report of its activities and progress on or before a certain date; requiring bidders and offerors for a procurement contract with the Department to certify

certain product claims; requiring the Committee to develop certain guidelines on or before a certain date; defining certain terms; providing for the application of certain provisions of this Act; making technical changes; providing for the construction of this Act; repealing obsolete provisions; and generally relating to procurement and use of environmentally beneficial products and practices.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 14–402 and 14–405
Annotated Code of Maryland
(2009 Replacement Volume)

BY adding to
Article – State Finance and Procurement
Section 14–409 and 14–410
Annotated Code of Maryland
(2009 Replacement Volume)

BY repealing
Article – Environment
Section 9–1722
Annotated Code of Maryland
(2007 Replacement Volume and 2009 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

14–402.

(a) In this section, "recycled paper" means a paper product at least 80% of the total weight of which consists of the product of a manufacturing process that:

(1) has converted a raw material into a valuable commodity; and

(2) includes a total gross content of post consumer waste of at least 80%.

(b) To the extent practicable, in procuring paper or paper products under Title 4, Subtitle 3, Part II of this article, the Secretary of General Services shall buy or approve for purchase only supplies that are produced from recycled paper.

(c) Of the total volume of paper that the Secretary of General Services buys, at least **[**40%**] 90%** shall be recycled paper.

(d) If recycled paper that meets the definition set forth in subsection (a) of this section is unavailable, then for purposes of complying with the requirements of this section, the Department of General Services may purchase recycled paper products that at a minimum conform to the definitions set forth in the Environmental Protection Agency guideline for federal procurement of paper and paper products containing recovered materials (40 C.F.R., Part **[**250**] 247**).

[(e) To encourage the maximum purchase of materials utilizing recycled materials, the Department of General Services, in consultation with the University of Maryland, the Maryland Environmental Service, the Department of Transportation, and the Department of the Environment, shall develop a plan by July 1, 1990 to increase the State purchase of materials made from recycled solid waste. The Department of General Services shall submit a report for the implementation of the plan to the Governor and General Assembly no later than July 1, 1991.

(f) Each State unit shall review the procurement specifications currently used by the unit by January 1, 1990, and, to the extent practicable, require the use of supplies and materials containing recycled materials.

(g) No later than September 1 of each year, each State unit shall report to the Department of the Environment on the unit's procurement of recycled materials and on the unit's use of the percentage price preference under § 14–405 of this subtitle during the preceding fiscal year, including the types and quantities of materials procured and the percentage of recycled materials in the unit's gross purchases.**]**

14–405.

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

(2) "Percentage price preference" means the percent by which a responsive bid from a responsible bidder whose product contains recycled materials may exceed the lowest responsive bid submitted by a responsible bidder whose products do not contain recycled materials.

(3) (i) "Recycled materials" means material recovered from or otherwise destined for the waste stream.

(ii) "Recycled materials" includes post–consumer material, industrial scrap material, compost, processed and pasteurized chicken litter, and obsolete inventories.

(b) No later than January 1, **[**1994**]** ~~**2011**~~, the Board shall adopt regulations that require the Secretary of General Services, the Secretary of Transportation, and the Chancellor of the University System of Maryland to establish a percentage price preference, not to exceed **[**5%**]** ~~**8%**~~, for the purchase of products made from recycled materials.

(c) A percentage price preference under this section may not be used in conjunction with any other percentage price preference established under this title.

(d) (1) To encourage the maximum purchase of commodities utilizing recycled materials, the Department of General Services, in consultation with the Department of the Environment, the University of Maryland, the Maryland Environmental Service, the Department of Transportation, the Department of Natural Resources, the Department of Health and Mental Hygiene, and as necessary with representatives of the recycling industry and environmental organizations, shall establish a list of acceptable products which contain recycled materials.

(2) The list shall be published for use by State agencies at least twice each year.

(e) **[**By January 1, 1991, each**] EACH** State unit shall review **ANNUALLY** the procurement specifications currently used by the unit and, to the extent practicable**[**,**]:**

(1) require the use of a percentage price preference in their purchase of supplies and commodities containing recycled materials**; AND**

(2) REVISE THE UNIT'S PROCUREMENT SPECIFICATIONS IN ACCORDANCE WITH THE BEST PRACTICES MANUAL AND STRATEGY TO INCREASE ENVIRONMENTALLY PREFERABLE PURCHASING UNDER § 14–410 OF THIS SUBTITLE.

(F) ON OR BEFORE SEPTEMBER 1 OF EACH YEAR, EACH STATE UNIT SHALL REPORT TO THE DEPARTMENT OF THE ENVIRONMENT ON THE UNIT'S PROCUREMENT OF RECYCLED MATERIALS ~~**AND THE UNIT'S USE OF THE PERCENTAGE PRICE PREFERENCE UNDER SUBSECTION (B) OF THIS SECTION**~~ **DURING THE PRECEDING FISCAL YEAR, INCLUDING THE TYPES AND QUANTITIES OF MATERIALS PROCURED AND THE PERCENTAGE OF RECYCLED MATERIALS IN THE UNIT'S GROSS PURCHASES.**

[(f)**](G)** (1) Except as provided in paragraph (2) of this subsection, this section is broadly applicable to all procurements by the State if the quality of the product is consistent with the requirements of the bid specifications.

(2) Only to the extent necessary to prevent the denial of federal moneys or eliminate the inconsistency with federal law, this section does not apply to a procurement by the State if the procurement officer determines that compliance with this section would:

(i) cause denial of federal moneys; or

(ii) be inconsistent with the requirements of federal law.

14–409.

(A) A STATE OR LOCAL UNIT RESPONSIBLE FOR THE MAINTENANCE OF PUBLIC LANDS IN THE STATE, TO THE MAXIMUM EXTENT PRACTICABLE, SHALL GIVE CONSIDERATION AND PREFERENCE TO THE USE OF COMPOST IN ANY LAND MAINTENANCE ACTIVITY THAT IS TO BE PAID FOR WITH PUBLIC FUNDS.

(B) (1) THE DEPARTMENT OF GENERAL SERVICES SHALL STUDY THE USE OF COMPOST AS A FERTILIZER ON STATE PROPERTY THAT IS UNDER THE OPERATION OF THE DEPARTMENT OF GENERAL SERVICES TO DEVELOP A BASELINE ESTIMATE OF THE SHARE OF LANDSCAPED AREA FERTILIZED BY COMPOST.

(2) THE DEPARTMENT OF GENERAL SERVICES SHALL REPORT THE FINDINGS OF THE STUDY REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, ON OR BEFORE DECEMBER 1, 2010, AND SHALL MAKE THE REPORT AVAILABLE TO THE PUBLIC.

(C) IT IS THE GOAL OF THE DEPARTMENT TO:

(1) COMPOST, TO THE EXTENT PRACTICABLE, ALL LANDSCAPE WASTE ON STATE PROPERTY THAT IS UNDER ITS OPERATION FOR USE AS FERTILIZER IN LANDSCAPING ACTIVITIES; AND

(2) INCREASE THE PERCENTAGE OF LANDSCAPED AREA FERTILIZED BY COMPOST EACH YEAR.

14–410.

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

(2) "COMMITTEE" MEANS THE MARYLAND GREEN PURCHASING COMMITTEE.

(3) ~~IN THIS SECTION,~~ "~~ENVIRONMENTALLY~~ ENVIRONMENTALLY PREFERABLE PURCHASING" MEANS THE PROCUREMENT OR ACQUISITION OF GOODS AND SERVICES THAT HAVE A LESSER OR REDUCED EFFECT ON HUMAN HEALTH AND THE ENVIRONMENT WHEN COMPARED WITH COMPETING GOODS OR SERVICES THAT SERVE THE SAME PURPOSE, BASED ON THE RAW MATERIALS, MANUFACTURING, PACKAGING, DISTRIBUTION, USE, REUSE, OPERATION, MAINTENANCE, AND DISPOSAL OF THE GOODS OR SERVICES.

(B) (1) THERE IS A MARYLAND GREEN PURCHASING COMMITTEE.

(2) THE COMMITTEE CONSISTS OF THE FOLLOWING MEMBERS:

(I) THE SECRETARY OF GENERAL SERVICES, OR THE SECRETARY'S DESIGNEE;

(II) THE SECRETARY OF BUDGET AND MANAGEMENT, OR THE SECRETARY'S DESIGNEE;

(III) THE SECRETARY OF NATURAL RESOURCES, OR THE SECRETARY'S DESIGNEE;

(IV) THE SECRETARY OF THE ENVIRONMENT, OR THE SECRETARY'S DESIGNEE;

(V) THE SECRETARY OF HEALTH AND MENTAL HYGIENE, OR THE SECRETARY'S DESIGNEE;

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

(VII) THE SECRETARY OF TRANSPORTATION, OR THE SECRETARY'S DESIGNEE;

(VIII) THE SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL SERVICES, OR THE SECRETARY'S DESIGNEE; AND

(IX) THE CHANCELLOR OF THE UNIVERSITY SYSTEM OF MARYLAND, OR THE CHANCELLOR'S DESIGNEE.

(3) THE SECRETARY OF GENERAL SERVICES, OR THE SECRETARY'S DESIGNEE, SHALL SERVE AS THE CHAIR OF THE COMMITTEE.

~~(B)~~ (C) ~~THE DEPARTMENT OF GENERAL SERVICES, IN CONSULTATION WITH THE DEPARTMENT OF THE ENVIRONMENT,~~ THE COMMITTEE SHALL PROVIDE THE STATE WITH INFORMATION AND ASSISTANCE REGARDING ENVIRONMENTALLY PREFERABLE PURCHASING, INCLUDING:

(1) THE PROMOTION OF ENVIRONMENTALLY PREFERABLE PURCHASING;

(2) THE DEVELOPMENT AND IMPLEMENTATION OF A STRATEGY TO INCREASE ENVIRONMENTALLY PREFERABLE PURCHASING THAT MAY INCLUDE THE DEVELOPMENT OF STATEWIDE POLICIES, GUIDELINES, PROGRAMS, AND REGULATIONS;

(3) COORDINATION WITH OTHER STATE OR FEDERAL AGENCIES, TASK FORCES, WORKGROUPS, REGULATORY EFFORTS, RESEARCH AND DATA COLLECTION EFFORTS, OR OTHER PROGRAMS AND SERVICES RELATING TO ENVIRONMENTALLY PREFERABLE PURCHASING; AND

(4) THE DEVELOPMENT OF AN ENVIRONMENTALLY PREFERABLE PURCHASING BEST PRACTICES MANUAL THAT MAY BE ADOPTED FROM OTHER GOVERNMENTAL OR NONGOVERNMENTAL INSTITUTIONS.

~~(C)~~ (D) IN DEVELOPING THE BEST PRACTICES MANUAL AND STRATEGY TO INCREASE ENVIRONMENTALLY PREFERABLE PURCHASING UNDER SUBSECTION ~~(B)~~ (C) OF THIS SECTION, THE ~~DEPARTMENT OF GENERAL SERVICES~~ COMMITTEE SHALL CONSIDER:

(1) GREATER USE AND PROCUREMENT OF METERS USED TO MEASURE ELECTRICITY CONSUMPTION THAT ARE:

(I) CAPABLE OF MEASURING THE FLOW OF ELECTRICITY IN TWO DIRECTIONS; AND

(II) COMPATIBLE WITH ADVANCED METERING INFRASTRUCTURE;

(2) ACHIEVEMENT OF GREATER ENERGY EFFICIENCY THROUGH IMPLEMENTATION OF POLICIES THAT REDUCE OPERATING TIMES FOR HEATING, VENTILATION, AND AIR–CONDITIONING SYSTEMS IN STATE–OWNED OR STATE–OPERATED BUILDINGS;

(3) INCREASING THE ENERGY EFFICIENCY OF NEW AND EXISTING COMPUTER SERVERS AND DATA STORAGE CENTER OPERATIONS; AND

(4) PROCUREMENT OF FOOD AND BEVERAGE CONTAINERS AND UTENSILS THAT ARE MADE OF BIODEGRADABLE MATERIALS OR PLANT–BASED PLASTICS OR RECYCLABLE PRODUCTS THAT MAY CONTAIN POST CONSUMER RECYCLED CONTENTS~~; AND~~

~~(5) THE MOST COST–EFFECTIVE MEANS TO ELIMINATE THE PROCUREMENT OF POLYSTYRENE FOOD AND BEVERAGE CONTAINERS BY ALL UNITS OF STATE GOVERNMENT ON OR BEFORE JULY 1, 2012~~.

~~(D)~~ (E) THE ~~DEPARTMENT OF GENERAL SERVICES~~ COMMITTEE SHALL DESIGNATE A SINGLE POINT OF CONTACT FOR STATE AGENCIES, SUPPLIERS, AND OTHER INTERESTED PARTIES TO CONTACT REGARDING ENVIRONMENTALLY PREFERABLE PURCHASING ISSUES.

(F) ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE COMMITTEE SHALL REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, ON THE COMMITTEE'S ACTIVITIES AND THE PROGRESS MADE AS A RESULT OF THE IMPLEMENTATION OF THIS SECTION.

~~(E)~~ (G) THIS SECTION MAY NOT BE CONSTRUED TO:

(1) LIMIT OR SUPERSEDE RECYCLED CONTENT REQUIREMENTS UNDER ANY OTHER PROVISION OF LAW; OR

(2) REQUIRE THE ACQUISITION OF GOODS OR SERVICES THAT:

(I) DO NOT PERFORM ADEQUATELY FOR THE INTENDED USE;

(II) EXCLUDE ADEQUATE COMPETITION; OR

(III) ARE NOT AVAILABLE AT A REASONABLE PRICE IN A REASONABLE PERIOD OF TIME.

~~(F)~~ (H) A BIDDER OR OFFEROR FOR A PROCUREMENT CONTRACT WITH THE DEPARTMENT OF GENERAL SERVICES SHALL CERTIFY IN WRITING THAT ANY CLAIMS OF ENVIRONMENTAL ATTRIBUTES MADE RELATING TO A PRODUCT OR SERVICE ARE CONSISTENT WITH THE FEDERAL TRADE COMMISSION'S GUIDELINES FOR THE USE OF ENVIRONMENTAL MARKETING TERMS.

Article – Environment

[9–1722.

Any State or local unit responsible for the maintenance of public lands in the State, to the maximum extent practicable, shall give consideration and preference to the use of compost in any land maintenance activity that is to be paid for with public funds.]

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before April 1, 2011, the Maryland Green Purchasing Committee shall develop green purchasing guidelines to address practices, products, services, and food that reduce negative

impacts on human health and the environment. The guidelines shall include consumption changes and a list of contracts that include human health and environmental specifications for at least five prioritized categories of goods or services, as determined by the Committee. The Committee may prioritize categories of goods or services based on financial impacts, impacts on human health and the environment, availability of cost–effective, environmentally preferable alternatives, and the creation of a green economy in Maryland.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 595

(Senate Bill 700)

AN ACT concerning

Health Insurance – Child Wellness Benefits

FOR the purpose of requiring certain individual, group, or blanket health insurance policies and nonprofit health service plans to cover, in the minimum package of child wellness services required to be provided under the policies' or plans' family member coverage, certain visits for obesity evaluation and ~~treatment~~ management and certain visits for and costs of developmental ~~testing~~ screening as recommended by a certain organization; expanding the list of visits at which certain examinations, assessments, and guidance services must be covered; expanding the list of services that may result in coverage for certain laboratory tests; providing for the application of this Act; and generally relating to the expansion of child wellness benefits under health insurance policies and nonprofit health service plans.

BY repealing and reenacting, without amendments,
Article – Insurance
Section 15–817(a), (b), and (f)
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Insurance
Section 15–817(c)
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

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

Article – Insurance

15–817.

(a) In this section, "child wellness services" means preventive activities designed to protect children from morbidity and mortality and promote child development.

(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:

(1) is delivered or issued for delivery in the State;

(2) is written on an expense–incurred basis; and

(3) provides coverage for a family member of the insured.

(c) (1) A policy or plan subject to this section shall include under the family member coverage a minimum package of child wellness services that are consistent with:

(i) public health policy;

(ii) professional standards; and

(iii) scientific evidence of effectiveness.

(2) The minimum package of child wellness services shall cover at least:

(i) all visits for and costs of childhood and adolescent immunizations recommended by the Advisory Committee on Immunization Practices of the Centers for Disease Control;

(ii) visits for the collection of adequate samples, the first of which is to be collected before 2 weeks of age, for hereditary and metabolic newborn screening and follow–up between birth and 4 weeks of age;

(iii) universal hearing screening of newborns provided by a hospital before discharge;

(iv) all visits for and costs of age–appropriate screening tests for tuberculosis, anemia, lead toxicity, hearing, and vision as determined by the American Academy of Pediatrics;

(V) ALL VISITS FOR OBESITY EVALUATION AND ~~TREATMENT~~ MANAGEMENT;

(VI) ALL VISITS FOR AND COSTS OF DEVELOPMENTAL ~~TESTING~~ SCREENING AS RECOMMENDED BY THE AMERICAN ACADEMY OF PEDIATRICS;

[(v)**] (VII)** a physical examination, developmental assessment, and parental anticipatory guidance services at each of the visits required under items (i), (ii), **[**and**]** (iv)**, (V), AND (VI)** of this paragraph; and

[(vi)**] (VIII)** any laboratory tests considered necessary by the physician as indicated by the services provided under items (i), (ii), (iv), **[**or**]** (v)**, (VI), OR (VII)** of this paragraph.

(f) (1) A policy or plan subject to this section may not impose a deductible on the coverage required under this section.

(2) Each health insurance policy and certificate shall contain a notice of the prohibition established by paragraph (1) of this subsection in a form approved by the Commissioner.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all policies and plans subject to this Act that are issued, delivered, or renewed in the State on or after October 1, 2010.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 596

(House Bill 1017)

AN ACT concerning

Health Insurance – Child Wellness Benefits

FOR the purpose of requiring certain individual, group, or blanket health insurance policies and nonprofit health service plans to cover, in the minimum package of child wellness services required to be provided under the policies' or plans' family member coverage, certain visits for obesity evaluation and ~~treatment~~ management and certain visits for and costs of developmental ~~testing~~ screening as recommended by a certain organization; expanding the list of visits at which certain examinations, assessments, and guidance services must be covered; expanding the list of services that may result in coverage for certain laboratory tests; providing for the application of this Act; and generally relating to the expansion of child wellness benefits under health insurance policies and nonprofit health service plans.

BY repealing and reenacting, without amendments,
Article – Insurance
Section 15–817(a), (b), and (f)
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Insurance
Section 15–817(c)
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

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

Article – Insurance

15–817.

(a) In this section, "child wellness services" means preventive activities designed to protect children from morbidity and mortality and promote child development.

(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:

(1) is delivered or issued for delivery in the State;

(2) is written on an expense–incurred basis; and

(3) provides coverage for a family member of the insured.

(c) (1) A policy or plan subject to this section shall include under the family member coverage a minimum package of child wellness services that are consistent with:

(i) public health policy;

(ii) professional standards; and

(iii) scientific evidence of effectiveness.

(2) The minimum package of child wellness services shall cover at least:

(i) all visits for and costs of childhood and adolescent immunizations recommended by the Advisory Committee on Immunization Practices of the Centers for Disease Control;

(ii) visits for the collection of adequate samples, the first of which is to be collected before 2 weeks of age, for hereditary and metabolic newborn screening and follow–up between birth and 4 weeks of age;

(iii) universal hearing screening of newborns provided by a hospital before discharge;

(iv) all visits for and costs of age–appropriate screening tests for tuberculosis, anemia, lead toxicity, hearing, and vision as determined by the American Academy of Pediatrics;

(V) ALL VISITS FOR OBESITY EVALUATION AND ~~TREATMENT~~ MANAGEMENT;

(VI) ALL VISITS FOR AND COSTS OF DEVELOPMENTAL ~~TESTING~~ SCREENING AS RECOMMENDED BY THE AMERICAN ACADEMY OF PEDIATRICS;

[(v)**] (VII)** a physical examination, developmental assessment, and parental anticipatory guidance services at each of the visits required under items (i), (ii), **[**and**]** (iv)**, (V), AND (VI)** of this paragraph; and

[(vi)**] (VIII)** any laboratory tests considered necessary by the physician as indicated by the services provided under items (i), (ii), (iv), **[**or**]** (v)**, (VI), OR (VII)** of this paragraph.

(f) (1) A policy or plan subject to this section may not impose a deductible on the coverage required under this section.

(2) Each health insurance policy and certificate shall contain a notice of the prohibition established by paragraph (1) of this subsection in a form approved by the Commissioner.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all policies and plans subject to this Act that are issued, delivered, or renewed in the State on or after October 1, 2010.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 597

(Senate Bill 709)

AN ACT concerning

State Retirement and Pension System – Disability Retirement Application – Surviving Beneficiary

FOR the purpose of authorizing a certain beneficiary to submit an application for disability retirement under certain circumstances; requiring the Board of Trustees of the State Retirement and Pension System to accept an application for disability retirement from a certain beneficiary under certain circumstances; requiring the medical board to review a certain application to make a certain determination under certain circumstances; requiring the Board of Trustees to review a certain application to make a certain determination; requiring the Board of Trustees to grant a disability retirement allowance under certain circumstances; requiring a certain ~~burden of proof to be on a certain~~ beneficiary <u>to submit to the Board of Trustees an affidavit signed by a certain individual</u>; requiring a disability retirement allowance to begin at a certain time under certain circumstances; providing for the application of this Act; and generally relating to an application for disability retirement submitted by a surviving beneficiary of a deceased member of the State Retirement and Pension System.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 29–103(a) and 29–104
Annotated Code of Maryland
(2009 Replacement Volume and 2009 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

29–103.

(a) Subject to § 29–104 of this subtitle, an application for disability retirement may be submitted:

(1) by a member;

(2) by a former member; **[**or**]**

(3) BY A SURVIVING BENEFICIARY OF A DECEASED MEMBER; OR

[(3)**] (4)** for a member, as provided in subsections (b) through (d) of this section.

29–104.

(a) Except as provided in **[**subsection (c)**] SUBSECTIONS (C) AND (D)** of this section and subject to subsection **[**(d)**] (E)** of this section, an application for disability retirement must be submitted before the date membership ends.

(b) (1) This subsection applies only to an application for an ordinary or accidental disability retirement allowance filed by a member of the Employees' Pension System or the Teachers' Pension System who is not subject to the contributory pension benefit or the Alternate Contributory Pension Selection and who separated from employment on or before June 30, 2005.

(2) For the purpose of submitting an application for disability, membership continues for 4 years after paid employment ends.

(c) (1) Except as provided in paragraph (2) of this subsection, the Board of Trustees may accept an application for ordinary, accidental, or special disability retirement from a former member within 24 months after the month membership ended if the former member proves to the satisfaction of the medical board that failure to submit an application while a member was attributable solely to physical or mental incapacity during the filing period.

(2) The Board of Trustees may accept an application for ordinary or accidental disability retirement from a former member of the Teachers' Retirement System within 12 months after the month membership ended if the former member of the Teachers' Retirement System proves to the satisfaction of the medical board that failure to submit an application while a member of the Teachers' Retirement System was attributable solely to physical or mental incapacity during the filing period.

(3) If the Board of Trustees accepts a disability retirement application under this subsection and grants a disability retirement allowance, the retirement allowance begins as of the first day of the month after the Board of Trustees receives the application.

(D) (1) THE BOARD OF TRUSTEES SHALL ACCEPT AN APPLICATION FOR ORDINARY, ACCIDENTAL, OR SPECIAL DISABILITY RETIREMENT FROM A SURVIVING BENEFICIARY OF A DECEASED MEMBER, IF ~~THE DISABILITY APPLICATION~~ A PRELIMINARY APPLICATION FOR DISABILITY RETIREMENT OR AN APPLICATION FOR DISABILITY RETIREMENT:

(I) IS SIGNED AND DATED BY THE DECEASED MEMBER WITHIN ~~1 WEEK~~ 7 DAYS BEFORE THE DEATH OF THE MEMBER; AND

(II) IS RECEIVED BY THE BOARD OF TRUSTEES ON OR BEFORE ~~1 MONTH~~ 30 DAYS AFTER THE DATE OF THE DEATH OF THE MEMBER.

(2) IF THE BOARD OF TRUSTEES RECEIVES AN APPLICATION UNDER PARAGRAPH (1) OF THIS SUBSECTION:

(I) THE MEDICAL BOARD SHALL REVIEW THE APPLICATION TO DETERMINE IF THE DECEASED MEMBER WAS MENTALLY OR PHYSICALLY INCAPACITATED FOR THE FURTHER PERFORMANCE OF THE NORMAL DUTIES OF THE INDIVIDUAL'S POSITION; AND

(II) THE BOARD OF TRUSTEES SHALL REVIEW THE APPLICATION TO DETERMINE ~~THE AUTHENTICITY OF THE SIGNATURE OF THE DECEASED MEMBER~~ IF THE PRELIMINARY APPLICATION FOR DISABILITY RETIREMENT OR THE APPLICATION FOR DISABILITY RETIREMENT WAS SIGNED BY THE DECEASED MEMBER BEFORE THE DEATH OF THE MEMBER.

(3) THE BOARD OF TRUSTEES SHALL GRANT A DISABILITY RETIREMENT ALLOWANCE, IF:

(I) THE MEDICAL BOARD DETERMINES THAT THE DECEASED MEMBER WOULD HAVE BEEN ELIGIBLE FOR DISABILITY RETIREMENT AT THE TIME THE DECEASED MEMBER SIGNED THE DISABILITY APPLICATION; AND

(II) THE BOARD OF TRUSTEES DETERMINES THAT THE SIGNATURE IS VALID.

~~**(4) THE BURDEN OF PROOF SHALL BE ON THE SURVIVING BENEFICIARY TO ESTABLISH THE FORMAL AUTHENTICITY OF THE SIGNATURE OF THE DECEASED MEMBER.**~~

(4) IN ORDER FOR THE SIGNATURE TO BE VALID, A SURVIVING BENEFICIARY SHALL SUBMIT TO THE BOARD OF TRUSTEES AN AFFIDAVIT SIGNED BY AN INDIVIDUAL WHO WITNESSED THE DECEASED MEMBER SIGNING THE PRELIMINARY APPLICATION FOR DISABILITY RETIREMENT OR THE APPLICATION FOR DISABILITY RETIREMENT BEFORE THE DEATH OF THE MEMBER.

(5) IF THE BOARD OF TRUSTEES ACCEPTS A DISABILITY RETIREMENT APPLICATION UNDER THIS SUBSECTION AND GRANTS A DISABILITY RETIREMENT ALLOWANCE, THE RETIREMENT ALLOWANCE BEGINS AS OF THE FIRST DAY OF THE MONTH AFTER THE BOARD OF TRUSTEES RECEIVES THE APPLICATION.

[(d)**] (E)** (1) This subsection does not apply to an application for special disability under the State Police Retirement System or an application for accidental disability under the Law Enforcement Officers' Pension System or to an application for accidental disability under the Correctional Officers' Retirement System.

(2) The Board of Trustees may not accept an application for accidental disability filed by a member or former member more than 5 years after the date of the claimed accident.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply retroactively and shall be applied to and interpreted to affect any individual who dies on or after May 1, 2009, while employed by the State as a member of the Employees' Retirement System or Employees' Pension System and an application for disability is submitted by a surviving beneficiary within ~~1 month~~ 30 days of the death of the member.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 598

(Senate Bill 723)

AN ACT concerning

Health Insurance – Clinically Integrated Organizations

FOR the purpose of authorizing ~~certain health insurance carriers to pay a clinically integrated organization or its members for services associated with the coordination of certain covered medical services to certain qualifying individuals; authorizing the carriers to pay a clinically integrated organization or its members certain incentives for a certain purpose~~ a contract between certain health insurance carriers and certain clinically integrated organizations to include certain payment provisions; authorizing the Maryland Insurance Commissioner to adopt certain regulations; requiring certain carriers to file a certain contract with the Commissioner; requiring the Commissioner to provide a copy of a certain contract to the executive director of the Maryland Health Care Commission; providing that copies of certain contracts are confidential and privileged, are not subject to certain provisions of law, subpoena, or discovery, and are not admissible in evidence in a certain action; requiring ~~the~~ certain health insurance carriers to share medical information about a qualifying individual with a clinically integrated organization and its members under certain circumstances; defining certain terms; ~~requiring a clinically integrated organization to notify the Maryland Health Care Commission of a certain agreement and to provide a certain report to the Commission under certain circumstances~~ requiring certain clinically integrated organizations to submit a certain evaluation to the Commission at a certain time; requiring the clinically integrated organizations to discuss the parameters and analytical methods of the evaluation with the Commission before submitting the evaluation; requiring the Commission to submit a summary of the evaluation to certain committees of the General Assembly; applying certain provisions of this Act to health maintenance organizations ~~and managed care organizations~~; and generally relating to payments to and sharing medical information with clinically integrated organizations.

BY adding to
Article – Health – General
Section ~~15–102.8 and~~ 19–706(cccc)
Annotated Code of Maryland
(2009 Replacement Volume)

BY adding to
Article – Insurance
Section 15–1801 through 15–1803 to be under the new subtitle "Subtitle 18. Clinically Integrated Organizations"
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

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

Article – Health – General

~~15–102.8.~~

~~THE PROVISIONS OF TITLE 15, SUBTITLE 18 OF THE INSURANCE ARTICLE APPLY TO MANAGED CARE ORGANIZATIONS.~~

19–706.

(CCCC) THE PROVISIONS OF TITLE 15, SUBTITLE 18 OF THE INSURANCE ARTICLE APPLY TO HEALTH MAINTENANCE ORGANIZATIONS.

Article – Insurance

SUBTITLE 18. CLINICALLY INTEGRATED ORGANIZATIONS.

15–1801.

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

(B) "CARRIER" MEANS:

(1) AN INSURER;

(2) A NONPROFIT HEALTH SERVICE PLAN; OR

(3) A HEALTH MAINTENANCE ORGANIZATION~~; OR~~

~~(4) A MANAGED CARE ORGANIZATION, AS DEFINED IN § 15–101 OF THE HEALTH – GENERAL ARTICLE~~.

(C) "CLINICALLY INTEGRATED ORGANIZATION" MEANS ~~AN ALTERNATIVE HEALTH CARE SYSTEM, AS DEFINED IN § 1–401 OF THE HEALTH OCCUPATIONS ARTICLE, IN WHICH HEALTH CARE PROVIDERS PARTICIPATE IN PROGRAMS DESIGNED TO~~:

(1) A JOINT VENTURE BETWEEN A HOSPITAL AND PHYSICIANS THAT:

(I) HAS RECEIVED AN ADVISORY OPINION FROM THE FEDERAL TRADE COMMISSION OR ITS STAFF; AND

(II) HAS BEEN ESTABLISHED TO:

1. EVALUATE AND IMPROVE THE PRACTICE PATTERNS OF THE HEALTH CARE PROVIDERS; AND

~~(2)~~ 2. CREATE A HIGH DEGREE OF COOPERATION, COLLABORATION, AND MUTUAL INTERDEPENDENCE AMONG THE HEALTH CARE PROVIDERS WHO PARTICIPATE IN THE ~~ALTERNATIVE HEALTH CARE SYSTEM~~ JOINT VENTURE IN ORDER TO PROMOTE THE EFFICIENT, MEDICALLY APPROPRIATE DELIVERY OF COVERED MEDICAL SERVICES; OR

(2) A JOINT VENTURE BETWEEN A HOSPITAL AND PHYSICIANS THAT:

(I) IS ACCOUNTABLE FOR TOTAL SPENDING AND QUALITY; AND

(II) THE COMMISSIONER DETERMINES MEETS THE CRITERIA ESTABLISHED BY THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES FOR AN ACCOUNTABLE CARE ORGANIZATION.

(D) "COVERED MEDICAL SERVICES" MEANS THE HEALTH CARE SERVICES THAT ARE INCLUDED AS BENEFITS UNDER A HEALTH BENEFIT PLAN ISSUED BY A CARRIER.

(E) ~~(1)~~ "HEALTH BENEFIT PLAN" HAS THE MEANING STATED IN § 15–1301 OF THIS TITLE.

~~(2) "HEALTH BENEFIT PLAN" INCLUDES COVERAGE PROVIDED TO ENROLLEES OF A MANAGED CARE ORGANIZATION, AS DEFINED IN § 15–101 OF THE HEALTH – GENERAL ARTICLE.~~

(F) "QUALIFYING INDIVIDUAL" MEANS AN INDIVIDUAL COVERED UNDER A HEALTH BENEFIT PLAN ISSUED BY A CARRIER.

15–1802.

(A) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE OR THE HEALTH – GENERAL ARTICLE, A ~~CARRIER MAY~~ CONTRACT BETWEEN A CARRIER AND A CLINICALLY INTEGRATED ORGANIZATION MAY INCLUDE A PROVISION TO PAY:

(1) ~~PAY A CLINICALLY INTEGRATED ORGANIZATION OR ITS MEMBERS~~ FOR SERVICES ASSOCIATED WITH THE COORDINATION OF COVERED MEDICAL SERVICES TO QUALIFYING INDIVIDUALS; AND

(2) ~~PAY A CLINICALLY INTEGRATED ORGANIZATION OR ITS MEMBERS~~ A BONUS, FEE–BASED INCENTIVE, BUNDLED FEES, OR OTHER INCENTIVES TO PROMOTE THE EFFICIENT, MEDICALLY APPROPRIATE DELIVERY OF COVERED MEDICAL SERVICES TO QUALIFYING INDIVIDUALS.

(B) THE COMMISSIONER, IN CONSULTATION WITH THE MARYLAND HEALTH CARE COMMISSION, MAY ADOPT REGULATIONS SPECIFYING THE TYPES OF PAYMENTS AND INCENTIVES PERMISSIBLE UNDER THIS SECTION.

(C) (1) A CARRIER SHALL FILE A COPY OF A CONTRACT BETWEEN THE CARRIER AND A CLINICALLY INTEGRATED ORGANIZATION WITH THE COMMISSIONER.

(2) IF THE CONTRACT INCLUDES A PROVISION TO PAY A BONUS OR OTHER INCENTIVE THAT DOES NOT COMPLY WITH § 15–113 OF THIS TITLE, THE COMMISSIONER SHALL PROVIDE A COPY OF THE CONTRACT TO THE EXECUTIVE DIRECTOR OF THE MARYLAND HEALTH CARE COMMISSION.

(3) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A COPY OF A CONTRACT FILED WITH THE COMMISSIONER OR PROVIDED BY THE COMMISSIONER TO THE EXECUTIVE DIRECTOR OF THE MARYLAND HEALTH CARE COMMISSION UNDER THIS SUBSECTION, IS:

(I) CONFIDENTIAL AND PRIVILEGED;

(II) NOT SUBJECT TO:

1. TITLE 10, SUBTITLE 6 OF THE STATE GOVERNMENT ARTICLE;

2. SUBPOENA; OR

3. DISCOVERY; AND

(III) NOT ADMISSIBLE IN EVIDENCE IN ANY PRIVATE ACTION.

15–1803.

NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE OR THE HEALTH – GENERAL ARTICLE, A CARRIER SHALL SHARE MEDICAL INFORMATION ABOUT A QUALIFYING INDIVIDUAL WITH A CLINICALLY INTEGRATED ORGANIZATION AND ITS MEMBERS IF:

(1) THE CARRIER HAS A WRITTEN AGREEMENT WITH THE CLINICALLY INTEGRATED ORGANIZATION SPECIFYING THE TYPE AND PROPOSED USE OF MEDICAL INFORMATION TO BE SHARED;

~~**(2) THE MEDICAL INFORMATION IS NOT USED BY THE CLINICALLY INTEGRATED ORGANIZATION TO APPROVE OR DENY CLAIMS; AND**~~

~~**(3)**~~ **(2) THE MEDICAL INFORMATION IS USED BY THE CLINICALLY INTEGRATED ORGANIZATION TO:**

(I) PROMOTE THE EFFICIENT, MEDICALLY APPROPRIATE DELIVERY OF COVERED MEDICAL SERVICES TO QUALIFYING INDIVIDUALS;

(II) COORDINATE CARE, INCLUDING EFFORTS TO COORDINATE, PLAN, DEVELOP, MONITOR, SHARE INFORMATION RELATED TO, AND OTHERWISE INITIATE A TREATMENT PLAN FOR A QUALIFYING INDIVIDUAL;

(III) PERFORM THE FUNCTIONS OF A MEDICAL REVIEW COMMITTEE AS DESCRIBED IN § 1–401(C) OF THE HEALTH OCCUPATIONS ARTICLE; OR

(IV) OFFER OR PROVIDE COVERED MEDICAL SERVICES OR SEEK PAYMENT FOR OR EVALUATE COVERED MEDICAL SERVICES PROVIDED BY THE MEMBERS OF THE CLINICALLY INTEGRATED ORGANIZATION; AND

(3) THE CLINICALLY INTEGRATED ORGANIZATION OR THE CARRIER IMPLEMENTS PROCEDURES FOR DISCLOSING TO QUALIFYING INDIVIDUALS HOW THE CLINICALLY INTEGRATED ORGANIZATION AND THE CARRIER SHARE MEDICAL INFORMATION TO DELIVER MORE COORDINATED, HIGHER QUALITY CARE.

~~SECTION 2. AND BE IT FURTHER ENACTED, That, on entering into an agreement with a carrier for incentive payments of the type authorized under § 15–1802 of the Insurance Article, as enacted by Section 1 of this Act, a clinically integrated organization:~~

~~(1) shall notify the Maryland Health Care Commission of the existence of the agreement; and~~

~~(2) on request of the Commission, shall provide a report to the Commission that describes any incentive payments received by the clinically integrated organization under the agreement during the prior calendar year.~~

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) (1) A clinically integrated organization that enters into an agreement authorized under § 15–1802 of the Insurance Article, as enacted by Section 1 of this Act, within 3 years after the date the agreement takes effect, shall submit an evaluation of its clinical integration program to the Maryland Health Care Commission.

(2) Before submitting the evaluation required under this subsection, the clinically integrated organization shall discuss the parameters of the evaluation and its analytical methods with the Commission.

(b) On receipt of the evaluation required under subsection (a) of this section, the Maryland Health Care Commission shall prepare a summary of the evaluation, including any recommendations for legislative action, and, in accordance with § 2–1246 of the State Government Article, submit the summary to the House Health and Government Operations Committee and the Senate Finance Committee.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 599

(House Bill 1093)

AN ACT concerning

Health Insurance – Clinically Integrated Organizations

FOR the purpose of authorizing ~~certain health insurance carriers to pay a clinically integrated organization or its members for services associated with the coordination of certain covered medical services to certain qualifying individuals; authorizing the carriers to pay a clinically integrated organization or its members certain incentives for a certain purpose~~ a contract between certain health insurance carriers and certain clinically integrated organizations to include certain payment provisions; authorizing the Maryland Insurance Commissioner to adopt certain regulations; requiring certain carriers to file a certain contract with the Commissioner; requiring the Commissioner to provide a copy of a certain contract to the executive director of the Maryland Health Care Commission; providing that copies of certain contracts are confidential and privileged, are not subject to certain provisions of law, subpoena, or discovery, and are not admissible in evidence in a certain action; requiring ~~the~~ certain health insurance carriers to share medical information about a qualifying individual with a clinically integrated organization and its members under certain circumstances; defining certain terms; ~~requiring a clinically integrated~~

~~organization to notify the Maryland Health Care Commission of a certain agreement and to provide a certain report to the Commission under certain circumstances~~ requiring certain clinically integrated organizations to submit a certain evaluation to the Commission at a certain time; requiring the clinically integrated organizations to discuss the parameters and analytical methods of the evaluation with the Commission before submitting the evaluation; requiring the Commission to submit a summary of the evaluation to certain committees of the General Assembly; applying certain provisions of this Act to health maintenance organizations ~~and managed care organizations~~; and generally relating to payments to and sharing medical information with clinically integrated organizations.

BY adding to
Article – Health – General
Section ~~15–102.8 and~~ 19–706(cccc)
Annotated Code of Maryland
(2009 Replacement Volume)

BY adding to
Article – Insurance
Section 15–1801 through 15–1803 to be under the new subtitle "Subtitle 18. Clinically Integrated Organizations"
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

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

Article – Health – General

~~**15–102.8.**~~

~~**THE PROVISIONS OF TITLE 15, SUBTITLE 18 OF THE INSURANCE ARTICLE APPLY TO MANAGED CARE ORGANIZATIONS.**~~

19–706.

(CCCC) THE PROVISIONS OF TITLE 15, SUBTITLE 18 OF THE INSURANCE ARTICLE APPLY TO HEALTH MAINTENANCE ORGANIZATIONS.

Article – Insurance

SUBTITLE 18. CLINICALLY INTEGRATED ORGANIZATIONS.

15–1801.

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

(B) "CARRIER" MEANS:

(1) AN INSURER;

(2) A NONPROFIT HEALTH SERVICE PLAN; OR

(3) A HEALTH MAINTENANCE ORGANIZATION~~; OR~~

~~(4) A MANAGED CARE ORGANIZATION, AS DEFINED IN § 15–101 OF THE HEALTH – GENERAL ARTICLE~~.

(C) "CLINICALLY INTEGRATED ORGANIZATION" MEANS ~~AN ALTERNATIVE HEALTH CARE SYSTEM, AS DEFINED IN § 1–401 OF THE HEALTH OCCUPATIONS ARTICLE, IN WHICH HEALTH CARE PROVIDERS PARTICIPATE IN PROGRAMS DESIGNED TO~~:

(1) A JOINT VENTURE BETWEEN A HOSPITAL AND PHYSICIANS THAT:

(I) HAS RECEIVED AN ADVISORY OPINION FROM THE FEDERAL TRADE COMMISSION OR ITS STAFF; AND

(II) HAS BEEN ESTABLISHED TO:

1. EVALUATE AND IMPROVE THE PRACTICE PATTERNS OF THE HEALTH CARE PROVIDERS; AND

~~(2)~~ 2. CREATE A HIGH DEGREE OF COOPERATION, COLLABORATION, AND MUTUAL INTERDEPENDENCE AMONG THE HEALTH CARE PROVIDERS WHO PARTICIPATE IN THE ~~ALTERNATIVE HEALTH CARE SYSTEM~~ JOINT VENTURE IN ORDER TO PROMOTE THE EFFICIENT, MEDICALLY APPROPRIATE DELIVERY OF COVERED MEDICAL SERVICES; OR

(2) A JOINT VENTURE BETWEEN A HOSPITAL AND PHYSICIANS THAT:

(I) IS ACCOUNTABLE FOR TOTAL SPENDING AND QUALITY; AND

(II) THE COMMISSIONER DETERMINES MEETS THE CRITERIA ESTABLISHED BY THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES FOR AN ACCOUNTABLE CARE ORGANIZATION.

(D) "COVERED MEDICAL SERVICES" MEANS THE HEALTH CARE SERVICES THAT ARE INCLUDED AS BENEFITS UNDER A HEALTH BENEFIT PLAN ISSUED BY A CARRIER.

(E) ~~(1)~~ "HEALTH BENEFIT PLAN" HAS THE MEANING STATED IN § 15–1301 OF THIS TITLE.

~~(2) "HEALTH BENEFIT PLAN" INCLUDES COVERAGE PROVIDED TO ENROLLEES OF A MANAGED CARE ORGANIZATION, AS DEFINED IN § 15–101 OF THE HEALTH – GENERAL ARTICLE.~~

(F) "QUALIFYING INDIVIDUAL" MEANS AN INDIVIDUAL COVERED UNDER A HEALTH BENEFIT PLAN ISSUED BY A CARRIER.

15–1802.

(A) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE OR THE HEALTH – GENERAL ARTICLE, A ~~CARRIER MAY~~ CONTRACT BETWEEN A CARRIER AND A CLINICALLY INTEGRATED ORGANIZATION MAY INCLUDE A PROVISION TO PAY:

(1) ~~PAY A CLINICALLY INTEGRATED ORGANIZATION OR ITS MEMBERS~~ FOR SERVICES ASSOCIATED WITH THE COORDINATION OF COVERED MEDICAL SERVICES TO QUALIFYING INDIVIDUALS; AND

(2) ~~PAY A CLINICALLY INTEGRATED ORGANIZATION OR ITS MEMBERS~~ A BONUS, FEE–BASED INCENTIVE, BUNDLED FEES, OR OTHER INCENTIVES TO PROMOTE THE EFFICIENT, MEDICALLY APPROPRIATE DELIVERY OF COVERED MEDICAL SERVICES TO QUALIFYING INDIVIDUALS.

(B) THE COMMISSIONER, IN CONSULTATION WITH THE MARYLAND HEALTH CARE COMMISSION, MAY ADOPT REGULATIONS SPECIFYING THE TYPES OF PAYMENTS AND INCENTIVES PERMISSIBLE UNDER THIS SECTION.

(C) (1) A CARRIER SHALL FILE A COPY OF A CONTRACT BETWEEN THE CARRIER AND A CLINICALLY INTEGRATED ORGANIZATION WITH THE COMMISSIONER.

(2) IF THE CONTRACT INCLUDES A PROVISION TO PAY A BONUS OR OTHER INCENTIVE THAT DOES NOT COMPLY WITH § 15–113 OF THIS TITLE,

THE COMMISSIONER SHALL PROVIDE A COPY OF THE CONTRACT TO THE EXECUTIVE DIRECTOR OF THE MARYLAND HEALTH CARE COMMISSION.

(3) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A COPY OF A CONTRACT FILED WITH THE COMMISSIONER OR PROVIDED BY THE COMMISSIONER TO THE EXECUTIVE DIRECTOR OF THE MARYLAND HEALTH CARE COMMISSION UNDER THIS SUBSECTION, IS:

(I) CONFIDENTIAL AND PRIVILEGED;

(II) NOT SUBJECT TO:

1. TITLE 10, SUBTITLE 6 OF THE STATE GOVERNMENT ARTICLE;

2. SUBPOENA; OR

3. DISCOVERY; AND

(III) NOT ADMISSIBLE IN EVIDENCE IN ANY PRIVATE ACTION.

15–1803.

NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE OR THE HEALTH – GENERAL ARTICLE, A CARRIER SHALL SHARE MEDICAL INFORMATION ABOUT A QUALIFYING INDIVIDUAL WITH A CLINICALLY INTEGRATED ORGANIZATION AND ITS MEMBERS IF:

(1) THE CARRIER HAS A WRITTEN AGREEMENT WITH THE CLINICALLY INTEGRATED ORGANIZATION SPECIFYING THE TYPE AND PROPOSED USE OF MEDICAL INFORMATION TO BE SHARED; AND

(2) THE MEDICAL INFORMATION IS USED BY THE CLINICALLY INTEGRATED ORGANIZATION TO:

(I) PROMOTE THE EFFICIENT, MEDICALLY APPROPRIATE DELIVERY OF COVERED MEDICAL SERVICES TO QUALIFYING INDIVIDUALS;

(II) COORDINATE CARE, INCLUDING EFFORTS TO COORDINATE, PLAN, DEVELOP, MONITOR, SHARE INFORMATION RELATED TO, AND OTHERWISE INITIATE A TREATMENT PLAN FOR A QUALIFYING INDIVIDUAL;

(III) PERFORM THE FUNCTIONS OF A MEDICAL REVIEW COMMITTEE AS DESCRIBED IN § 1–401(C) OF THE HEALTH OCCUPATIONS ARTICLE; OR

(IV) OFFER OR PROVIDE COVERED MEDICAL SERVICES OR SEEK PAYMENT FOR OR EVALUATE COVERED MEDICAL SERVICES PROVIDED BY THE MEMBERS OF THE CLINICALLY INTEGRATED ORGANIZATION; AND

(3) THE CLINICALLY INTEGRATED ORGANIZATION OR THE CARRIER IMPLEMENTS PROCEDURES FOR DISCLOSING TO QUALIFYING INDIVIDUALS HOW THE CLINICALLY INTEGRATED ORGANIZATION AND THE CARRIER SHARE MEDICAL INFORMATION TO DELIVER MORE COORDINATED, HIGHER QUALITY CARE.

~~SECTION 2. AND BE IT FURTHER ENACTED, That, on entering into an agreement with a carrier for incentive payments of the type authorized under § 15–1802 of the Insurance Article, as enacted by Section 1 of this Act, a clinically integrated organization:~~

~~(1) shall notify the Maryland Health Care Commission of the existence of the agreement; and~~

~~(2) on request of the Commission, shall provide a report to the Commission that describes any incentive payments received by the clinically integrated organization under the agreement during the prior calendar year.~~

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) (1) A clinically integrated organization that enters into an agreement authorized under § 15–1802 of the Insurance Article, as enacted by Section 1 of this Act, within 3 years after the date the agreement takes effect, shall submit an evaluation of its clinical integration program to the Maryland Health Care Commission.

(2) Before submitting the evaluation required under this subsection, the clinically integrated organization shall discuss the parameters of the evaluation and its analytical methods with the Commission.

(b) On receipt of the evaluation required under subsection (a) of this section, the Maryland Health Care Commission shall prepare a summary of the evaluation, including any recommendations for legislative action, and, in accordance with § 2–1246 of the State Government Article, submit the summary to the House Health and Government Operations Committee and the Senate Finance Committee.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 600

(Senate Bill 726)

AN ACT concerning

Cecil County – Collective Bargaining – Representation of Deputy Sheriffs ~~– Arbitration – Referendum~~

FOR the purpose of authorizing the representatives of certain full–time sworn law enforcement deputy sheriffs in the Cecil County Sheriff's Office and the County Commissioners of Cecil County to bargain collectively with the Sheriff and the County Commissioners on certain issues; authorizing certain sworn law enforcement deputy sheriffs to take or refrain from taking certain actions in connection with certain labor organizations with regard to certain collective bargaining activities; providing for the procedures for certifying a labor organization as a certified labor organization for certain collective bargaining negotiations; requiring the certified labor organization, the Sheriff, and the County Commissioners to follow certain procedures for collective bargaining; providing for *a* certain ~~means~~ *method* to resolve a dispute if the certified labor organization and the Sheriff and the County Commissioners are unable to negotiate a certain agreement; *requiring the governing body of Cecil County to enact a certain local ordinance;* requiring a collective bargaining agreement to contain certain matters; providing for certain rights and responsibilities of the Sheriff that are not impaired by the provisions of this Act; requiring that any additional funding required as a result of a certain agreement be subject to approval by the County Commissioners; ~~providing a certain cost–sharing cap for certain costs associated with this Act;~~ providing for the construction of this Act; ~~submitting this Act to a referendum of the legally qualified voters of Cecil County;~~ and generally relating to collective bargaining of deputy sheriffs in Cecil County.

BY adding to
Article – Courts and Judicial Proceedings
Section 2–309(i)(4)
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

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

~~**Article – Courts and Judicial Proceedings**~~

~~2–309.~~

~~(i)~~ ~~(4)~~ ~~(I)~~ ~~THIS PARAGRAPH APPLIES ONLY TO ALL FULL-TIME SWORN LAW ENFORCEMENT DEPUTY SHERIFFS IN THE OFFICE OF THE SHERIFF OF CECIL COUNTY AT THE RANK OF FIRST SERGEANT AND BELOW.~~

~~(II)~~ ~~A FULL-TIME SWORN LAW ENFORCEMENT DEPUTY SHERIFF AT THE RANK OF FIRST SERGEANT AND BELOW MAY:~~

~~1.~~ ~~TAKE PART IN OR REFRAIN FROM TAKING PART IN FORMING, JOINING, SUPPORTING, OR PARTICIPATING IN A LABOR ORGANIZATION OR ITS LAWFUL ACTIVITIES;~~

~~2.~~ ~~SELECT A LABOR ORGANIZATION AS THE EXCLUSIVE REPRESENTATIVE OF THE DEPUTY SHERIFFS SUBJECT TO THIS PARAGRAPH;~~

~~3.~~ ~~ENGAGE IN COLLECTIVE BARGAINING WITH THE SHERIFF AND THE COUNTY COMMISSIONERS OF CECIL COUNTY, OR THE DESIGNEE OF THE SHERIFF AND THE COUNTY COMMISSIONERS, CONCERNING WAGES, BENEFITS, AND ANY WORKING CONDITIONS THAT ARE NOT INCLUDED IN SUBPARAGRAPH (V)4A OF THIS PARAGRAPH THROUGH A LABOR ORGANIZATION CERTIFIED AS THE EXCLUSIVE REPRESENTATIVE OF THE DEPUTY SHERIFFS SUBJECT TO THIS PARAGRAPH;~~

~~4.~~ ~~SUBJECT TO ITEM 2 OF THIS SUBPARAGRAPH, ENTER INTO A COLLECTIVE BARGAINING AGREEMENT, THROUGH THE EXCLUSIVE REPRESENTATIVE OF THE DEPUTY SHERIFFS SUBJECT TO THIS PARAGRAPH, COVERING THE WAGES, BENEFITS, AND OTHER WORKING CONDITIONS OF THE DEPUTY SHERIFFS SUBJECT TO THIS PARAGRAPH, TO THE EXTENT THAT THE AGREEMENT DOES NOT IMPAIR THE RIGHTS OF THE SHERIFF SET FORTH IN SUBPARAGRAPH (V)4 OF THIS PARAGRAPH; AND~~

~~5.~~ ~~DECERTIFY A LABOR ORGANIZATION AS THE EXCLUSIVE REPRESENTATIVE OF THE DEPUTY SHERIFFS SUBJECT TO THIS PARAGRAPH.~~

~~(III)~~ ~~1.~~ ~~A LABOR ORGANIZATION SEEKING CERTIFICATION AS AN EXCLUSIVE REPRESENTATIVE MUST SUBMIT A PETITION TO THE SHERIFF AND THE COUNTY COMMISSIONERS THAT IS SIGNED BY MORE THAN 50% OF THE SWORN LAW ENFORCEMENT DEPUTY SHERIFFS AT THE RANK OF FIRST SERGEANT AND BELOW INDICATING THE DESIRE OF THE DEPUTY~~

~~SHERIFFS SUBJECT TO THIS PARAGRAPH TO BE REPRESENTED EXCLUSIVELY BY THE LABOR ORGANIZATION FOR THE PURPOSE OF COLLECTIVE BARGAINING.~~

~~2. IF THE SHERIFF AND THE COUNTY COMMISSIONERS DO NOT CHALLENGE THE VALIDITY OF THE PETITION WITHIN 20 CALENDAR DAYS FOLLOWING THE RECEIPT OF THE PETITION, THE LABOR ORGANIZATION SHALL BE DEEMED CERTIFIED AS THE EXCLUSIVE REPRESENTATIVE.~~

~~3. IF THE SHERIFF OR THE COUNTY COMMISSIONERS CHALLENGE THE VALIDITY OF THE PETITION, THE AMERICAN ARBITRATION ASSOCIATION SHALL APPOINT A NEUTRAL THIRD PARTY TO CONDUCT AN ELECTION AND TO CERTIFY WHETHER THE LABOR ORGANIZATION HAS BEEN SELECTED AS THE EXCLUSIVE REPRESENTATIVE BY A MAJORITY OF THE VOTES CAST IN THE ELECTION.~~

~~4. THE COSTS ASSOCIATED WITH THE APPOINTMENT OF A NEUTRAL THIRD PARTY SHALL BE SHARED EQUALLY BY THE PARTIES.~~

~~5. A LABOR ORGANIZATION SHALL BE DEEMED DECERTIFIED IF A PETITION IS SUBMITTED TO THE SHERIFF AND THE COUNTY COMMISSIONERS THAT IS SIGNED BY MORE THAN 50% OF THE FULL–TIME SWORN LAW ENFORCEMENT DEPUTY SHERIFFS AT THE RANK OF FIRST SERGEANT AND BELOW INDICATING THE DESIRE OF THE DEPUTY SHERIFFS TO DECERTIFY THE LABOR ORGANIZATION AS THE EXCLUSIVE REPRESENTATIVE OF THE DEPUTY SHERIFFS SUBJECT TO THIS PARAGRAPH.~~

~~(IV) 1. FOLLOWING CERTIFICATION OF AN EXCLUSIVE REPRESENTATIVE AS PROVIDED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH, THE CERTIFIED LABOR ORGANIZATION AND THE SHERIFF AND THE COUNTY COMMISSIONERS SHALL MEET AT REASONABLE TIMES AND ENGAGE IN COLLECTIVE BARGAINING IN GOOD FAITH.~~

~~2. THE CERTIFIED LABOR ORGANIZATION, THE SHERIFF, AND THE COUNTY COMMISSIONERS SHALL MAKE EVERY REASONABLE EFFORT TO CONCLUDE NEGOTIATIONS ON OR BEFORE FEBRUARY 15 OF THE YEAR IN WHICH A COLLECTIVE BARGAINING AGREEMENT IS TO TAKE EFFECT TO ALLOW FOR INCLUSION BY THE SHERIFF OF MATTERS AGREED ON IN ITS BUDGET REQUEST TO THE COUNTY COMMISSIONERS.~~

~~3. A. IF THE CERTIFIED LABOR ORGANIZATION AND THE SHERIFF AND THE COUNTY COMMISSIONERS ARE UNABLE TO REACH AN AGREEMENT BEFORE THE DATE SET FORTH IN SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, EITHER THE CERTIFIED LABOR ORGANIZATION OR THE~~

~~SHERIFF AND THE COUNTY COMMISSIONERS MAY SEEK NONBINDING MEDIATION THROUGH THE FEDERAL MEDIATION AND CONCILIATION SERVICE.~~

~~B. A PARTY SEEKING NONBINDING MEDIATION UNDER SUBSUBSUBPARAGRAPH A OF THIS SUBSUBPARAGRAPH SHALL GIVE WRITTEN NOTICE TO THE OTHER PARTY AND TO THE FEDERAL MEDIATION AND CONCILIATION SERVICE AT LEAST 15 DAYS PRIOR TO THE START OF THE FIRST MEDIATION MEETING.~~

~~C. THE COSTS ASSOCIATED WITH THE MEDIATOR OR MEDIATION PROCESS SHALL BE SHARED EQUALLY BY THE PARTIES.~~

~~D. THE CERTIFIED LABOR ORGANIZATION, THE SHERIFF, AND THE COUNTY COMMISSIONERS SHALL ENGAGE IN NONBINDING MEDIATION FOR AT LEAST 30 DAYS UNLESS THEY MUTUALLY AGREE IN WRITING TO TERMINATION OR EXTENSION OF THE MEDIATION OR REACH AN AGREEMENT.~~

~~E. THE CONTENTS OF THE MEDIATION PROCEEDINGS MAY NOT BE DISCLOSED BY ANY OF THE PARTIES OR THE MEDIATOR.~~

~~4. A. IF THE CERTIFIED LABOR ORGANIZATION, THE SHERIFF, AND THE COUNTY COMMISSIONERS ARE UNABLE TO REACH AN AGREEMENT THROUGH MEDIATION UNDER SUBSUBPARAGRAPH 3 OF THIS SUBPARAGRAPH, ANY OF THE PARTIES MAY DEMAND AN ARBITRATOR.~~

~~B. THE ARBITRATOR SHALL BE SELECTED FROM A PANEL OF SEVEN ARBITRATORS WHO ARE MEMBERS OF THE NATIONAL ACADEMY OF ARBITRATORS.~~

~~C. THE PARTIES SHALL SELECT AN ARBITRATOR BY ALTERNATIVE STRIKES FROM THE PANEL.~~

~~D. THE ARBITRATOR SELECTED MAY SCHEDULE A HEARING, ISSUE SUBPOENAS TO COMPEL THE TESTIMONY OF WITNESSES AND THE PRODUCTION OF DOCUMENTS, ADMINISTER OATHS, AND DECLARE THE RECORD CLOSED.~~

~~E. THE ARBITRATOR SELECTED SHALL RECEIVE AND ENTER INTO THE RECORD THE FINAL OFFERS OF THE CERTIFIED LABOR ORGANIZATION AND THE SHERIFF AND THE COUNTY COMMISSIONERS.~~

~~F. THE ARBITRATOR MAY RECEIVE AND CONSIDER EVIDENCE REGARDING HOURS, WAGES, AND BENEFITS OF SIMILAR SWORN LAW ENFORCEMENT EMPLOYEES IN COMPARABLE SURROUNDING JURISDICTIONS, THE COST OF LIVING IN CECIL COUNTY, THE CONDITION OF CECIL COUNTY'S GENERAL OPERATING FUND AND CECIL COUNTY'S ABILITY TO FUND THE FINAL PROPOSED OFFERS, THE NATURE OF THE WORK PERFORMED BY EMPLOYEES REPRESENTED BY THE CERTIFIED LABOR ORGANIZATION, AND OTHER INFORMATION THAT THE ARBITRATOR CONSIDERS NECESSARY TO WEIGH FULLY THE FINAL PROPOSED OFFERS OF THE CERTIFIED LABOR ORGANIZATION AND THE SHERIFF AND THE COUNTY COMMISSIONERS.~~

~~G. UNLESS THE PARTIES MUTUALLY AGREE TO AN EXTENSION, THE ARBITRATOR SHALL ISSUE A FINAL REPORT TO THE SHERIFF AND THE COUNTY COMMISSIONERS WITHIN 30 DAYS AFTER THE RECORD IS CLOSED.~~

~~H. THE WRITTEN DECISION OF THE ARBITRATOR IS BINDING ON THE SHERIFF AND THE COUNTY COMMISSIONERS.~~

~~I. THE COSTS OF ARBITRATION SHALL BE SHARED EQUALLY BY THE PARTIES.~~

~~(V) 1. A COLLECTIVE BARGAINING AGREEMENT SHALL CONTAIN ALL MATTERS OF AGREEMENT REACHED IN THE COLLECTIVE BARGAINING PROCESS.~~

~~2. A COLLECTIVE BARGAINING AGREEMENT MAY CONTAIN A GRIEVANCE PROCEDURE PROVIDING FOR BINDING ARBITRATION OF GRIEVANCES IN REFERENCE TO A LABOR CONTRACT, INCLUDING GRIEVANCES RELATED TO INTERPRETATION OR BREACH OF CONTRACT.~~

~~3. A COLLECTIVE BARGAINING AGREEMENT REACHED IN ACCORDANCE WITH THIS PARAGRAPH SHALL BE IN WRITING AND SIGNED BY THE CERTIFIED REPRESENTATIVES OF THE PARTIES INVOLVED IN THE COLLECTIVE BARGAINING NEGOTIATIONS.~~

~~4. EXCEPT AS PROVIDED IN THE CODE AND REGULATIONS OF CECIL COUNTY, THE PROVISIONS OF THIS SUBPARAGRAPH AND ANY AGREEMENT MADE UNDER IT MAY NOT IMPAIR THE RIGHT AND THE RESPONSIBILITY OF THE SHERIFF TO:~~

~~A. DETERMINE THE MISSION, BUDGET, ORGANIZATION, NUMBERS, TYPES, CLASSES, GRADES, AND RANKS OF DEPUTY~~

~~SHERIFFS ASSIGNED, THE SERVICES TO BE RENDERED, OPERATIONS TO BE PERFORMED, AND THE TECHNOLOGY TO BE USED;~~

~~B. SET THE STANDARDS OF SERVICE AND EXERCISE CONTROL OVER OPERATIONS, INCLUDING THE RIGHTS TO DETERMINE WORK SHIFTS AND THE NUMBER OF DEPUTY SHERIFFS ON EACH SHIFT;~~

~~C. ASSIGN AND RETAIN DEPUTY SHERIFFS IN POSITIONS WITHIN THE OFFICE;~~

~~D. DETERMINE AND SET WORK PROJECTS, TOURS OF DUTY, SCHEDULES, ASSIGNMENTS, AND METHODS, MEANS, AND PERSONNEL BY WHICH OPERATIONS ARE CONDUCTED;~~

~~E. DETERMINE AND SET TECHNOLOGY NEEDS, INTERNAL SECURITY PRACTICES, EQUIPMENT, AND THE LOCATION OF FACILITIES;~~

~~F. MAINTAIN AND IMPROVE THE EFFICIENCY AND EFFECTIVENESS OF OPERATIONS;~~

~~G. HIRE, DIRECT, SUPERVISE, PROMOTE, DEMOTE, DISCIPLINE, ASSIGN, AND WITH REASONABLE CAUSE DISCHARGE FULL-TIME SWORN LAW ENFORCEMENT DEPUTY SHERIFFS, WITH THE EXCEPTION THAT THE PROMOTIONAL PROCESS FOR DEPUTY SHERIFFS UP TO THE RANK OF FIRST SERGEANT AND THE NUMBER AND COMPOSITION OF TRIAL BOARDS FOR THE DISCIPLINE PROCESS FOR DEPUTY SHERIFFS AT THE RANK OF FIRST SERGEANT AND BELOW ARE SUBJECT TO COLLECTIVE BARGAINING;~~

~~H. DETERMINE AND SET THE QUALIFICATIONS OF DEPUTY SHERIFFS FOR APPOINTMENT AND PROMOTIONS; AND~~

~~I. DETERMINE AND SET THE STANDARDS OF CONDUCT, AND WITH CONSULTATION AND INPUT FROM THE CERTIFIED LABOR ORGANIZATION, ADOPT RULES, ORDERS, POLICIES, REGULATIONS, AND PROCEDURES ON MUTUALLY AGREED ON SUBJECTS.~~

~~5. A COLLECTIVE BARGAINING AGREEMENT IS NOT EFFECTIVE UNTIL IT IS RATIFIED BY THE MAJORITY OF VOTES CAST BY THE DEPUTY SHERIFFS IN THE BARGAINING UNIT AND APPROVED BY THE SHERIFF AND THE COUNTY COMMISSIONERS.~~

~~(VI) 1. THE COSTS PAID BY THE COUNTY COMMISSIONERS UNDER SUBPARAGRAPHS (III)4, (IV)3C, AND (IV)4I MAY NOT EXCEED $15,000 IN TOTAL FOR FISCAL YEAR 2010.~~

~~2. A. THE COUNTY COMMISSIONERS AND CERTIFIED LABOR ORGANIZATION SHALL NEGOTIATE A COST SHARING CAP FOR FISCAL YEAR 2011 AND EACH SUBSEQUENT FISCAL YEAR.~~

~~B. IF THE COUNTY COMMISSIONERS AND CERTIFIED LABOR ORGANIZATION ARE UNABLE TO REACH AN AGREEMENT BY DECEMBER 1 OF THE PRIOR FISCAL YEAR, THE COST SHARING CAP SHALL INCREASE BY A PERCENTAGE EQUAL TO THE ANNUAL PERCENTAGE INCREASE IN COMPENSATION COSTS FOR CIVILIAN WORKERS FOR THE PRIOR CALENDAR YEAR, AS MEASURED BY THE EMPLOYMENT COST INDEX AS PUBLISHED BY THE BUREAU OF LABOR STATISTICS OF THE U.S. DEPARTMENT OF LABOR.~~

~~(VII) NOTHING IN THIS PARAGRAPH MAY BE CONSTRUED TO:~~

~~1. AUTHORIZE OR OTHERWISE ALLOW A DEPUTY SHERIFF TO ENGAGE IN A STRIKE AS DEFINED IN § 3–303 OF THE STATE PERSONNEL AND PENSIONS ARTICLE; AND~~

~~2. AUTHORIZE THE COLLECTION OF MANDATORY MEMBERSHIP FEES FROM NONMEMBERS OF THE EMPLOYEE ORGANIZATION.~~

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

Article – Courts and Judicial Proceedings

2–309.

(i) **(4) (I) THIS PARAGRAPH APPLIES ONLY TO ALL FULL–TIME SWORN LAW ENFORCEMENT DEPUTY SHERIFFS IN THE OFFICE OF THE SHERIFF OF CECIL COUNTY AT THE RANK OF ~~FIRST~~ SERGEANT AND BELOW.**

(II) A FULL–TIME SWORN LAW ENFORCEMENT DEPUTY SHERIFF AT THE RANK OF ~~FIRST~~ SERGEANT AND BELOW MAY:

1. TAKE PART IN OR REFRAIN FROM TAKING PART IN FORMING, JOINING, SUPPORTING, OR PARTICIPATING IN A LABOR ORGANIZATION OR ITS LAWFUL ACTIVITIES;

2. SELECT A LABOR ORGANIZATION AS THE EXCLUSIVE REPRESENTATIVE OF THE DEPUTY SHERIFFS SUBJECT TO THIS PARAGRAPH;

3. ENGAGE IN COLLECTIVE BARGAINING WITH THE SHERIFF AND THE COUNTY COMMISSIONERS OF CECIL COUNTY, OR THE DESIGNEE OF THE SHERIFF AND THE COUNTY COMMISSIONERS, CONCERNING WAGES, BENEFITS, AND ANY WORKING CONDITIONS THAT ARE NOT INCLUDED IN SUBPARAGRAPH (V)4A OF THIS PARAGRAPH THROUGH A LABOR ORGANIZATION CERTIFIED AS THE EXCLUSIVE REPRESENTATIVE OF THE DEPUTY SHERIFFS SUBJECT TO THIS PARAGRAPH;

4. SUBJECT TO ITEM 2 OF THIS SUBPARAGRAPH, ENTER INTO A COLLECTIVE BARGAINING AGREEMENT, THROUGH THE EXCLUSIVE REPRESENTATIVE OF THE DEPUTY SHERIFFS SUBJECT TO THIS PARAGRAPH, COVERING THE WAGES, BENEFITS, AND OTHER WORKING CONDITIONS OF THE DEPUTY SHERIFFS SUBJECT TO THIS PARAGRAPH, TO THE EXTENT THAT THE AGREEMENT DOES NOT IMPAIR THE RIGHTS OF THE SHERIFF SET FORTH IN SUBPARAGRAPH (V)4 OF THIS PARAGRAPH; AND

5. DECERTIFY A LABOR ORGANIZATION AS THE EXCLUSIVE REPRESENTATIVE OF THE DEPUTY SHERIFFS SUBJECT TO THIS PARAGRAPH.

(III) 1. A LABOR ORGANIZATION SEEKING CERTIFICATION AS AN EXCLUSIVE REPRESENTATIVE MUST SUBMIT A PETITION TO THE SHERIFF AND THE COUNTY COMMISSIONERS THAT IS SIGNED BY MORE THAN 50% OF THE SWORN LAW ENFORCEMENT DEPUTY SHERIFFS AT THE RANK OF ~~FIRST~~ SERGEANT AND BELOW INDICATING THE DESIRE OF THE DEPUTY SHERIFFS SUBJECT TO THIS PARAGRAPH TO BE REPRESENTED EXCLUSIVELY BY THE LABOR ORGANIZATION FOR THE PURPOSE OF COLLECTIVE BARGAINING.

2. IF THE SHERIFF AND THE COUNTY COMMISSIONERS DO NOT CHALLENGE THE VALIDITY OF THE PETITION WITHIN 20 CALENDAR DAYS FOLLOWING THE RECEIPT OF THE PETITION, THE LABOR ORGANIZATION SHALL BE DEEMED CERTIFIED AS THE EXCLUSIVE REPRESENTATIVE.

3. IF THE SHERIFF OR THE COUNTY COMMISSIONERS CHALLENGE THE VALIDITY OF THE PETITION, THE AMERICAN ARBITRATION ASSOCIATION SHALL APPOINT A NEUTRAL THIRD PARTY TO CONDUCT AN ELECTION AND TO CERTIFY WHETHER THE LABOR ORGANIZATION HAS BEEN SELECTED AS THE EXCLUSIVE REPRESENTATIVE BY A MAJORITY OF THE VOTES CAST IN THE ELECTION.

4. THE COSTS ASSOCIATED WITH THE APPOINTMENT OF A NEUTRAL THIRD PARTY SHALL BE SHARED EQUALLY BY THE PARTIES.

5. A LABOR ORGANIZATION SHALL BE DEEMED DECERTIFIED IF A PETITION IS SUBMITTED TO THE SHERIFF AND THE COUNTY COMMISSIONERS THAT IS SIGNED BY MORE THAN 50% OF THE FULL–TIME SWORN LAW ENFORCEMENT DEPUTY SHERIFFS AT THE RANK OF ~~FIRST~~ SERGEANT AND BELOW INDICATING THE DESIRE OF THE DEPUTY SHERIFFS TO DECERTIFY THE LABOR ORGANIZATION AS THE EXCLUSIVE REPRESENTATIVE OF THE DEPUTY SHERIFFS SUBJECT TO THIS PARAGRAPH.

(IV) 1. FOLLOWING CERTIFICATION OF AN EXCLUSIVE REPRESENTATIVE AS PROVIDED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH, THE CERTIFIED LABOR ORGANIZATION AND THE SHERIFF AND THE COUNTY COMMISSIONERS SHALL MEET AT REASONABLE TIMES AND ENGAGE IN COLLECTIVE BARGAINING IN GOOD FAITH.

2. THE CERTIFIED LABOR ORGANIZATION, THE SHERIFF, AND THE COUNTY COMMISSIONERS SHALL MAKE EVERY REASONABLE EFFORT TO CONCLUDE NEGOTIATIONS ON OR BEFORE FEBRUARY 15 OF THE YEAR IN WHICH A COLLECTIVE BARGAINING AGREEMENT IS TO TAKE EFFECT TO ALLOW FOR INCLUSION BY THE SHERIFF OF MATTERS AGREED UPON IN ITS BUDGET REQUEST TO THE COUNTY COMMISSIONERS.

3. A. IF THE CERTIFIED LABOR ORGANIZATION AND THE SHERIFF AND THE COUNTY COMMISSIONERS ARE UNABLE TO REACH AN AGREEMENT BEFORE THE DATE SET FORTH IN SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, EITHER THE CERTIFIED LABOR ORGANIZATION OR THE SHERIFF AND THE COUNTY COMMISSIONERS MAY SEEK NONBINDING MEDIATION THROUGH THE FEDERAL MEDIATION AND CONCILIATION SERVICE.

B. A PARTY SEEKING NONBINDING MEDIATION UNDER SUBSUBSUBPARAGRAPH A OF THIS SUBSUBPARAGRAPH SHALL GIVE WRITTEN NOTICE TO THE OTHER PARTY AND TO THE FEDERAL MEDIATION AND CONCILIATION SERVICE AT LEAST 15 DAYS PRIOR TO THE START OF THE FIRST MEDIATION MEETING.

C. THE COSTS ASSOCIATED WITH THE MEDIATOR OR MEDIATION PROCESS SHALL BE SHARED EQUALLY BY THE PARTIES.

D. THE CERTIFIED LABOR ORGANIZATION, THE SHERIFF, AND THE COUNTY COMMISSIONERS SHALL ENGAGE IN NONBINDING MEDIATION FOR AT LEAST 30 DAYS UNLESS THEY MUTUALLY AGREE IN WRITING

TO TERMINATION OR EXTENSION OF THE MEDIATION OR REACH AN AGREEMENT.

E. THE CONTENTS OF THE MEDIATION PROCEEDINGS MAY NOT BE DISCLOSED BY ANY OF THE PARTIES OR THE MEDIATOR.

4. ~~A. IF~~ *THE GOVERNING BODY OF CECIL COUNTY SHALL ENACT A LOCAL ORDINANCE THAT ALLOWS FOR NONBINDING ARBITRATION IF* THE CERTIFIED LABOR ORGANIZATION, THE SHERIFF, AND THE COUNTY COMMISSIONERS ARE UNABLE TO REACH AN AGREEMENT THROUGH MEDIATION UNDER SUBSUBPARAGRAPH 3 OF THIS SUBPARAGRAPH~~, ANY OF THE PARTIES MAY DEMAND AN ARBITRATOR~~.

~~**B. THE ARBITRATOR SHALL BE SELECTED FROM A PANEL OF SEVEN ARBITRATORS WHO ARE MEMBERS OF THE NATIONAL ACADEMY OF ARBITRATORS.**~~

~~**C. THE PARTIES SHALL SELECT AN ARBITRATOR BY ALTERNATIVE STRIKES FROM THE PANEL.**~~

~~**D. THE ARBITRATOR SELECTED MAY SCHEDULE A HEARING, ISSUE SUBPOENAS TO COMPEL THE TESTIMONY OF WITNESSES AND THE PRODUCTION OF DOCUMENTS, ADMINISTER OATHS, AND DECLARE THE RECORD CLOSED.**~~

~~**E. THE ARBITRATOR SELECTED SHALL RECEIVE AND ENTER INTO THE RECORD THE FINAL OFFERS OF THE CERTIFIED LABOR ORGANIZATION AND THE SHERIFF AND THE COUNTY COMMISSIONERS.**~~

~~**F. THE ARBITRATOR MAY RECEIVE AND CONSIDER EVIDENCE REGARDING HOURS, WAGES, AND BENEFITS OF SIMILAR SWORN LAW ENFORCEMENT EMPLOYEES IN COMPARABLE SURROUNDING JURISDICTIONS, THE COST OF LIVING IN CECIL COUNTY, THE CONDITION OF CECIL COUNTY'S GENERAL OPERATING FUND AND CECIL COUNTY'S ABILITY TO FUND THE FINAL PROPOSED OFFERS, THE NATURE OF THE WORK PERFORMED BY EMPLOYEES REPRESENTED BY THE CERTIFIED LABOR ORGANIZATION, AND OTHER INFORMATION THAT THE ARBITRATOR CONSIDERS NECESSARY TO WEIGH FULLY THE FINAL PROPOSED OFFERS OF THE CERTIFIED LABOR ORGANIZATION AND THE SHERIFF AND THE COUNTY COMMISSIONERS.**~~

~~**G. UNLESS THE PARTIES MUTUALLY AGREE TO AN EXTENSION, THE ARBITRATOR SHALL ISSUE A FINAL REPORT TO THE SHERIFF**~~

~~AND THE COUNTY COMMISSIONERS WITHIN 30 DAYS AFTER THE RECORD IS CLOSED.~~

~~H. THE WRITTEN DECISION OF THE ARBITRATOR IS NONBINDING ON THE SHERIFF AND THE COUNTY COMMISSIONERS.~~

~~I. THE COSTS OF ARBITRATION SHALL BE SHARED EQUALLY BY THE PARTIES.~~

(V) 1. A COLLECTIVE BARGAINING AGREEMENT SHALL CONTAIN ALL MATTERS OF AGREEMENT REACHED IN THE COLLECTIVE BARGAINING PROCESS.

2. A COLLECTIVE BARGAINING AGREEMENT MAY CONTAIN A GRIEVANCE PROCEDURE PROVIDING FOR BINDING ARBITRATION OF GRIEVANCES IN REFERENCE TO A LABOR CONTRACT, INCLUDING GRIEVANCES RELATED TO INTERPRETATION OR BREACH OF CONTRACT.

3. A COLLECTIVE BARGAINING AGREEMENT REACHED IN ACCORDANCE WITH THIS PARAGRAPH SHALL BE IN WRITING AND SIGNED BY THE CERTIFIED REPRESENTATIVES OF THE PARTIES INVOLVED IN THE COLLECTIVE BARGAINING NEGOTIATIONS.

4. EXCEPT AS PROVIDED IN THE CODE AND REGULATIONS OF CECIL COUNTY, THE PROVISIONS OF THIS SUBPARAGRAPH AND ANY AGREEMENT MADE UNDER IT MAY NOT IMPAIR THE RIGHT AND THE RESPONSIBILITY OF THE SHERIFF TO:

A. DETERMINE THE MISSION, BUDGET, ORGANIZATION, NUMBERS, TYPES, CLASSES, GRADES, AND RANKS OF DEPUTY SHERIFFS ASSIGNED, THE SERVICES TO BE RENDERED, OPERATIONS TO BE PERFORMED, AND THE TECHNOLOGY TO BE USED;

B. SET THE STANDARDS OF SERVICE AND EXERCISE CONTROL OVER OPERATIONS, INCLUDING THE RIGHTS TO DETERMINE WORK SHIFTS AND THE NUMBER OF DEPUTY SHERIFFS ON EACH SHIFT;

C. ASSIGN AND RETAIN DEPUTY SHERIFFS IN POSITIONS WITHIN THE OFFICE;

D. DETERMINE AND SET WORK PROJECTS, TOURS OF DUTY, SCHEDULES, ASSIGNMENTS, AND METHODS, MEANS, AND PERSONNEL BY WHICH OPERATIONS ARE CONDUCTED;

E. DETERMINE AND SET TECHNOLOGY NEEDS, INTERNAL SECURITY PRACTICES, EQUIPMENT, AND THE LOCATION OF FACILITIES;

F. MAINTAIN AND IMPROVE THE EFFICIENCY AND EFFECTIVENESS OF OPERATIONS;

G. HIRE, DIRECT, SUPERVISE, PROMOTE, DEMOTE, DISCIPLINE, ASSIGN, AND WITH REASONABLE CAUSE DISCHARGE FULL–TIME SWORN LAW ENFORCEMENT DEPUTY SHERIFFS, WITH THE EXCEPTION THAT THE PROMOTIONAL PROCESS FOR DEPUTY SHERIFFS UP TO THE RANK OF ~~FIRST~~ SERGEANT AND THE NUMBER AND COMPOSITION OF TRIAL BOARDS FOR THE DISCIPLINE PROCESS FOR DEPUTY SHERIFFS AT THE RANK OF ~~FIRST~~ SERGEANT AND BELOW ARE SUBJECT TO COLLECTIVE BARGAINING;

H. DETERMINE AND SET THE QUALIFICATIONS OF DEPUTY SHERIFFS FOR APPOINTMENT AND PROMOTIONS; AND

I. DETERMINE AND SET THE STANDARDS OF CONDUCT, AND WITH CONSULTATION AND INPUT FROM THE CERTIFIED LABOR ORGANIZATION, ADOPT RULES, ORDERS, POLICIES, REGULATIONS, AND PROCEDURES ON MUTUALLY AGREED ON SUBJECTS.

5. A COLLECTIVE BARGAINING AGREEMENT IS NOT EFFECTIVE UNTIL IT IS RATIFIED BY THE MAJORITY OF VOTES CAST BY THE DEPUTY SHERIFFS IN THE BARGAINING UNIT AND APPROVED BY THE SHERIFF AND THE COUNTY COMMISSIONERS.

~~(VI) 1. THE COSTS PAID BY THE COUNTY COMMISSIONERS UNDER SUBPARAGRAPHS (III)4, (IV)3C, AND (IV)4I OF THIS PARAGRAPH MAY NOT EXCEED $15,000 IN TOTAL FOR FISCAL YEAR 2010 2011.~~

~~2. A. THE COUNTY COMMISSIONERS AND CERTIFIED LABOR ORGANIZATION SHALL NEGOTIATE A COST SHARING CAP FOR FISCAL YEAR 2011 2012 AND EACH SUBSEQUENT FISCAL YEAR.~~

~~B. IF THE COUNTY COMMISSIONERS AND CERTIFIED LABOR ORGANIZATION ARE UNABLE TO REACH AN AGREEMENT BY DECEMBER 1 OF THE PRIOR FISCAL YEAR, THE COST SHARING CAP SHALL INCREASE BY A PERCENTAGE EQUAL TO THE ANNUAL PERCENTAGE INCREASE IN COMPENSATION COSTS FOR CIVILIAN WORKERS FOR THE PRIOR CALENDAR YEAR, AS MEASURED BY THE EMPLOYMENT COST INDEX AS PUBLISHED BY THE BUREAU OF LABOR STATISTICS OF THE U.S. DEPARTMENT OF LABOR.~~

~~(VII)~~ *(VI)* **NOTHING IN THIS PARAGRAPH MAY BE CONSTRUED TO:**

1. AUTHORIZE OR OTHERWISE ALLOW A DEPUTY SHERIFF TO ENGAGE IN A STRIKE AS DEFINED IN § 3–303 OF THE STATE PERSONNEL AND PENSIONS ARTICLE; AND

2. AUTHORIZE THE COLLECTION OF MANDATORY MEMBERSHIP FEES FROM NONMEMBERS OF THE EMPLOYEE ORGANIZATION.

~~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 Cecil County at the general election to be held in November of 2010. The County governing body and the Cecil 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 collective bargaining with binding arbitration" and a corresponding square or box opposite the words "For collective bargaining with nonbinding arbitration". A voter may choose only one of the methods of arbitration. If a majority of the votes cast on the question are "For collective bargaining with binding arbitration" the provisions of Section 1 of this Act shall become effective on the 30th day following the official canvass of votes for the referendum and the provisions of Section 2 of this Act are of no effect and null and void. If a majority of the votes cast on the question are "For collective bargaining with nonbinding arbitration" the provisions of Section 2 of this Act become effective on the 30th day following the official canvass of votes for the referendum and the provisions of Section 1 of this Act are of no effect and null and void.~~

SECTION ~~4.~~ 2. 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 July 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 601

(Senate Bill 729)

AN ACT concerning

Cecil County – Regulation of Domestic Animals

FOR the purpose of authorizing the County Commissioners of Cecil County, by ordinance, to provide for certain regulation of certain domestic animals and certain hybrids of domestic and wild animals; and generally relating to the regulation of domestic animals in Cecil County.

BY repealing and reenacting, with amendments,
Article 24 – Political Subdivisions – Miscellaneous Provisions
Section 11–511
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

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

Article 24 – Political Subdivisions – Miscellaneous Provisions

11–511.

(a) This section only applies to Carroll County**, CECIL COUNTY,** and Frederick County.

(b) In addition to and not in substitution for any powers granted under this article, the county commissioners, by ordinance, may provide for a comprehensive system for the regulation of domestic animals, including dogs, and wild animals held in captivity, within the county, including licensing and control.

(c) These regulations may include:

(1) Provisions for the impoundment and disposal of unlicensed or dangerous dogs;

(2) Provisions for the regulation of persons who own or keep any animal which disturbs the peace and quiet of a neighborhood, or which is vicious; and

(3) Reasonable penalties for violations of any of the provisions of the regulations, not to exceed imprisonment in the county jail for 30 days or a fine of $500, or both.

(d) The county commissioners:

(1) May regulate animals that are hybrids of domestic or wild animals; but

(2) May not regulate or control wild animals that are not owned or kept by individuals.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 602

(Senate Bill 731)

AN ACT concerning

Cecil County – Emergency Medical Services – Collective Bargaining

FOR the purpose of authorizing the representatives of certain employees in the Division of Emergency Medical Services to bargain collectively with the Cecil County Commissioners on certain issues; authorizing the County Commissioners to recognize or withdraw recognition of a certain representative under certain circumstances; providing for the subject of, the time frame of, the rules of conduct for, and the process and remedies for violations of the collective bargaining agreement; requiring a certain memorandum between the County Commissioners and a certain representative; authorizing the County Commissioners to also have a certain representative; establishing certain actions not authorized by this Act; defining certain terms; and generally relating to collective bargaining of emergency medical services employees in Cecil County.

BY adding to
The Public Local Laws of Cecil County
Section 15–13
Article 8 – Public Local Laws of Maryland
(1989 Edition and July 2009 Supplement, as amended)

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

Article 8 – Cecil County

15–13.

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

(2) (A) "COLLECTIVE BARGAINING" MEANS TO MEET IN GOOD FAITH AT REASONABLE TIMES TO ATTEMPT TO NEGOTIATE AN AGREEMENT CONCERNING SUBJECTS OF BARGAINING AUTHORIZED BY LAW.

(B) "COLLECTIVE BARGAINING" DOES NOT INCLUDE A MEETING IN WHICH ONLY REPRESENTATIVES OF THE BOARD OF COUNTY COMMISSIONERS ARE IN ATTENDANCE OR A MEETING IN WHICH ONLY REPRESENTATIVES OF THE EXCLUSIVE REPRESENTATIVE ARE IN ATTENDANCE.

(3) "EMPLOYEE" MEANS A REGULAR, NONEXEMPT, UNIFORMED EMPLOYEE WITHIN THE CECIL COUNTY DIVISION OF EMERGENCY MEDICAL SERVICES AT THE RANK OF CAPTAIN OR BELOW.

(4) "EMPLOYEE ORGANIZATION" MEANS AN ORGANIZATION OF EMPLOYEES THAT, AS ONE OF ITS PRIMARY PURPOSES, REPRESENTS EMPLOYEES IN COLLECTIVE BARGAINING WITH THE EMPLOYER.

(5) "EXCLUSIVE REPRESENTATIVE" MEANS THE EMPLOYEE ORGANIZATION THAT HAS BEEN CERTIFIED THROUGH AN ELECTION BY ELIGIBLE EMPLOYEES OR OTHERWISE RECOGNIZED BY THE BOARD OF COUNTY COMMISSIONERS TO REPRESENT AND NEGOTIATE FOR THOSE EMPLOYEES WITH THE BOARD OF COUNTY COMMISSIONERS TERMS AND CONDITIONS OF EMPLOYMENT.

B. THE BOARD OF COUNTY COMMISSIONERS MAY ENACT AN ORDINANCE TO:

(1) AUTHORIZE RECOGNITION OF AN EXCLUSIVE REPRESENTATIVE BY ELECTION OR VOLUNTARY RECOGNITION THROUGH A CHECK OF AUTHORIZATION CARDS AT THE BOARD'S OPTION AND PROVIDE A PROCESS FOR SUCH AUTHORIZATION;

(2) AUTHORIZE WITHDRAWAL OF RECOGNITION OF AN EXCLUSIVE REPRESENTATIVE BASED ON CIRCUMSTANCES SPECIFIED IN THE ORDINANCE AND PROVIDE A PROCESS FOR THE WITHDRAWAL;

(3) ALLOW COLLECTIVE BARGAINING BETWEEN THE BOARD OF COUNTY COMMISSIONERS AND THE EXCLUSIVE REPRESENTATIVE OF ITS EMPLOYEES CONCERNING TERMS AND CONDITIONS OF EMPLOYMENT, AND A PROCESS TO RESOLVE DISAGREEMENTS CONCERNING THE INTERPRETATION OF ANY AGREEMENT MADE BETWEEN THE EXCLUSIVE REPRESENTATIVE AND THE BOARD;

(4) SET FORTH THE SUBJECTS OF COLLECTIVE BARGAINING AND THE RIGHTS RESERVED BY THE BOARD FROM THOSE SUBJECTS;

(5) SET FORTH THE TIME FRAMES OF THE COLLECTIVE BARGAINING PROCESS;

(6) PROVIDE RULES OF CONDUCT FOR COLLECTIVE BARGAINING; AND

(7) PROVIDE A PROCESS AND REMEDIES FOR VIOLATIONS OF ESTABLISHED RULES.

C. ONCE AUTHORIZED BY AN ORDINANCE, COLLECTIVE BARGAINING BETWEEN THE BOARD OF COUNTY COMMISSIONERS AND THE EXCLUSIVE REPRESENTATIVE SHALL INCLUDE A MEMORANDUM OF UNDERSTANDING CONCERNING THE AGREEMENTS MADE AS A RESULT OF BARGAINING.

D. SUBJECT TO AN ANNUAL EXERCISE OF AUTHORITY CONCERNING FISCAL PROCEDURES IN STATE LAW OR COUNTY ORDINANCE, A MEMORANDUM OF UNDERSTANDING BETWEEN THE BOARD OF COUNTY COMMISSIONERS AND AN EXCLUSIVE REPRESENTATIVE SHALL BE BINDING ON THE BOARD AND THE EXCLUSIVE REPRESENTATIVE.

E. THE BOARD OF COUNTY COMMISSIONERS MAY RETAIN OR DESIGNATE INDIVIDUALS TO NEGOTIATE ON ITS BEHALF WITH THE EXCLUSIVE REPRESENTATIVE.

F. THIS SECTION DOES NOT:

(1) AUTHORIZE OR OTHERWISE PERMIT AN EMPLOYEE TO ENGAGE IN A STRIKE AS DEFINED IN § 3–303 OF THE STATE PERSONNEL AND PENSIONS ARTICLE OF THE ANNOTATED CODE OF MARYLAND;

(2) AUTHORIZE OR OTHERWISE PERMIT THE COUNTY TO ENGAGE IN A LOCKOUT AS DEFINED IN § 3–304 OF THE STATE PERSONNEL AND PENSIONS ARTICLE OF THE ANNOTATED CODE OF MARYLAND;

(3) REQUIRE ANY METHOD, MEANS, OR SCOPE OF BARGAINING BETWEEN THE BOARD OF COUNTY COMMISSIONERS AND AN EXCLUSIVE REPRESENTATIVE;

(4) AUTHORIZE BINDING INTEREST ARBITRATION; AND

(5) AUTHORIZE THE COLLECTION OF MANDATORY MEMBERSHIP FEES FROM NONMEMBERS OF THE EMPLOYEE ORGANIZATION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 603

(Senate Bill 733)

AN ACT concerning

Cecil County – Budget and Taxes

FOR the purpose of repealing a requirement that a certain public notice contain a copy of the proposed budget of Cecil County; requiring that a certain public notice indicate that the proposed budget of Cecil County will be available on the county website and shall be reproduced and made available to the public on request; repealing a certain provision relating to when certain taxes are in arrears and when certain interest shall be charged and collected; providing that certain taxes are due and payable in accordance with certain provisions of law; repealing a requirement that the Treasurer of Cecil County shall make a certain list alphabetical; altering the place where the Treasurer of Cecil County shall hold a certain tax sale under certain circumstances; repealing a certain provision relating to when the Treasurer of Cecil County shall accept certain tax payments; authorizing that certain delinquent taxes, interest, and certain costs or penalties may be payable by a credit card as honored by the county; and generally relating to the Cecil County budget and taxes.

BY repealing and reenacting, with amendments,
The Public Local Laws of Cecil County
Section 34–7 and 34–13
Article 8 – Public Local Laws of Maryland
(1989 Edition and July 2009 Supplement, as amended)

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

Article 8 – Cecil County

34–7.

In each year during the month of May the Board of Estimates prior to the adoption of the budget shall hold at least two public hearings on the proposed budget, one of which shall be held during evening hours. Public notice of the time and place of each hearing shall be published at least 1 week before a hearing in at least one newspaper of general circulation in Cecil County. **[**The public notice shall contain a copy of the proposed budget. In addition, the public notice shall state separately the name of each nongovernmental, nonprofit agency receiving a grant under the budget and the amount of the proposed grant.**] THE PUBLIC NOTICE SHALL INDICATE THAT THE PROPOSED BUDGET WILL BE MADE AVAILABLE ON THE COUNTY WEBSITE AND SHALL BE REPRODUCED AND MADE AVAILABLE TO THE PUBLIC ON REQUEST.** From May 1 to June 1 in each year at least one copy of the proposed budget shall be available for public inspection at the office of the Board of Estimates during all regular business hours.

34–13.

A. **[**On and after October 1 of each year taxes shall be deemed in arrears. Interest shall be charged and collected from October 1 until the taxes are paid.**] TAXES ARE DUE AND PAYABLE IN ACCORDANCE WITH TITLE 10, SUBTITLES 1 AND 2 OF THE TAX – PROPERTY ARTICLE OF THE ANNOTATED CODE OF MARYLAND.** Immediately after December 1, the Treasurer shall send notice of all unpaid accounts, showing the amount of the assessment, the taxes due, and the charges that have been added. The notice shall warn the delinquent that unless settlement in full is made before the next March 1, the property so assessed will be advertised and sold according to the provisions of this section and Part III of Title 14, Subtitle 8 of the Tax – Property Article of the Annotated Code of Maryland.

B. Immediately after the levy is made, the Treasurer shall make out the bill of each taxpayer and shall forward the bill by mail or otherwise to the person, or the person's agent, to whom taxes have been assessed. On March 1 of each year, the Treasurer shall make **[**an alphabetical**] A** list by election districts, in their numerical order, of taxes due and in arrears. The list shall contain the name of each person or body corporate assessed with property on which taxes are due and in arrears, a brief description of the property, real and personal, and references to conveyances or another description that identifies real property, and the amount of the tax levied and in arrears, with the interest and costs that will accrue through the day of sale. A notice shall be attached to the list stating that if the taxes are not paid on or before the first Monday in June, together with the interest accrued and the proportional cost of advertising and fees, the Treasurer will proceed at 10:00 a.m. on the first Monday in June, at the **[**courthouse in the county**] COUNTY ADMINISTRATION BUILDING**, to offer each parcel of land or the personal property for sale to the highest bidder for cash. The list and notice shall be published four times, once a week for four successive weeks prior to the first Monday in June in one or more newspapers having a general circulation in the county. On the first Monday in June, the Treasurer shall, at the hour and places named in the advertisement, proceed to sell the parcels of land and the personal property, beginning with the first on the list, and so on in order. The sale

shall continue each secular day, legal holidays excepted, from 10:00 a.m. until 4:30 p.m. until each property has been offered. If the Treasurer, by reason of illness or other disability, is unable to conduct the sale, then a deputy appointed by the Treasurer shall conduct the sale and make the affidavit to the report of sales as provided for by law.

[C. Provided, however, that on or before the 30th day of September in each year, the Treasurer shall accept 1/3 of the taxes due by each of said taxpayers. On or before the first day of April, each year, the Treasurer shall accept the second 1/3 of taxes due by each of said taxpayers. On or before the scheduled sale of the property, the Treasurer shall accept the remaining 1/3 of taxes due by each of said taxpayers.**]**

[D.**] C.** The Treasurer, in and about the collection of delinquent taxes, shall have all the powers and authority of a collector of taxes under the Annotated Code of Maryland; and should the Treasurer deem it impracticable to sell personal property liable for taxes at the time and place aforesaid, then he may advertise and sell said personal property under the power and authority conferred upon collectors of taxes by the Tax – Property Article of the Annotated Code of Maryland, provided that the Treasurer shall proceed with such sales as soon as possible after the first Monday in June, as named in this section.

[E.**] D.** The Treasurer is not entitled to any commission on the amount of sales made by him in pursuance of the provisions of this section.

[F.**] E.** Property sold for taxes may be redeemed as provided by the Annotated Code of Maryland upon the payment of the taxes, with interest, costs of advertising, and actual expenses of sale.

[G.**] F.** The treasurer, in and about the collection of delinquent taxes, shall have authority to employ such counsel as may be necessary to advise and assist the Treasurer; and the reasonable cost of legal assistance and advice shall be paid by the Board of County Commissioners of Cecil County, upon the order of the Treasurer.

[H.**] G.** Delinquent taxes, interest due on the taxes and any costs or penalties due and owing on or after May 1 of each year shall be paid by cash, cashier's check, certified check, money order or credit card **AS HONORED BY THE COUNTY**.

[I.**] H.** Upon payment in full of a county property tax bill in the month of July, and on the first semiannual installment payment of a county property tax bill in the month of July, there shall be a discount of 2% of said bill, and upon payment in full of a county property tax bill in the month of August, and on the first semiannual installment payment of a county property tax bill in the month of August, there shall be a 0% discount in the amount of the property tax.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 604

(Senate Bill 774)

AN ACT concerning

~~Life and Health Insurance – Senior Investment Protection~~
Insurance Producers – Use of Senior or Retiree Credential or Designation

FOR the purpose of prohibiting ~~a person~~ an insurance producer from using a ~~senior–specific certification or professional~~ senior or retiree credential or designation in a way that is or would ~~mislead a purchaser of life insurance, health insurance, or an annuity about certain matters; stating the intent of this Act; requiring the Maryland Insurance Commissioner to specify certain misleading uses of certain certifications and designations by regulation or order; providing that certain uses shall be specified as being misleading under this Act; requiring the Commissioner to consult with the Securities Commissioner of the Securities Division on certain matters; establishing a rebuttable presumption concerning certain organizations that issue certain certifications and designations; establishing certain factors to consider in interpreting certain certifications and designations; establishing a penalty for violating this Act, including imprisonment and a fine; providing for the application of this Act; providing for the construction of this Act, including certain conflict of laws; defining certain terms; and generally relating to the sale and purchase of life insurance, health insurance, and annuities~~ be misleading in connection with the offer, sale, or purchase of ~~insurance~~ *life insurance, health insurance, or annuities*; requiring the Maryland Insurance Commissioner, in consultation with the Securities Commissioner of the Division of Securities in the Office of the Attorney General, to adopt certain regulations; providing that the regulations may contain certain exemptions under certain circumstances; providing that a violation of this Act constitutes a lack of trustworthiness for the purposes of certain provisions of law; providing for the construction of this Act; and generally relating to the offer, sale, and purchase of insurance.

BY repealing and reenacting, without amendments,
Article – Insurance
Section 27–201
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

BY adding to
Article – Insurance

Section 27–223
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

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

Article – Insurance

27–201.

The commission of an act prohibited under this subtitle is defined as an unfair method of competition and an unfair and deceptive act or practice in the business of insurance.

27–223.

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

~~(2) "FINANCIAL SERVICES REGULATORY AGENCY" INCLUDES A UNIT THAT REGULATES INSURERS, INSURANCE AGENTS, BROKER–DEALERS, INVESTMENT ADVISERS, OR INVESTMENT COMPANIES AS DEFINED UNDER THE FEDERAL INVESTMENT COMPANY ACT OF 1940.~~

~~(3) "HEALTH INSURANCE" MEANS A POLICY OF INDIVIDUAL OR GROUP SICKNESS AND ACCIDENT INSURANCE, LONG–TERM CARE INSURANCE, MEDICARE ADVANTAGE, MEDICARE SUPPLEMENT, OR MEDICARE PART D.~~

~~(B) IT IS THE INTENT OF THIS SECTION TO SET FORTH STANDARDS TO PROTECT CONSUMERS FROM DISHONEST, DECEPTIVE, MISLEADING, AND FRAUDULENT TRADE PRACTICES IN THE USE OF SENIOR–SPECIFIC CERTIFICATIONS AND PROFESSIONAL DESIGNATIONS IN THE MARKETING, SOLICITATION, NEGOTIATION, SALE, AND PURCHASE OF, AND ADVICE GIVEN IN CONNECTION WITH, LIFE INSURANCE, HEALTH INSURANCE, AND ANNUITIES.~~

~~(C) THIS SECTION APPLIES TO ANY SOLICITATION, SALE, OR PURCHASE OF, OR ADVICE GIVEN IN CONNECTION WITH, LIFE INSURANCE, HEALTH INSURANCE, OR AN ANNUITY BY A PERSON.~~

~~(D) A PERSON MAY NOT USE A SENIOR–SPECIFIC CERTIFICATION OR PROFESSIONAL DESIGNATION THAT INDICATES OR IMPLIES, IN A WAY THAT IS OR WOULD BE MISLEADING TO A PURCHASER OR PROSPECTIVE PURCHASER, THAT THE PERSON HAS SPECIAL CERTIFICATION OR TRAINING IN ADVISING OR PROVIDING SERVICES TO SENIORS IN CONNECTION WITH THE MARKETING,~~

~~NEGOTIATING, SOLICITING, SELLING, OR PURCHASING OF LIFE INSURANCE, HEALTH INSURANCE, OR AN ANNUITY OR IN PROVIDING ADVICE AS TO THE VALUE OF OR THE ADVISABILITY OF PURCHASING LIFE INSURANCE, HEALTH INSURANCE, OR AN ANNUITY, EITHER DIRECTLY OR INDIRECTLY, THROUGH PUBLICATIONS OR WRITINGS, OR BY ISSUING OR PUBLISHING ANALYSES OR REPORTS RELATED TO LIFE INSURANCE, HEALTH INSURANCE, OR AN ANNUITY.~~

~~(E) (1) BY REGULATION OR ORDER, THE COMMISSIONER SHALL SPECIFY WHAT CONSTITUTES A MISLEADING USE OF A SENIOR-SPECIFIC CERTIFICATION OR PROFESSIONAL DESIGNATION FOR PURPOSES OF SUBSECTION (D) OF THIS SECTION.~~

~~(2) THE MISLEADING USES SPECIFIED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE:~~

~~(I) USE OF A CERTIFICATION OR PROFESSIONAL DESIGNATION BY A PERSON WHO HAS NOT ACTUALLY EARNED OR IS OTHERWISE INELIGIBLE TO USE THE CERTIFICATION OR DESIGNATION;~~

~~(II) USE OF A NONEXISTENT OR SELF-CONFERRED CERTIFICATION OR PROFESSIONAL DESIGNATION;~~

~~(III) USE OF A CERTIFICATION OR PROFESSIONAL DESIGNATION THAT INDICATES OR IMPLIES A LEVEL OF OCCUPATIONAL QUALIFICATIONS OBTAINED THROUGH EDUCATION, TRAINING, OR EXPERIENCE THAT THE PERSON USING THE CERTIFICATION OR DESIGNATION DOES NOT HAVE; AND~~

~~(IV) USE OF A CERTIFICATION OR PROFESSIONAL DESIGNATION THAT WAS OBTAINED FROM A CERTIFYING OR DESIGNATING ORGANIZATION THAT:~~

~~1. IS PRIMARILY ENGAGED IN THE BUSINESS OF INSTRUCTION IN SALES OR MARKETING;~~

~~2. DOES NOT HAVE REASONABLE STANDARDS OR PROCEDURES FOR ASSURING THE COMPETENCY OF THOSE CERTIFIED OR DESIGNATED;~~

~~3. DOES NOT HAVE REASONABLE STANDARDS OR PROCEDURES FOR MONITORING AND DISCIPLINING THOSE CERTIFIED OR DESIGNATED FOR IMPROPER OR UNETHICAL CONDUCT; OR~~

~~4. DOES NOT HAVE REASONABLE CONTINUING EDUCATION REQUIREMENTS FOR THOSE CERTIFIED OR DESIGNATED IN ORDER TO MAINTAIN THE CERTIFICATE OR DESIGNATION.~~

~~(3) IN SPECIFYING MISLEADING USES UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COMMISSIONER SHALL CONSULT WITH THE SECURITIES COMMISSIONER OF THE SECURITIES DIVISION IN ORDER TO ESTABLISH WHICH ACTS MAY BE CONSIDERED VIOLATIONS OF THIS SECTION AND WHICH MAY BE CONSIDERED VIOLATIONS OF § 11–305 OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE.~~

~~(F) THERE IS A REBUTTABLE PRESUMPTION THAT A CERTIFYING OR DESIGNATING ORGANIZATION IS NOT DISQUALIFIED UNDER THIS SECTION IF:~~

~~(1) THE CERTIFICATION OR DESIGNATION ISSUED FROM THE ORGANIZATION DOES NOT PRIMARILY APPLY TO SALES OR MARKETING; AND~~

~~(2) THE ORGANIZATION OR THE CERTIFICATION OR DESIGNATION IN QUESTION HAS BEEN ACCREDITED BY ONE OF THE FOLLOWING ACCREDITING ENTITIES:~~

~~(I) THE AMERICAN NATIONAL STANDARDS INSTITUTE ("ANSI");~~

~~(II) THE NATIONAL COMMISSION FOR CERTIFYING AGENCIES; OR~~

~~(III) AN ORGANIZATION THAT IS ON THE U.S. DEPARTMENT OF EDUCATION'S LIST ENTITLED "ACCREDITING AGENCIES RECOGNIZED FOR TITLE IV PURPOSES".~~

~~(G) (1) IN DETERMINING WHETHER A COMBINATION OF WORDS OR AN ACRONYM STANDING FOR A COMBINATION OF WORDS CONSTITUTES A CERTIFICATION OR PROFESSIONAL DESIGNATION INDICATING OR IMPLYING THAT A PERSON HAS SPECIAL CERTIFICATION OR TRAINING IN ADVISING OR SERVICING SENIORS, FACTORS TO BE CONSIDERED SHALL INCLUDE:~~

~~(I) USE OF ONE OR MORE WORDS SUCH AS "SENIOR", "RETIREMENT", "ELDER", OR SIMILAR WORDS COMBINED WITH ONE OR MORE WORDS SUCH AS "CERTIFIED", "REGISTERED", "CHARTERED", "ADVISOR", "SPECIALIST", "CONSULTANT", "PLANNER", OR SIMILAR WORDS, IN THE NAME OF THE CERTIFICATION OR PROFESSIONAL DESIGNATION; AND~~

~~(II) THE MANNER IN WHICH THOSE WORDS ARE COMBINED.~~

~~(2) FOR PURPOSES OF THIS SECTION, A JOB TITLE WITHIN AN ORGANIZATION THAT IS LICENSED OR REGISTERED BY A STATE OR FEDERAL FINANCIAL SERVICES REGULATORY AGENCY IS NOT A CERTIFICATION OR PROFESSIONAL DESIGNATION, UNLESS THE JOB TITLE IS USED IN A MANNER THAT WOULD CONFUSE OR MISLEAD A REASONABLE CONSUMER, WHEN THE JOB TITLE:~~

~~(I) INDICATES SENIORITY OR STANDING WITHIN THE ORGANIZATION; OR~~

~~(II) SPECIFIES AN INDIVIDUAL'S AREA OF SPECIALIZATION WITHIN THE ORGANIZATION.~~

~~(II) (1) IN ADDITION TO ANY OTHER PENALTY PROVIDED BY LAW, A PERSON THAT WILLFULLY VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 5 YEARS OR A FINE NOT EXCEEDING $100,000 OR BOTH.~~

~~(2) EACH VIOLATION OF THIS SECTION IS A SEPARATE VIOLATION.~~

~~(I) (1) NOTHING IN THIS SECTION LIMITS THE AUTHORITY OF THE COMMISSIONER TO ENFORCE ANY OTHER LAW.~~

~~(2) IN CASE OF A CONFLICT BETWEEN THIS SECTION AND § 11–305 OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE, THIS SECTION CONTROLS.~~

(A) IT IS UNLAWFUL FOR ANY INSURANCE PRODUCER TO USE A SENIOR OR RETIREE CREDENTIAL OR DESIGNATION IN A WAY THAT IS OR WOULD BE MISLEADING IN CONNECTION WITH THE OFFER, SALE, OR PURCHASE OF ~~INSURANCE~~ *LIFE INSURANCE, HEALTH INSURANCE, OR ANNUITIES.*

(B) (1) THE COMMISSIONER, IN CONSULTATION WITH THE SECURITIES COMMISSIONER OF THE DIVISION OF SECURITIES IN THE OFFICE OF THE ATTORNEY GENERAL, SHALL ADOPT REGULATIONS TO DEFINE WHAT CONSTITUTES A MISLEADING USE OF A SENIOR OR RETIREE CREDENTIAL OR DESIGNATION FOR PURPOSES OF SUBSECTION (A) OF THIS SECTION.

(2) THE REGULATIONS ADOPTED BY THE COMMISSIONER MAY PROVIDE EXEMPTIONS FROM SUBSECTION (A) OF THIS SECTION, IF THE EXEMPTIONS ARE CONSISTENT WITH THE PUBLIC INTEREST AND WITHIN THE PURPOSES INTENDED BY THE POLICY AND PROVISIONS OF THIS TITLE.

(C) A VIOLATION OF SUBSECTION (A) OF THIS SECTION CONSTITUTES A LACK OF TRUSTWORTHINESS FOR THE PURPOSES OF § 10–126(A)(13) OF THIS ARTICLE.

(D) THIS SECTION MAY NOT BE CONSTRUED TO LIMIT ANY POWERS OF THE COMMISSIONER GRANTED UNDER THIS TITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 605

(House Bill 882)

AN ACT concerning

~~Life and Health Insurance – Senior Investment Protection~~
Insurance Producers – Use of Senior or Retiree Credential or Designation

FOR the purpose of prohibiting ~~a person~~ an insurance producer from using a ~~senior–specific certification or professional~~ senior or retiree credential or designation in a way that is or would ~~mislead a purchaser of life insurance, health insurance, or an annuity about certain matters; stating the intent of this Act; requiring the Maryland Insurance Commissioner to specify certain misleading uses of certain certifications and designations by regulation or order; providing that certain uses shall be specified as being misleading under this Act; requiring the Commissioner to consult with the Securities Commissioner of the Securities Division on certain matters; establishing a rebuttable presumption concerning certain organizations that issue certain certifications and designations; establishing certain factors to consider in interpreting certain certifications and designations; establishing a penalty for violating this Act, including imprisonment and a fine; providing for the application of this Act; providing for the construction of this Act, including certain conflict of laws; defining certain terms; and generally relating to the sale and purchase of life insurance, health insurance, and annuities~~ be misleading in connection with the offer, sale, or purchase of ~~insurance~~ *life insurance, health insurance, or annuities*; requiring the Maryland Insurance Commissioner, in consultation with the Securities Commissioner of the Division of Securities in the Office of the Attorney General, to adopt certain regulations; providing that the regulations may contain certain exemptions under certain circumstances; providing that a violation of this Act constitutes a lack of trustworthiness for

the purposes of certain provisions of law; providing for the construction of this Act; and generally relating to the offer, sale, and purchase of insurance.

BY repealing and reenacting, without amendments,
Article – Insurance
Section 27–201
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

BY adding to
Article – Insurance
Section 27–223
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

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

Article – Insurance

27–201.

The commission of an act prohibited under this subtitle is defined as an unfair method of competition and an unfair and deceptive act or practice in the business of insurance.

27–223.

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

~~(2) "FINANCIAL SERVICES REGULATORY AGENCY" INCLUDES A UNIT THAT REGULATES INSURERS, INSURANCE AGENTS, BROKER–DEALERS, INVESTMENT ADVISERS, OR INVESTMENT COMPANIES AS DEFINED UNDER THE FEDERAL INVESTMENT COMPANY ACT OF 1940.~~

~~(3) "HEALTH INSURANCE" MEANS A POLICY OF INDIVIDUAL OR GROUP SICKNESS AND ACCIDENT INSURANCE, LONG–TERM CARE INSURANCE, MEDICARE ADVANTAGE, MEDICARE SUPPLEMENT, OR MEDICARE PART D.~~

~~(B) IT IS THE INTENT OF THIS SECTION TO SET FORTH STANDARDS TO PROTECT CONSUMERS FROM DISHONEST, DECEPTIVE, MISLEADING, AND FRAUDULENT TRADE PRACTICES IN THE USE OF SENIOR–SPECIFIC CERTIFICATIONS AND PROFESSIONAL DESIGNATIONS IN THE MARKETING, SOLICITATION, NEGOTIATION, SALE, AND PURCHASE OF, AND ADVICE GIVEN IN CONNECTION WITH, LIFE INSURANCE, HEALTH INSURANCE, AND ANNUITIES.~~

~~(C) THIS SECTION APPLIES TO ANY SOLICITATION, SALE, OR PURCHASE OF, OR ADVICE GIVEN IN CONNECTION WITH, LIFE INSURANCE, HEALTH INSURANCE, OR AN ANNUITY BY A PERSON.~~

~~(D) A PERSON MAY NOT USE A SENIOR–SPECIFIC CERTIFICATION OR PROFESSIONAL DESIGNATION THAT INDICATES OR IMPLIES, IN A WAY THAT IS OR WOULD BE MISLEADING TO A PURCHASER OR PROSPECTIVE PURCHASER, THAT THE PERSON HAS SPECIAL CERTIFICATION OR TRAINING IN ADVISING OR PROVIDING SERVICES TO SENIORS IN CONNECTION WITH THE MARKETING, NEGOTIATING, SOLICITING, SELLING, OR PURCHASING OF LIFE INSURANCE, HEALTH INSURANCE, OR AN ANNUITY OR IN PROVIDING ADVICE AS TO THE VALUE OF OR THE ADVISABILITY OF PURCHASING LIFE INSURANCE, HEALTH INSURANCE, OR AN ANNUITY, EITHER DIRECTLY OR INDIRECTLY, THROUGH PUBLICATIONS OR WRITINGS, OR BY ISSUING OR PUBLISHING ANALYSES OR REPORTS RELATED TO LIFE INSURANCE, HEALTH INSURANCE, OR AN ANNUITY.~~

~~(E) (1) BY REGULATION OR ORDER, THE COMMISSIONER SHALL SPECIFY WHAT CONSTITUTES A MISLEADING USE OF A SENIOR–SPECIFIC CERTIFICATION OR PROFESSIONAL DESIGNATION FOR PURPOSES OF SUBSECTION (D) OF THIS SECTION.~~

~~(2) THE MISLEADING USES SPECIFIED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE:~~

~~(I) USE OF A CERTIFICATION OR PROFESSIONAL DESIGNATION BY A PERSON WHO HAS NOT ACTUALLY EARNED OR IS OTHERWISE INELIGIBLE TO USE THE CERTIFICATION OR DESIGNATION;~~

~~(II) USE OF A NONEXISTENT OR SELF–CONFERRED CERTIFICATION OR PROFESSIONAL DESIGNATION;~~

~~(III) USE OF A CERTIFICATION OR PROFESSIONAL DESIGNATION THAT INDICATES OR IMPLIES A LEVEL OF OCCUPATIONAL QUALIFICATIONS OBTAINED THROUGH EDUCATION, TRAINING, OR EXPERIENCE THAT THE PERSON USING THE CERTIFICATION OR DESIGNATION DOES NOT HAVE; AND~~

~~(IV) USE OF A CERTIFICATION OR PROFESSIONAL DESIGNATION THAT WAS OBTAINED FROM A CERTIFYING OR DESIGNATING ORGANIZATION THAT:~~

~~1. IS PRIMARILY ENGAGED IN THE BUSINESS OF INSTRUCTION IN SALES OR MARKETING;~~

~~2. DOES NOT HAVE REASONABLE STANDARDS OR PROCEDURES FOR ASSURING THE COMPETENCY OF THOSE CERTIFIED OR DESIGNATED;~~

~~3. DOES NOT HAVE REASONABLE STANDARDS OR PROCEDURES FOR MONITORING AND DISCIPLINING THOSE CERTIFIED OR DESIGNATED FOR IMPROPER OR UNETHICAL CONDUCT; OR~~

~~4. DOES NOT HAVE REASONABLE CONTINUING EDUCATION REQUIREMENTS FOR THOSE CERTIFIED OR DESIGNATED IN ORDER TO MAINTAIN THE CERTIFICATE OR DESIGNATION.~~

~~(3) IN SPECIFYING MISLEADING USES UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COMMISSIONER SHALL CONSULT WITH THE SECURITIES COMMISSIONER OF THE SECURITIES DIVISION IN ORDER TO ESTABLISH WHICH ACTS MAY BE CONSIDERED VIOLATIONS OF THIS SECTION AND WHICH MAY BE CONSIDERED VIOLATIONS OF § 11–305 OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE.~~

~~(F) THERE IS A REBUTTABLE PRESUMPTION THAT A CERTIFYING OR DESIGNATING ORGANIZATION IS NOT DISQUALIFIED UNDER THIS SECTION IF:~~

~~(1) THE CERTIFICATION OR DESIGNATION ISSUED FROM THE ORGANIZATION DOES NOT PRIMARILY APPLY TO SALES OR MARKETING; AND~~

~~(2) THE ORGANIZATION OR THE CERTIFICATION OR DESIGNATION IN QUESTION HAS BEEN ACCREDITED BY ONE OF THE FOLLOWING ACCREDITING ENTITIES:~~

~~(I) THE AMERICAN NATIONAL STANDARDS INSTITUTE ("ANSI");~~

~~(II) THE NATIONAL COMMISSION FOR CERTIFYING AGENCIES; OR~~

~~(III) AN ORGANIZATION THAT IS ON THE U.S. DEPARTMENT OF EDUCATION'S LIST ENTITLED "ACCREDITING AGENCIES RECOGNIZED FOR TITLE IV PURPOSES".~~

~~(G) (1) IN DETERMINING WHETHER A COMBINATION OF WORDS OR AN ACRONYM STANDING FOR A COMBINATION OF WORDS CONSTITUTES A CERTIFICATION OR PROFESSIONAL DESIGNATION INDICATING OR IMPLYING~~

~~THAT A PERSON HAS SPECIAL CERTIFICATION OR TRAINING IN ADVISING OR SERVICING SENIORS, FACTORS TO BE CONSIDERED SHALL INCLUDE:~~

~~(I) USE OF ONE OR MORE WORDS SUCH AS "SENIOR", "RETIREMENT", "ELDER", OR SIMILAR WORDS COMBINED WITH ONE OR MORE WORDS SUCH AS "CERTIFIED", "REGISTERED", "CHARTERED", "ADVISOR", "SPECIALIST", "CONSULTANT", "PLANNER", OR SIMILAR WORDS, IN THE NAME OF THE CERTIFICATION OR PROFESSIONAL DESIGNATION; AND~~

~~(II) THE MANNER IN WHICH THOSE WORDS ARE COMBINED.~~

~~(2) FOR PURPOSES OF THIS SECTION, A JOB TITLE WITHIN AN ORGANIZATION THAT IS LICENSED OR REGISTERED BY A STATE OR FEDERAL FINANCIAL SERVICES REGULATORY AGENCY IS NOT A CERTIFICATION OR PROFESSIONAL DESIGNATION, UNLESS THE JOB TITLE IS USED IN A MANNER THAT WOULD CONFUSE OR MISLEAD A REASONABLE CONSUMER, WHEN THE JOB TITLE:~~

~~(I) INDICATES SENIORITY OR STANDING WITHIN THE ORGANIZATION; OR~~

~~(II) SPECIFIES AN INDIVIDUAL'S AREA OF SPECIALIZATION WITHIN THE ORGANIZATION.~~

~~(II) (1) IN ADDITION TO ANY OTHER PENALTY PROVIDED BY LAW, A PERSON THAT WILLFULLY VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 5 YEARS OR A FINE NOT EXCEEDING $100,000 OR BOTH.~~

~~(2) EACH VIOLATION OF THIS SECTION IS A SEPARATE VIOLATION.~~

~~(I) (1) NOTHING IN THIS SECTION LIMITS THE AUTHORITY OF THE COMMISSIONER TO ENFORCE ANY OTHER LAW.~~

~~(2) IN CASE OF A CONFLICT BETWEEN THIS SECTION AND § 11–305 OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE, THIS SECTION CONTROLS.~~

(A) IT IS UNLAWFUL FOR ANY INSURANCE PRODUCER TO USE A SENIOR OR RETIREE CREDENTIAL OR DESIGNATION IN A WAY THAT IS OR WOULD BE MISLEADING IN CONNECTION WITH THE OFFER, SALE, OR PURCHASE OF ~~INSURANCE~~ *LIFE INSURANCE, HEALTH INSURANCE, OR ANNUITIES.*

(B) (1) THE COMMISSIONER, IN CONSULTATION WITH THE SECURITIES COMMISSIONER OF THE DIVISION OF SECURITIES IN THE OFFICE OF THE ATTORNEY GENERAL, SHALL ADOPT REGULATIONS TO DEFINE WHAT CONSTITUTES A MISLEADING USE OF A SENIOR OR RETIREE CREDENTIAL OR DESIGNATION FOR PURPOSES OF SUBSECTION (A) OF THIS SECTION.

(2) THE REGULATIONS ADOPTED BY THE COMMISSIONER MAY PROVIDE EXEMPTIONS FROM SUBSECTION (A) OF THIS SECTION, IF THE EXEMPTIONS ARE CONSISTENT WITH THE PUBLIC INTEREST AND WITHIN THE PURPOSES INTENDED BY THE POLICY AND PROVISIONS OF THIS TITLE.

(C) A VIOLATION OF SUBSECTION (A) OF THIS SECTION CONSTITUTES A LACK OF TRUSTWORTHINESS FOR THE PURPOSES OF § 10–126(A)(13) OF THIS ARTICLE.

(D) THIS SECTION MAY NOT BE CONSTRUED TO LIMIT ANY POWERS OF THE COMMISSIONER GRANTED UNDER THIS TITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 606

(Senate Bill 775)

AN ACT concerning

~~Environment~~ Transportation – Road Salt Management ~~Programs~~ – Best Practices Guidance

FOR the purpose of requiring the State Highway Administration ~~and each local jurisdiction that is responsible for highway maintenance to establish and implement~~, in consultation with the Department of the Environment, to develop a best practices road salt management ~~program by~~ guidance document, on or before a certain date for a certain purpose; ~~requiring the Administration and a responsible local jurisdiction to submit a preliminary program to the Department of the Environment for review and comment by a certain date, to review and~~ requiring the Administration to update the ~~program~~ guidance document annually~~, to submit the annual review and update to the Department for review and comment,~~ and to make the ~~program and program updates~~ guidance document available to the public in a certain ~~manners~~ manner; ~~establishing certain standards and requirements for a road salt management~~

~~program; authorizing the Administration, in consultation with the Department, to establish a road salt management program or to review and update the program for a local jurisdiction under certain circumstances~~ authorizing the Administration to include certain information in the guidance document; stating certain findings of the General Assembly and the intent of the General Assembly in enacting this Act; and generally relating to the establishment of road salt management ~~programs~~ best practices guidance.

BY adding to
Article – ~~Environment~~ Transportation
Section ~~4–2A–01 through 4–2A–04 to be under the new subtitle "Subtitle 2A. Road Salt Management Programs"~~ 8–602.1
Annotated Code of Maryland
(~~2007~~ 2008 Replacement Volume and 2009 Supplement)

~~BY repealing and reenacting, with amendments,~~
~~Article – Transportation~~
~~Section 8–602(a)~~
~~Annotated Code of Maryland~~
~~(2008 Replacement Volume and 2009 Supplement)~~

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

Article – ~~Environment~~ Transportation

~~**SUBTITLE 2A. ROAD SALT MANAGEMENT PROGRAMS.**~~

~~**4–2A–01.**~~ **8–602.1.**

(A) THE GENERAL ASSEMBLY FINDS THAT THE USE OF BEST MANAGEMENT PRACTICES FOR THE STORAGE, APPLICATION, AND DISPOSAL OF ROAD SALT IS NECESSARY TO REDUCE THE ADVERSE IMPACTS ON THE WATER AND LAND RESOURCES OF THE STATE BY PREVENTING:

(1) AN INCREASE IN CHLORIDE CONCENTRATIONS IN THE SOILS AND WATERS OF THE STATE; AND

(2) ~~**A DEPLETION OF OXYGEN LEVELS IN THE LOWER DEPTHS OF THE TIDAL AND NONTIDAL WATERS OF THE STATE; AND**~~

~~**(3)**~~ **HARM TO SOIL INTEGRITY, SOIL ORGANISMS, AND VEGETATION.**

(B) THE GENERAL ASSEMBLY INTENDS, BY ENACTMENT OF THIS SUBTITLE, TO REDUCE TO THE GREATEST EXTENT POSSIBLE THE ADVERSE

EFFECTS OF ROAD SALT RUNOFF AND TO SAFEGUARD LIFE, LIMB, PROPERTY, AND PUBLIC WELFARE.

~~4–2A–02.~~

~~THE STATE HIGHWAY ADMINISTRATION AND EACH LOCAL JURISDICTION THAT IS RESPONSIBLE FOR HIGHWAY MAINTENANCE SHALL:~~

~~(1) SUBMIT A PRELIMINARY ROAD SALT MANAGEMENT PROGRAM AND ANY RELATED POLICIES AND PROCEDURES TO THE DEPARTMENT FOR REVIEW AND COMMENT ON OR BEFORE MAY 1, 2011;~~

~~(2) ON OR BEFORE OCTOBER 31, 2011, ESTABLISH AND IMPLEMENT A BEST PRACTICES ROAD SALT MANAGEMENT PROGRAM TO MINIMIZE THE ADVERSE ENVIRONMENTAL IMPACTS OF ROAD SALT RUNOFF IN THE STATE;~~

(C) ON OR BEFORE OCTOBER 1, 2011, THE ADMINISTRATION, IN CONSULTATION WITH THE DEPARTMENT OF THE ENVIRONMENT, SHALL DEVELOP A ROAD SALT MANAGEMENT BEST PRACTICES GUIDANCE DOCUMENT FOR USE BY LOCAL JURISDICTIONS AND THE STATE TO MINIMIZE THE ADVERSE ENVIRONMENTAL IMPACTS OF ROAD SALT RUNOFF IN THE STATE.

~~(3) BEGINNING IN 2012, ON OR BEFORE OCTOBER 31, OF EACH YEAR, REVIEW AND UPDATE THE FINAL ROAD SALT MANAGEMENT PROGRAM;~~

~~(4) SUBMIT EACH ANNUAL PROGRAM UPDATE TO THE DEPARTMENT FOR REVIEW AND COMMENT; AND~~

~~(5) MAKE THE FINAL PROGRAM AND EACH ANNUAL UPDATE AVAILABLE TO THE PUBLIC IN HARD COPY AND ONLINE.~~

(D) THE ADMINISTRATION SHALL ANNUALLY UPDATE THE GUIDANCE DOCUMENT REQUIRED UNDER SUBSECTION (C) OF THIS SECTION AND SHALL MAKE THE DOCUMENT AVAILABLE TO THE PUBLIC ON THE ADMINISTRATION'S WEBSITE.

~~4–2A–03.~~

(E) ~~A~~ IN THE ROAD SALT MANAGEMENT ~~PROGRAM ESTABLISHED~~ BEST PRACTICES GUIDANCE DOCUMENT REQUIRED UNDER THIS ~~SUBTITLE SHALL~~ SECTION, THE ADMINISTRATION MAY:

(1) ESTABLISH BEST MANAGEMENT PRACTICES THAT PROTECT THE ENVIRONMENT FROM THE NEGATIVE IMPACTS OF ROAD SALT;

(2) IDENTIFY ~~AND GOVERN~~ ALL ACTIVITIES THAT MAY RESULT IN THE RELEASE OF ROAD SALT INTO THE ENVIRONMENT, INCLUDING ROAD SALT STORAGE, THE APPLICATION OF ROAD SALT ON HIGHWAYS, AND THE DISPOSAL OF SNOW THAT CONTAINS ROAD SALT;

(3) TAKE INTO CONSIDERATION HIGHWAY SAFETY TO THE GREATEST EXTENT POSSIBLE;

(4) ESTABLISH STANDARDS AND PROCEDURES FOR IDENTIFYING:

(I) AREAS THAT ARE PARTICULARLY VULNERABLE TO ROAD SALT RUNOFF; AND

(II) ADDITIONAL ROAD SALT MANAGEMENT PRACTICES THAT NEED TO BE IMPLEMENTED IN THESE AREAS;

(5) ESTABLISH GOALS FOR ACHIEVING A REDUCTION OF THE ENVIRONMENTAL IMPACT OF ROAD SALT RELEASED INTO THE ENVIRONMENT;

(6) INCLUDE A TRAINING PROGRAM FOR ALL STATE, LOCAL, AND CONTRACT PERSONNEL WHO PERFORM WINTER MAINTENANCE ACTIVITIES INVOLVING THE USE OF ROAD SALT;

(7) ESTABLISH RESPONSE PROCEDURES TO ADDRESS UNCONTROLLED RELEASES OF ROAD SALT THAT MAY ADVERSELY IMPACT THE ENVIRONMENT; AND

(8) ~~REQUIRE MONITORING OF THE PROGRAM TO ENSURE COMPLIANCE; AND~~

~~(9)~~ ESTABLISH RECORD KEEPING AND ANNUAL REPORTING ~~REQUIREMENTS~~ PROCEDURES FOR THE QUANTITY OF ROAD SALT USED, THE LOCATIONS WHERE THE ROAD SALT IS USED, AND ANY TRAINING CONDUCTED.

~~4–2A–04.~~

~~IF A LOCAL JURISDICTION THAT IS RESPONSIBLE FOR HIGHWAY MAINTENANCE FAILS TO ESTABLISH AND IMPLEMENT A ROAD SALT MANAGEMENT PROGRAM BY OCTOBER 31, 2011, OR ANNUALLY UPDATE A PROGRAM IN ACCORDANCE WITH § 4–2A–02 OF THIS SUBTITLE, THE STATE HIGHWAY ADMINISTRATION, IN CONSULTATION WITH THE DEPARTMENT, MAY~~

~~ESTABLISH A MANDATORY ROAD SALT MANAGEMENT PROGRAM OR REVIEW AND UPDATE THE PROGRAM FOR THE LOCAL JURISDICTION.~~

~~**Article – Transportation**~~

~~8–602.~~

~~(a) The Administration [shall]:~~

~~(1) [Keep] SHALL KEEP all State highways reasonably clear of brush, snow, and other debris; [and]~~

~~(2) (I) SHALL ESTABLISH AND IMPLEMENT A ROAD SALT MANAGEMENT PROGRAM UNDER TITLE 4, SUBTITLE 2A OF THE ENVIRONMENT ARTICLE; AND~~

~~(II) MAY, IF APPROPRIATE, ESTABLISH A MANDATORY ROAD SALT MANAGEMENT PROGRAM OR REVIEW AND UPDATE A PROGRAM FOR A LOCAL JURISDICTION UNDER TITLE 4, SUBTITLE 2A OF THE ENVIRONMENT ARTICLE; AND~~

~~(3) [Remove] SHALL REMOVE from a State highway, as soon as its presence is made known to the Administration, any animal carcass that will impede traffic or substantially endanger the safety of the traveling public.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 607

(House Bill 903)

AN ACT concerning

~~Environment~~ Transportation – Road Salt Management ~~Programs~~ – Best Practices Guidance

FOR the purpose of requiring the State Highway Administration ~~and each local jurisdiction that is responsible for highway maintenance to establish and implement~~, in consultation with the Department of the Environment, to develop a best practices road salt management ~~program by~~ guidance document, on or before a certain date for a certain purpose; ~~requiring the Administration and a~~

~~responsible local jurisdiction to submit a preliminary program to the Department of the Environment for review and comment by a certain date, to review and~~ requiring the Administration to update the ~~program~~ guidance document annually~~, to submit the annual review and update to the Department for review and comment,~~ and to make the ~~program and program updates~~ guidance document available to the public in a certain ~~manners~~ manner; ~~establishing certain standards and requirements for a road salt management program; authorizing the Administration, in consultation with the Department, to establish a road salt management program or to review and update the program for a local jurisdiction under certain circumstances~~ authorizing the Administration to include certain information in the guidance document; stating certain findings of the General Assembly and the intent of the General Assembly in enacting this Act; and generally relating to the establishment of road salt management ~~programs~~ best practices guidance.

BY adding to
Article – ~~Environment~~ Transportation
Section ~~4–2A–01 through 4–2A–04 to be under the new subtitle "Subtitle 2A. Road Salt Management Programs"~~ 8–602.1
Annotated Code of Maryland
(~~2007~~ 2008 Replacement Volume and 2009 Supplement)

~~BY repealing and reenacting, with amendments,~~
~~Article – Transportation~~
~~Section 8–602(a)~~
~~Annotated Code of Maryland~~
~~(2008 Replacement Volume and 2009 Supplement)~~

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

Article – ~~Environment~~ Transportation

~~SUBTITLE 2A. ROAD SALT MANAGEMENT PROGRAMS.~~

~~4–2A–01.~~ 8–602.1.

(A) THE GENERAL ASSEMBLY FINDS THAT THE USE OF BEST MANAGEMENT PRACTICES FOR THE STORAGE, APPLICATION, AND DISPOSAL OF ROAD SALT IS NECESSARY TO REDUCE THE ADVERSE IMPACTS ON THE WATER AND LAND RESOURCES OF THE STATE BY PREVENTING:

(1) AN INCREASE IN CHLORIDE CONCENTRATIONS IN THE SOILS AND WATERS OF THE STATE; AND

(2) ~~A DEPLETION OF OXYGEN LEVELS IN THE LOWER DEPTHS OF THE TIDAL AND NONTIDAL WATERS OF THE STATE; AND~~

~~(3)~~ **HARM TO SOIL INTEGRITY, SOIL ORGANISMS, AND VEGETATION.**

(B) THE GENERAL ASSEMBLY INTENDS, BY ENACTMENT OF THIS SUBTITLE, TO REDUCE TO THE GREATEST EXTENT POSSIBLE THE ADVERSE EFFECTS OF ROAD SALT RUNOFF AND TO SAFEGUARD LIFE, LIMB, PROPERTY, AND PUBLIC WELFARE.

~~4–2A–02.~~

~~THE STATE HIGHWAY ADMINISTRATION AND EACH LOCAL JURISDICTION THAT IS RESPONSIBLE FOR HIGHWAY MAINTENANCE SHALL:~~

~~(1) SUBMIT A PRELIMINARY ROAD SALT MANAGEMENT PROGRAM AND ANY RELATED POLICIES AND PROCEDURES TO THE DEPARTMENT FOR REVIEW AND COMMENT ON OR BEFORE MAY 1, 2011;~~

~~(2) ON OR BEFORE OCTOBER 31, 2011, ESTABLISH AND IMPLEMENT A BEST PRACTICES ROAD SALT MANAGEMENT PROGRAM TO MINIMIZE THE ADVERSE ENVIRONMENTAL IMPACTS OF ROAD SALT RUNOFF IN THE STATE;~~

(C) ON OR BEFORE OCTOBER 1, 2011, THE ADMINISTRATION, IN CONSULTATION WITH THE DEPARTMENT OF THE ENVIRONMENT, SHALL DEVELOP A ROAD SALT MANAGEMENT BEST PRACTICES GUIDANCE DOCUMENT FOR USE BY LOCAL JURISDICTIONS AND THE STATE TO MINIMIZE THE ADVERSE ENVIRONMENTAL IMPACTS OF ROAD SALT RUNOFF IN THE STATE.

~~(3) BEGINNING IN 2012, ON OR BEFORE OCTOBER 31, OF EACH YEAR, REVIEW AND UPDATE THE FINAL ROAD SALT MANAGEMENT PROGRAM;~~

~~(4) SUBMIT EACH ANNUAL PROGRAM UPDATE TO THE DEPARTMENT FOR REVIEW AND COMMENT; AND~~

~~(5) MAKE THE FINAL PROGRAM AND EACH ANNUAL UPDATE AVAILABLE TO THE PUBLIC IN HARD COPY AND ONLINE.~~

(D) THE ADMINISTRATION SHALL ANNUALLY UPDATE THE GUIDANCE DOCUMENT REQUIRED UNDER SUBSECTION (C) OF THIS SECTION AND SHALL MAKE THE DOCUMENT AVAILABLE TO THE PUBLIC ON THE ADMINISTRATION'S WEBSITE.

~~4–2A–03.~~

(E) ~~A~~ IN THE ROAD SALT MANAGEMENT ~~PROGRAM ESTABLISHED~~ BEST PRACTICES GUIDANCE DOCUMENT REQUIRED UNDER THIS ~~SUBTITLE SHALL~~ SECTION, THE ADMINISTRATION MAY:

(1) ESTABLISH BEST MANAGEMENT PRACTICES THAT PROTECT THE ENVIRONMENT FROM THE NEGATIVE IMPACTS OF ROAD SALT;

(2) IDENTIFY ~~AND GOVERN~~ ALL ACTIVITIES THAT MAY RESULT IN THE RELEASE OF ROAD SALT INTO THE ENVIRONMENT, INCLUDING ROAD SALT STORAGE, THE APPLICATION OF ROAD SALT ON HIGHWAYS, AND THE DISPOSAL OF SNOW THAT CONTAINS ROAD SALT;

(3) TAKE INTO CONSIDERATION HIGHWAY SAFETY TO THE GREATEST EXTENT POSSIBLE;

(4) ESTABLISH STANDARDS AND PROCEDURES FOR IDENTIFYING:

(I) AREAS THAT ARE PARTICULARLY VULNERABLE TO ROAD SALT RUNOFF; AND

(II) ADDITIONAL ROAD SALT MANAGEMENT PRACTICES THAT NEED TO BE IMPLEMENTED IN THESE AREAS;

(5) ESTABLISH GOALS FOR ACHIEVING A REDUCTION OF THE ENVIRONMENTAL IMPACT OF ROAD SALT RELEASED INTO THE ENVIRONMENT;

(6) INCLUDE A TRAINING PROGRAM FOR ALL STATE, LOCAL, AND CONTRACT PERSONNEL WHO PERFORM WINTER MAINTENANCE ACTIVITIES INVOLVING THE USE OF ROAD SALT;

(7) ESTABLISH RESPONSE PROCEDURES TO ADDRESS UNCONTROLLED RELEASES OF ROAD SALT THAT MAY ADVERSELY IMPACT THE ENVIRONMENT; AND

(8) ~~REQUIRE MONITORING OF THE PROGRAM TO ENSURE COMPLIANCE; AND~~

~~(9)~~ ESTABLISH RECORD KEEPING AND ANNUAL REPORTING ~~REQUIREMENTS~~ PROCEDURES FOR THE QUANTITY OF ROAD SALT USED, THE LOCATIONS WHERE THE ROAD SALT IS USED, AND ANY TRAINING CONDUCTED.

~~4–2A–04.~~

~~IF A LOCAL JURISDICTION THAT IS RESPONSIBLE FOR HIGHWAY MAINTENANCE FAILS TO ESTABLISH AND IMPLEMENT A ROAD SALT MANAGEMENT PROGRAM BY OCTOBER 31, 2011, OR ANNUALLY UPDATE A PROGRAM IN ACCORDANCE WITH § 4–2A–02 OF THIS SUBTITLE, THE STATE HIGHWAY ADMINISTRATION, IN CONSULTATION WITH THE DEPARTMENT, MAY ESTABLISH A MANDATORY ROAD SALT MANAGEMENT PROGRAM OR REVIEW AND UPDATE THE PROGRAM FOR THE LOCAL JURISDICTION.~~

~~Article – Transportation~~

~~8–602.~~

~~(a) The Administration [shall]:~~

~~(1) [Keep] SHALL KEEP all State highways reasonably clear of brush, snow, and other debris; [and]~~

~~(2) (I) SHALL ESTABLISH AND IMPLEMENT A ROAD SALT MANAGEMENT PROGRAM UNDER TITLE 4, SUBTITLE 2A OF THE ENVIRONMENT ARTICLE; AND~~

~~(II) MAY, IF APPROPRIATE, ESTABLISH A MANDATORY ROAD SALT MANAGEMENT PROGRAM OR REVIEW AND UPDATE A PROGRAM FOR A LOCAL JURISDICTION UNDER TITLE 4, SUBTITLE 2A OF THE ENVIRONMENT ARTICLE; AND~~

~~(3) [Remove] SHALL REMOVE from a State highway, as soon as its presence is made known to the Administration, any animal carcass that will impede traffic or substantially endanger the safety of the traveling public.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 608

(Senate Bill 776)

AN ACT concerning

Assisted Living and Nursing Home Residents Protection Act of 2010

FOR the purpose of ~~requiring that, during a certain application process, nursing homes and assisted living facilities apply for a State criminal history records check of certain residents and check a certain registry; requiring certain facilities to require a State criminal history records check for certain residents on or before a certain date; requiring certain facilities to place certain residents in private rooms, provide certain notice to certain employees, and develop certain care plans; requiring certain facilities to provide certain individuals with a certain notice and a certain signed statement; requiring certain facilities to require certain individuals to sign a certain statement; requiring certain facilities to file certain statements for certain periods of time; requiring certain facilities to place prominently a certain notice in the facility; defining certain terms; requiring local law enforcement units to send a certain notice to certain facilities under certain circumstances;~~ expanding the duties of the Sexual Offender Advisory Board to include reviewing certain policies, procedures, *impacts*, and laws and making certain recommendations relating to protecting residents and employees of nursing homes and assisted living facilities and the family members of ~~the~~ residents from ~~convicted~~ sexual offenders; requiring the Sexual Offender Advisory Board to submit a certain report on or before a certain date; providing for the termination of this Act; and generally relating to the protection of residents in assisted living facilities and nursing home facilities.

~~BY repealing and reenacting, with amendments,~~
~~Article – Criminal Procedure~~
~~Section 11–709~~
~~Annotated Code of Maryland~~
~~(2008 Replacement Volume and 2009 Supplement)~~

~~BY adding to~~
~~Article – Health – General~~
~~Section 19–2401 through 19–2404 to be under the new subtitle "Subtitle 24. Criminal Background Check and Notice Requirements for Residents of Assisted Living Programs or Related Institutions"~~
~~Annotated Code of Maryland~~
~~(2009 Replacement Volume)~~

BY repealing and reenacting, without amendments,
Article – Public Safety
Section 1–401(a)
Annotated Code of Maryland
(2003 Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 1–401(g)

Annotated Code of Maryland
(2003 Volume and 2009 Supplement)

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

~~Article – Criminal Procedure~~

~~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) Every 6 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.~~

~~(b) (1) As soon as possible but not later than 5 working days after receiving a registration statement of a child sexual offender or notice of a change of address of a child sexual offender, a local law enforcement unit shall send written notice of the registration statement or change of address to the county superintendent, as defined in § 1–101 of the Education Article, and all nonpublic primary and secondary schools in the county within 1 mile of where the child sexual offender is to reside or where a child sexual offender who is not a resident of the State is a transient or will work or attend school.~~

~~(2) As soon as possible but not later than 10 working days after receiving notice from the local law enforcement unit under paragraph (1) of this subsection, the county superintendent shall send written notice of the registration statement to principals of the schools under the superintendent's supervision that the superintendent considers necessary to protect the students of a school from a child sexual offender.~~

~~(c) A local law enforcement unit that receives a notice from a supervising authority under this subtitle shall send a copy of the notice to the police department, if any, of a municipal corporation if the registrant:~~

~~(1) is to reside in the municipal corporation after release;~~

~~(2) escapes from a facility but resided in the municipal corporation before being committed to the custody of a supervising authority; or~~

~~(3) is to change addresses to another place of residence within the municipal corporation.~~

~~(d) As soon as possible but not later than 5 working days after receiving notice from a local law enforcement unit under this section, a police department of a municipal corporation shall send a copy of the notice to the commander of the local police precinct or district in which the child sexual offender is to reside or where a child sexual offender who is not a resident of the State will work or attend school.~~

~~(e) As soon as possible but not later than 5 working days after receiving a notice from a supervising authority under this subtitle, a local law enforcement unit shall send a copy of the notice to the commander of the law enforcement unit in the district or area in which the child sexual offender is to reside or where a child sexual offender who is not a resident of the State will work or attend school.~~

~~(f) A local law enforcement unit may notify the following entities that are located within the community in which a child sexual offender is to reside or where a child sexual offender who is not a resident of the State will work or attend school of the filing of a registration statement or notice of change of address by the child sexual offender:~~

~~(1) family day care homes or child care centers registered or licensed under Title 5, Subtitle 5 of the Family Law Article;~~

~~(2) child recreation facilities;~~

~~(3) faith institutions; and~~

~~(4) other organizations that serve children and other individuals vulnerable to child sexual offenders.~~

~~**(G) AS SOON AS POSSIBLE BUT NOT LATER THAN 5 WORKING DAYS AFTER RECEIVING A REGISTRATION STATEMENT OF AN OFFENDER OR NOTICE OF CHANGE OF ADDRESS OF AN OFFENDER, A LOCAL LAW ENFORCEMENT UNIT SHALL SEND WRITTEN NOTICE OF THE REGISTRATION STATEMENT OR THE CHANGE OF ADDRESS TO THE FACILITY IF THE ADDRESS OF THE OFFENDER IS IN AN ASSISTED LIVING PROGRAM FACILITY REGULATED UNDER TITLE 19, SUBTITLE 18 OF THE HEALTH – GENERAL ARTICLE OR IN A NURSING HOME REGULATED UNDER TITLE 19, SUBTITLE 14 OF THE HEALTH – GENERAL ARTICLE.**~~

~~**Article – Health – General**~~

~~SUBTITLE 24. CRIMINAL BACKGROUND CHECK AND NOTICE REQUIREMENTS FOR RESIDENTS OF ASSISTED LIVING PROGRAMS OR RELATED INSTITUTIONS.~~

~~19–2401.~~

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

~~(B) "FACILITY" MEANS AN ASSISTED LIVING PROGRAM FACILITY REGULATED UNDER SUBTITLE 18 OF THIS TITLE AND A NURSING HOME REGULATED UNDER SUBTITLE 14 OF THIS TITLE.~~

~~(C) "IDENTIFIED REGISTRANT" MEANS AN INDIVIDUAL WHO IS REQUIRED TO REGISTER UNDER TITLE 11, SUBTITLE 7 OF THE CRIMINAL PROCEDURE ARTICLE.~~

~~19–2402.~~

~~(A) DURING THE ADMISSION PROCESS, A FACILITY SHALL:~~

~~(1) REQUIRE A STATE CRIMINAL HISTORY RECORDS CHECK FOR EACH RESIDENT WHO IS AT LEAST 18 YEARS OLD; AND~~

~~(2) CHECK THE MARYLAND SEX OFFENDER REGISTRY ON THE WEBSITE OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES TO DETERMINE IF THE APPLICANT RESIDENT IS AN IDENTIFIED REGISTRANT.~~

~~(B) ON OR BEFORE DECEMBER 1, 2010, A FACILITY SHALL REQUIRE A STATE CRIMINAL HISTORY RECORDS CHECK FOR EACH RESIDENT OF THE FACILITY WHO IS AT LEAST 18 YEARS OLD AS OF OCTOBER 1, 2010.~~

~~19–2403.~~

~~IF AN IDENTIFIED REGISTRANT IS A RESIDENT OF A FACILITY, THE FACILITY SHALL:~~

~~(1) PLACE THE IDENTIFIED REGISTRANT IN A PRIVATE ROOM;~~

~~(2) PROVIDE NOTICE TO EMPLOYEES OF THE FACILITY THAT THE IDENTIFIED REGISTRANT IS A RESIDENT OF THE FACILITY; AND~~

~~(3) DEVELOP A CARE PLAN TO PROTECT THE OTHER RESIDENTS OF THE FACILITY FROM THE IDENTIFIED REGISTRANT.~~

~~19–2404.~~

~~EACH FACILITY SHALL:~~

~~(1) (I) PROVIDE TO EACH PROSPECTIVE AND CURRENT RESIDENT OR GUARDIAN OF A RESIDENT A WRITTEN NOTICE CONCERNING THE MARYLAND SEX OFFENDER REGISTRY AND THE AVAILABILITY OF THE REGISTRY ON THE WEBSITE OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES;~~

~~(II) REQUIRE EACH PROSPECTIVE AND CURRENT RESIDENT OR GUARDIAN OF A RESIDENT TO SIGN A STATEMENT ACKNOWLEDGING RECEIPT OF THE WRITTEN NOTICE;~~

~~(III) PROVIDE EACH PROSPECTIVE AND CURRENT RESIDENT OR GUARDIAN OF A RESIDENT WITH A COPY OF THE SIGNED STATEMENT; AND~~

~~(IV) KEEP A COPY OF THE SIGNED STATEMENT ON FILE FOR AS LONG AS THE RESIDENT RESIDES AT THE FACILITY; AND~~

~~(2) PROMINENTLY DISPLAY A SIGN AT THE ENTRANCE OF THE FACILITY THAT PROVIDES WRITTEN NOTICE CONCERNING THE MARYLAND SEX OFFENDER REGISTRY AND THE AVAILABILITY OF THE REGISTRY ON THE WEBSITE OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.~~

Article – Public Safety

1–401.

(a) There is a Sexual Offender Advisory Board in the Department of Public Safety and Correctional Services.

(g) The Board shall:

(1) review technology for the tracking of offenders;

(2) review the effectiveness of the State's laws concerning sexual offenders;

(3) review the laws of other states and jurisdictions concerning sexual offenders;

(4) review practices and procedures of the Maryland Parole Commission and the Division of Parole and Probation concerning supervision and monitoring of sexual offenders;

(5) review developments in the treatment and assessment of sexual offenders;

(6) develop standards for sexual offender treatment based on current and evolving best practices;

(7) certify State sexual offender treatment programs that are in compliance with the Board's standards; **[**and**]**

(8) provide training for sexual offender management teams**; AND**

(9) (I) REVIEW THE POLICIES AND PROCEDURES RELATING TO:

1. ENSURING THE PROTECTION OF RESIDENTS OF NURSING HOMES AND ASSISTED LIVING FACILITIES WHERE ~~CONVICTED~~ SEXUAL OFFENDERS RESIDE OR MAY RESIDE;

2. NOTIFYING RESIDENTS AND EMPLOYEES OF NURSING HOMES AND ASSISTED LIVING FACILITIES AND FAMILY MEMBERS OF RESIDENTS OF THE PRESENCE OF ~~CONVICTED~~ SEXUAL OFFENDERS WHO RESIDE IN THE NURSING HOME OR ASSISTED LIVING FACILITY;

3. EMPLOYING SEXUAL OFFENDERS IN NURSING HOMES OR ASSISTED LIVING FACILITIES; AND

4. REQUIRING LAW ENFORCEMENT NOTIFICATION TO NURSING HOMES AND ASSISTED LIVING FACILITIES IF A SEXUAL OFFENDER RESIDES IN THE NURSING HOME OR ASSISTED LIVING FACILITY;

(II) REVIEW THE LAWS OF OTHER STATES AND JURISDICTIONS CONCERNING PROTECTING RESIDENTS OF NURSING HOMES AND ASSISTED LIVING FACILITIES FROM SEXUAL OFFENDERS; ~~AND~~

(III) REVIEW AND REPORT ON THE POTENTIAL IMPACT ON HEALTH CARE PROVIDERS OF RECOMMENDED CHANGES IN POLICIES AND PROCEDURES CONCERNING SEXUAL OFFENDERS IN NURSING HOMES AND ASSISTED LIVING FACILITIES; AND

~~(III)~~ *(IV)* MAKE RECOMMENDATIONS FOR PROTECTING RESIDENTS AND EMPLOYEES OF NURSING HOMES AND ASSISTED LIVING

FACILITIES AND THE FAMILY MEMBERS OF RESIDENTS FROM ~~CONVICTED~~ SEXUAL OFFENDERS.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 1, 2011, the Sexual Offender Advisory Board shall report to the General Assembly, in accordance with § 2–1246 of the State Government Article, on the Board's findings and recommendations related to the protection of residents and employees of nursing homes and assisted living facilities from ~~convicted~~ sexual offenders.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010. It shall remain effective for a period of 1 year and 3 months and, at the end of December 31, 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 20, 2010.

Chapter 609

(Senate Bill 780)

AN ACT concerning

Real Property – Affordable Housing Land Trusts

FOR the purpose of exempting a certain affordable housing land trust agreement from the application of the common law rule against perpetuities; authorizing a certain affordable housing land trust agreement to be recorded in the land records; exempting a certain affordable housing land trust agreement from certain provisions relating to a possibility of reverter and right of entry; exempting a certain affordable housing land trust agreement from certain provisions relating to the creation and redemption of reversionary interests; providing for the applicability of this Act; requiring an affordable housing land trust to register with the State Department of Assessments and Taxation; requiring the Department to maintain an online list of registered affordable housing land trusts; authorizing an affordable housing land trust to conduct certain activities relating to the acquisition, leasing, management, maintenance, and preservation of residential real property under certain circumstances; imposing certain conditions on an affordable housing land trust agreement; providing that the affordable housing land trust agreement and a certain affidavit shall be recorded and indexed in the county land records in a certain manner and accepted for recordation by the clerk without the payment of certain taxes; establishing that a certain recordation terminates a certain right of rescission and provides certain proof that a contract of sale was not rescinded; authorizing an affordable housing land trust to repurchase any interest in or take possession of certain residential property under certain

circumstances; requiring a certain seller to execute a certain affidavit concerning certain notification to the affordable housing land trust and the trust's failure to exercise a certain right to repurchase; requiring the recordation of the affidavit; establishing that the recordation of the affidavit provides certain proof that the affordable housing land trust failed to exercise a certain right of repurchase; limiting the reversionary interest of an affordable housing land trust under certain circumstances; requiring a tax assessment of certain affordable housing trust property to be done in a certain manner and to include a certain notation; prohibiting a nonprofit organization from operating an affordable housing land trust under certain circumstances; providing for the transfer of certain property interests under certain circumstances; defining certain terms; and generally relating to affordable housing land trusts.

BY repealing and reenacting, with amendments,
Article – Estates and Trusts
Section 11–102(b)(11) and (12)
Annotated Code of Maryland
(2001 Replacement Volume and 2009 Supplement)

BY adding to
Article – Estates and Trusts
Section 11–102(b)(13)
Annotated Code of Maryland
(2001 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Real Property
Section 3–102(a), 6–101, 8–110(a), and 8–111.2
Annotated Code of Maryland
(2003 Replacement Volume and 2009 Supplement)

BY adding to
Article – Real Property
Section 14–501 through 14–511 to be under the new subtitle "Subtitle 5. Affordable Housing Land Trusts"
Annotated Code of Maryland
(2003 Replacement Volume and 2009 Supplement)

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

Article – Estates and Trusts

11–102.

(b) Subject to §§ 4–409 of this article and 11–103 of this subtitle, the common–law rule against perpetuities as now recognized in the State is preserved, but the rule does not apply to the following:

(11) A nondonative property interest as described in § 11–102.1 of this subtitle; **[**or**]**

(12) A trust created under § 14–112 of this article to provide for the care of an animal alive during the lifetime of the settlor**; OR**

(13) AN AFFORDABLE HOUSING LAND TRUST AGREEMENT EXECUTED UNDER TITLE 14, SUBTITLE 5 OF THE REAL PROPERTY ARTICLE.

Article – Real Property

3–102.

(a) (1) Any other instrument affecting property, including any contract for the grant of property, or any subordination agreement establishing priorities between interests in property may be recorded.

(2) The following instruments also may be recorded:

(i) Any notice of deferred property footage assessment for street construction;

(ii) Any boundary survey plat signed and sealed by a professional land surveyor or property line surveyor licensed in the State;

(iii) Any assumption agreement by which a person agrees to assume the liability of a debt or other obligation secured by a mortgage or deed of trust;

(iv) Any release of personal liability of a borrower or guarantor under a mortgage or under a note or other obligation secured by a deed of trust; **[**or**]**

(v) A ground rent redemption certificate or a ground rent extinguishment certificate issued under § 8–110 of this article or a ground lease extinguishment certificate issued under § 8–708 of this article**; OR**

(VI) AN AFFORDABLE HOUSING LAND TRUST AGREEMENT EXECUTED UNDER TITLE 14, SUBTITLE 5 OF THIS ARTICLE WITH ANY TRANSFER OF PROPERTY FOR WHICH AN AFFORDABLE HOUSING LAND TRUST HAS A REVERSIONARY INTEREST.

(3) The recording of any instrument constitutes constructive notice from the date of recording.

6–101.

(a) **THIS SECTION DOES NOT APPLY TO AN AFFORDABLE HOUSING LAND TRUST AGREEMENT EXECUTED UNDER TITLE 14, SUBTITLE 5 OF THIS ARTICLE.**

(B) This section is effective on July 1, 1969, with respect to (1) inter vivos instruments taking effect on or after that date, (2) wills of persons who die on or after that date, and (3) appointments by inter vivos instruments or wills made on or after that date under powers created before that date.

[(b)**] (C)** If the specified contingency of a special limitation creating a possibility of reverter or of a condition subsequent creating a right of entry for condition broken does not occur within 30 years of the effective date of the instrument creating the possibility or condition, the possibility or condition no longer is valid thereafter.

8–110.

(a) (1) This section does not apply to leases of property leased for business, commercial, manufacturing, mercantile, or industrial purposes or any other purpose which is not primarily residential, where the term of the lease, including all renewals provided for, does not exceed 99 years. A lease of the entire property improved or to be improved by any apartment, condominium, cooperative, or other building for multiple–family use on the property constitutes a business and not a residential purpose. The term "multiple–family use" does not apply to any duplex or single–family structure converted to a multiple–dwelling unit.

(2) Except as provided in subsection (f) of this section, this section does not apply to irredeemable leases executed before April 9, 1884.

(3) This section does not apply to leases of the ground or site upon which dwellings or mobile homes are erected or placed in a mobile home development or mobile home park.

(4) THIS SECTION DOES NOT APPLY TO AN AFFORDABLE HOUSING LAND TRUST AGREEMENT EXECUTED UNDER TITLE 14, SUBTITLE 5 OF THIS ARTICLE.

8–111.2.

(a) This section does not apply to property:

(1) Leased for business, commercial, manufacturing, mercantile, or industrial purposes, or any other purpose that is not primarily residential;

(2) Improved or to be improved by any apartment, condominium, cooperative, or other building for multifamily use of greater than four dwelling units; **[**or**]**

(3) Leased for dwellings or mobile homes that are erected or placed in a mobile home development or mobile home park**; OR**

(4) SUBJECT TO AN AFFORDABLE HOUSING LAND TRUST AGREEMENT EXECUTED UNDER TITLE 14, SUBTITLE 5 OF THIS ARTICLE.

(b) On or after January 22, 2007, the owner of a fee simple or leasehold estate in residential property that is or was used, intended to be used, or authorized to be used for four or fewer dwelling units may not create a reversionary interest in the property under a ground lease or a ground sublease for a term of years renewable forever subject to the payment of a periodic ground rent.

SUBTITLE 5. AFFORDABLE HOUSING LAND TRUSTS.

14–501.

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

(B) "AFFORDABLE HOUSING LAND TRUST" MEANS AN ENTITY THAT:

(1) ~~PROVIDES~~ PROVIDES AFFORDABLE HOUSING TO LOW–INCOME FAMILIES AND MODERATE–INCOME FAMILIES ~~AND THAT IS~~ THROUGH AN AFFORDABLE HOUSING LAND TRUST AGREEMENT; AND

(2) IS ORGANIZED OR MANAGED BY:

~~(1)~~ (I) A NONPROFIT ORGANIZATION EXEMPT FROM TAXATION UNDER § 501(C)(2), (3), OR (4) OF THE UNITED STATES INTERNAL REVENUE CODE; OR

~~(2)~~ (II) A UNIT OR INSTRUMENTALITY OF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE.

(C) "AFFORDABLE HOUSING LAND TRUST AGREEMENT" MEANS AN AGREEMENT BETWEEN AN AFFORDABLE HOUSING LAND TRUST AND A PURCHASER OF REAL PROPERTY OWNED BY THE AFFORDABLE HOUSING LAND

TRUST, OR FOR WHICH THE AFFORDABLE HOUSING LAND TRUST HAS A PROPRIETARY OR REVERSIONARY INTEREST, THAT:

(1) GRANTS THE AFFORDABLE HOUSING LAND TRUST A PREEMPTIVE RIGHT TO PURCHASE OR REPURCHASE THE PROPERTY, INCLUDING ANY IMPROVEMENTS ON THE PROPERTY;

(2) CONTAINS LANGUAGE RESTRICTING THE TRANSFER, LEASE, SUBLEASE, ASSIGNMENT, OR OCCUPANCY OF THE PROPERTY WITH REGARD TO:

(I) POTENTIAL TRANSFEREES, SUBLESSEES, ASSIGNEES, OR OCCUPANTS; AND

(II) THE PRICE AT WHICH THE PROPERTY MAY BE TRANSFERRED; OR

(3) IMPOSES OTHER CONDITIONS ON THE USE OR TRANSFER OF THE PROPERTY THAT WOULD TRIGGER A REVERSIONARY INTEREST AND THAT ARE DESIGNED TO ENSURE THAT THE PROPERTY REMAINS AVAILABLE AND AFFORDABLE TO LOW–INCOME FAMILIES AND MODERATE–INCOME FAMILIES.

(D) "FAMILY" MEANS A HOUSEHOLD CONSISTING OF ONE OR MORE INDIVIDUALS.

(E) "LOW–INCOME FAMILY" MEANS A HOUSEHOLD WITH AN INCOME THAT DOES NOT EXCEED 80% OF THE AREA MEDIAN INCOME FOR A HOUSEHOLD OF THE SAME SIZE.

(F) "MODERATE–INCOME FAMILY" MEANS A HOUSEHOLD WITH AN INCOME THAT DOES NOT EXCEED 140% OF THE AREA MEDIAN INCOME FOR A HOUSEHOLD OF THE SAME SIZE.

(G) "NONPROFIT STATUS" MEANS THE RECOGNITION BY THE INTERNAL REVENUE SERVICE THAT AN AFFORDABLE HOUSING LAND TRUST IS EXEMPT FROM TAXATION UNDER § 501(C)(2), (3), OR (4) OF THE INTERNAL REVENUE CODE.

14–502.

(A) AN AFFORDABLE HOUSING LAND TRUST AGREEMENT CREATED UNDER THIS SUBTITLE:

(1) IS NOT A GROUND LEASE; AND

(2) IS NOT SUBJECT TO ANY PROVISION CONCERNING GROUND LEASES UNDER TITLE 8 OR TITLE 14, SUBTITLE 1 OF THIS ARTICLE OR UNDER ANY OTHER PROVISION OF THE CODE.

(B) THIS SUBTITLE DOES NOT APPLY TO ANY GROUND LEASE THAT IS SUBJECT TO TITLE 8 OR TITLE 14, SUBTITLE 1 OF THIS ARTICLE.

(C) THIS SUBTITLE MAY NOT BE CONSTRUED TO EXEMPT ANY AFFORDABLE HOUSING LAND TRUST OR ANY AFFORDABLE HOUSING LAND TRUST AGREEMENT FROM ANY PROVISION OF LAW MANDATING EQUAL TREATMENT OR PROHIBITING DISCRIMINATION.

14–503.

(A) IN THIS SECTION, "DEPARTMENT" MEANS THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION.

(B) EACH AFFORDABLE HOUSING LAND TRUST SHALL REGISTER ITS CREATION WITH THE DEPARTMENT ON A FORM PRESCRIBED BY THE DEPARTMENT.

(C) AN AFFORDABLE HOUSING LAND TRUST SHALL SUBMIT UPDATES RELATING TO ITS ORGANIZATION, TAX STATUS, ADDRESS, OFFICERS, AND ANY OTHER INFORMATION AS REQUIRED BY THE DEPARTMENT.

(D) (1) THE DEPARTMENT SHALL MAINTAIN AN ONLINE LIST OF REGISTERED AFFORDABLE HOUSING LAND TRUSTS IN THE STATE.

(2) THE DEPARTMENT IS NOT RESPONSIBLE FOR THE COMPLETENESS OR ACCURACY OF THE CONTENTS OF THE ONLINE LIST OR THE ACCURACY OF ANY REGISTRATION.

(E) THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT AND ENFORCE THE PROVISIONS OF THIS SECTION.

14–504.

IN ACCORDANCE WITH THIS SUBTITLE, AN AFFORDABLE HOUSING LAND TRUST MAY:

(1) ACQUIRE RESIDENTIAL REAL PROPERTY;

(2) ACQUIRE AN INTEREST IN PROPERTY FOR THE CONSTRUCTION OF RESIDENTIAL REAL PROPERTY;

(3) MAKE IMPROVEMENTS ON RESIDENTIAL REAL PROPERTY;

(4) ENTER INTO AFFORDABLE HOUSING LAND TRUST AGREEMENTS WITH PERSONS WHO MEET THE CRITERIA SET OUT IN THIS SUBTITLE AND ANY OTHER CRITERIA AS ESTABLISHED IN THE AFFORDABLE HOUSING LAND TRUST AGREEMENT FOR THE TRANSFER OF AN INTEREST IN RESIDENTIAL REAL PROPERTY; AND

(5) ENGAGE IN OTHER ACTIVITIES RELATED TO THE SALE, LEASING, MANAGEMENT, MAINTENANCE, AND PRESERVATION OF PROPERTIES UNDER THE CONTROL OF THE AFFORDABLE HOUSING LAND TRUST.

14–505.

(A) AN AFFORDABLE HOUSING LAND TRUST AGREEMENT MAY:

(1) RESTRICT THE TRANSFER, LEASE, SUBLEASE, OR ASSIGNMENT OF POSSESSION OR OF ANY INTEREST IN THE PROPERTY TO A PERSON WHO DOES NOT MEET THE CONDITIONS SET FORTH IN THE AFFORDABLE HOUSING LAND TRUST AGREEMENT FOR THAT PROPERTY;

(2) GRANT THE AFFORDABLE HOUSING LAND TRUST THE RIGHT TO REPURCHASE ANY INTEREST IN THE PROPERTY AND ANY IMPROVEMENTS ON THE PROPERTY UNDER TERMS SET FORTH IN THE AFFORDABLE HOUSING LAND TRUST AGREEMENT AND IN ACCORDANCE WITH THE REQUIREMENTS OF § ~~10–205 OF THIS ARTICLE~~ 14–506 OF THIS SUBTITLE;

(3) GRANT THE AFFORDABLE HOUSING LAND TRUST THE RIGHT TO TAKE POSSESSION OF THE PROPERTY AND SELL THE PROPERTY IF A CONDITION DEFINED IN THE AGREEMENT IS MET AND IN ACCORDANCE WITH THE REQUIREMENTS OF § ~~10–205 OF THIS ARTICLE~~ 14–507 OF THIS SUBTITLE;

(4) PROVIDE FOR THE REVERSION OF THE PROPERTY AT THE END OF THE TERM OF THE AFFORDABLE HOUSING LAND TRUST AGREEMENT UNDER CONDITIONS SET FORTH IN THE AGREEMENT;

(5) PROVIDE A MECHANISM OR FORMULA FOR THE SHARING OF ANY PROCEEDS FROM A FUTURE SALE OR TRANSFER OF AN INTEREST IN THE PROPERTY UNDER TERMS SET FORTH IN THE AGREEMENT; AND

(6) PROVIDE OTHER MECHANISMS TO ENFORCE THE TERMS OF THE AFFORDABLE HOUSING LAND TRUST AGREEMENT.

(B) AN AFFORDABLE HOUSING LAND TRUST SHALL RECORD ANY AFFORDABLE HOUSING LAND TRUST AGREEMENT IN ACCORDANCE WITH SUBSECTION (F) OF THIS SECTION AND TITLE 3 OF THIS ARTICLE.

(C) AN AFFORDABLE HOUSING LAND TRUST AGREEMENT:

(1) MAY NOT EXTEND FOR A TERM LONGER THAN 99 YEARS; AND

(2) MAY BE RENEWED UNDER CONDITIONS SET FORTH IN THE AGREEMENT.

(D) AN AFFORDABLE HOUSING LAND TRUST AGREEMENT SHALL:

(1) BE IN WRITING; AND

(2) CLEARLY IDENTIFY EACH TERM AND CONDITION.

(E) (1) A COPY OF AN AFFORDABLE HOUSING LAND TRUST AGREEMENT SHALL BE PROVIDED TO THE PURCHASER OF ANY PROPERTY COVERED BY THE AGREEMENT AT LEAST 15 DAYS BEFORE THE PURCHASER ENTERS INTO A CONTRACT ACQUIRING AN INTEREST IN OR POSSESSION OF ANY PROPERTY COVERED BY THE AGREEMENT.

(2) (I) IF A COPY OF THE AFFORDABLE HOUSING LAND TRUST AGREEMENT IS NOT PROVIDED AS REQUIRED UNDER THIS SUBSECTION, A CONTRACT ENTERED INTO BY A PURCHASER OF ANY PROPERTY COVERED BY THE AGREEMENT IS ~~INVALID~~ VOIDABLE BY THE PURCHASER.

(II) THE FAILURE TO PROVIDE A COPY OF THE AFFORDABLE HOUSING LAND TRUST AGREEMENT AS REQUIRED UNDER THIS SUBSECTION IS CAUSE FOR THE RESCISSION OF ANY TRANSACTION INVOLVING THE TRANSFER OF ANY INTEREST IN THE PROPERTY BY THE PURCHASER.

(F) A COPY OF THE AFFORDABLE HOUSING LAND TRUST AGREEMENT AND A SIGNED, NOTARIZED AFFIDAVIT ACKNOWLEDGING RECEIPT OF THE AFFORDABLE HOUSING LAND TRUST AGREEMENT BY THE TRANSFEREE SHALL BE ~~RECORDED~~:

(1) RECORDED IN THE LAND RECORDS OF THE COUNTY IN WHICH THE PROPERTY IS LOCATED;

(2) INDEXED IN THE GRANTOR AND GRANTEE INDICES WITH THE SELLER AS GRANTOR AND THE PURCHASER AS GRANTEE; AND

(3) NOTWITHSTANDING THE FACT THAT A COPY OF THE AFFORDABLE HOUSING LAND TRUST AGREEMENT, RATHER THAN THE ORIGINAL, IS OFFERED FOR RECORD WITH THE AFFIDAVIT, ACCEPTED FOR RECORDING BY THE CLERK WITHOUT PAYMENT OF RECORDATION AND TRANSFER TAXES.

(G) RECORDATION OF A COPY OF THE AFFORDABLE HOUSING LAND TRUST AGREEMENT AND THE AFFIDAVIT:

(1) TERMINATES THE RIGHT OF RESCISSION; AND

(2) PROVIDES A CONCLUSIVE PRESUMPTION THAT A CONTRACT OF SALE WAS NOT RESCINDED.

(H) THE TERMS OF AN AFFORDABLE HOUSING LAND TRUST AGREEMENT MAY BE MODIFIED OR CHANGED ONLY WITH THE WRITTEN CONSENT OF ALL THE PARTIES.

14–506.

(A) (1) SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, AN AFFORDABLE HOUSING LAND TRUST AGREEMENT MAY AUTHORIZE THE AFFORDABLE HOUSING LAND TRUST TO REPURCHASE ANY INTEREST IN THE PROPERTY COVERED AND ANY IMPROVEMENTS ON IT UNDER CONDITIONS SET FORTH IN THE AGREEMENT.

(2) THE TIME PERIOD DURING WHICH THE AFFORDABLE HOUSING LAND TRUST MAY EXERCISE THE RIGHT TO REPURCHASE SHALL BE SET FORTH IN THE AFFORDABLE HOUSING LAND TRUST AGREEMENT AND MAY NOT EXCEED ~~60~~ 120 DAYS FROM THE DATE THAT THE AFFORDABLE HOUSING LAND TRUST RECEIVES NOTICE OF AN EVENT THAT WOULD GIVE THE AFFORDABLE HOUSING LAND TRUST THE RIGHT TO EXERCISE THE RIGHT TO REPURCHASE.

(3) THE FAILURE OF AN AFFORDABLE HOUSING LAND TRUST TO EXERCISE THE RIGHT TO REPURCHASE DOES NOT PROHIBIT THE AFFORDABLE HOUSING LAND TRUST FROM EXERCISING ANY OTHER RIGHT ESTABLISHED IN THE AGREEMENT, INCLUDING ~~ANY PROVISION TO SHARE IN THE PROCEEDS OF ANY TRANSFER~~ THE RIGHT TO SHARE IN THE PROCEEDS OF THE FIRST SALE TO A PURCHASER FOLLOWING THE FAILURE OF THE LAND TRUST TO EXERCISE ITS RIGHT TO REPURCHASE.

(B) (1) EXCEPT AS PROVIDED IN SUBSECTION (A)(3) OF THIS SECTION OR IN THE AFFORDABLE HOUSING LAND TRUST AGREEMENT, THE

FAILURE TO EXERCISE A RIGHT TO REPURCHASE EXTINGUISHES THE RIGHT OF THE AFFORDABLE HOUSING LAND TRUST TO EXERCISE ANY REVERSIONARY INTEREST IN THE FUTURE.

(2) A SUBSEQUENT PURCHASER WHO ACQUIRES THE SPECIFIED INTEREST IN THE PROPERTY IN AN ARMS–LENGTH, THIRD–PARTY TRANSACTION FOR A FAIR MARKET PRICE AFTER THE AFFORDABLE HOUSING LAND TRUST HAS NOT EXERCISED ITS RIGHT TO REPURCHASE RECEIVES TITLE, FREE OF ANY ~~RESTRICTIONS ARISING AS A RESULT OF THE AFFORDABLE HOUSING LAND TRUST AGREEMENT~~ RIGHTS ESTABLISHED IN THE AFFORDABLE HOUSING LAND TRUST AGREEMENT THAT WOULD OTHERWISE HAVE BEEN ENFORCEABLE BY THE AFFORDABLE HOUSING LAND TRUST.

(3) (I) A SELLER WHO SELLS THE SPECIFIED INTEREST IN THE PROPERTY TO A PURCHASER IN AN ARMS–LENGTH THIRD–PARTY TRANSACTION FOR A FAIR MARKET PRICE AFTER THE AFFORDABLE HOUSING LAND TRUST HAS FAILED TO EXERCISE ITS RIGHT TO REPURCHASE SHALL EXECUTE A SIGNED, NOTARIZED AFFIDAVIT ATTESTING TO THE FACT OF THE SELLER'S NOTIFICATION TO THE AFFORDABLE HOUSING LAND TRUST AND THE AFFORDABLE HOUSING LAND TRUST'S FAILURE TO EXERCISE ITS RIGHT TO REPURCHASE.

(II) THE AFFIDAVIT SHALL BE RECORDED WITH THE DEED TRANSFERRING THE SPECIFIED INTEREST IN THE PROPERTY TO THE PURCHASER IN ACCORDANCE WITH § 14–505(F) OF THIS SUBTITLE.

(III) RECORDATION OF THE AFFIDAVIT UNDER THIS PARAGRAPH PROVIDES A CONCLUSIVE PRESUMPTION OF THE FACT THAT THE AFFORDABLE HOUSING LAND TRUST FAILED TO EXERCISE ITS RIGHT TO REPURCHASE.

14–507.

AN AFFORDABLE HOUSING LAND TRUST AGREEMENT MAY AUTHORIZE THE AFFORDABLE HOUSING LAND TRUST TO TAKE POSSESSION OF THE PROPERTY AND ANY IMPROVEMENTS AND SELL OR TRANSFER THE SPECIFIED INTEREST IN THE PROPERTY IF:

(1) A CONDITION DEFINED IN THE AFFORDABLE HOUSING LAND TRUST AGREEMENT AUTHORIZING THE ACTION IS MET;

(2) THE SALE IS MADE ~~TO A DISINTERESTED PARTY UNDER CONDITIONS THAT ENSURE THAT A FAIR MARKET PRICE IS OBTAINED~~ UNDER TITLE 14, CHAPTER 300 OF THE MARYLAND RULES;

(3) THE OWNER OF THE INTEREST IN THE PROPERTY RETAINS THE RIGHT TO ANY PROCEEDS OF A SALE AS SET FORTH IN THE AFFORDABLE HOUSING LAND TRUST AGREEMENT; AND

(4) THE RIGHT OF THE OWNER TO THE PROCEEDS HAS PRECEDENCE OVER ANY CLAIM BY THE AFFORDABLE HOUSING LAND TRUST TO THE PROCEEDS OF THE SALE.

14–508.

THE REVERSIONARY RIGHTS OF AN AFFORDABLE HOUSING LAND TRUST AS SET FORTH IN THE AFFORDABLE HOUSING LAND TRUST AGREEMENT ARE LIMITED TO PROVISIONS THAT RELATE TO:

(1) THE TRANSFER OF THE PROPERTY TO A PERSON WHO IS NOT A PARTY TO THE AGREEMENT OR A PERSON WHO DOES NOT MEET THE CONDITIONS SET FORTH IN THE AFFORDABLE HOUSING LAND TRUST AGREEMENT;

(2) THE POSSESSION OF THE PROPERTY BY A PERSON WHO DOES NOT MEET THE CONDITIONS SET FORTH IN THE AFFORDABLE HOUSING LAND TRUST AGREEMENT;

(3) THE TRANSFER OF AN INTEREST IN THE PROPERTY TO A PERSON WHO DOES NOT MEET THE CONDITIONS SET FORTH IN THE AFFORDABLE HOUSING LAND TRUST AGREEMENT;

(4) THE WASTE, DESTRUCTION, OR ABANDONMENT OF THE PROPERTY; OR

(5) THE FAILURE TO COMPLY WITH ANY FINANCIAL PROVISION IN THE AFFORDABLE HOUSING LAND TRUST AGREEMENT.

14–509.

(A) IN ANY ASSESSMENT FOR TAX PURPOSES OF PROPERTY SUBJECT TO AN AFFORDABLE HOUSING LAND TRUST AGREEMENT, THE PROPERTY SHALL BE ASSESSED BASED ON ITS MARKET VALUE SUBJECT TO ANY RESTRICTIONS IN THE AFFORDABLE HOUSING LAND TRUST AGREEMENT.

(B) THE ASSESSMENT SHALL NOTE THAT THE SALE WAS NOT AN ARMS–LENGTH TRANSFER ON THE PROPERTY TAX RECORD.

14–510.

(A) A NONPROFIT ORGANIZATION OPERATING AN AFFORDABLE HOUSING LAND TRUST THAT GIVES UP OR LOSES ITS NONPROFIT STATUS MAY NO LONGER OPERATE AN AFFORDABLE HOUSING LAND TRUST UNDER THE TERMS OF THIS SUBTITLE.

(B) A NONPROFIT ORGANIZATION OPERATING AN AFFORDABLE HOUSING LAND TRUST MAY TRANSFER ITS INTEREST IN ANY AFFORDABLE HOUSING LAND TRUST AGREEMENT TO ANOTHER AFFORDABLE HOUSING LAND TRUST, PROVIDED THAT THE NONPROFIT ORGANIZATION DOES NOT RECEIVE ANY FINANCIAL OR OTHER VALUABLE COMPENSATION FOR THE TRANSFER OTHER THAN COMPENSATION FOR INCIDENTAL COSTS ASSOCIATED WITH THE TRANSFER.

(C) IF A NONPROFIT ORGANIZATION OPERATING AN AFFORDABLE HOUSING LAND TRUST GIVES UP OR LOSES ITS NONPROFIT STATUS AND DOES NOT TRANSFER ITS INTEREST IN AN AFFORDABLE HOUSING LAND TRUST AGREEMENT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE AFFORDABLE HOUSING LAND TRUST AGREEMENT IS ABROGATED AND ANY REVERSIONARY INTEREST CONTAINED IN THE AGREEMENT OR ANY PROVISION FOR THE SHARING OF PROCEEDS BECOMES UNENFORCEABLE.

(D) IF AN AFFORDABLE HOUSING LAND TRUST AGREEMENT BECOMES UNENFORCEABLE, THE TITLE HOLDER TO THE PROPERTY OBTAINS FEE SIMPLE TITLE TO THE PROPERTY WITHOUT RESTRICTION.

14–511.

THIS SUBTITLE MAY BE CITED AS THE AFFORDABLE HOUSING LAND TRUST ACT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 610

(House Bill 869)

AN ACT concerning

Real Property – Affordable Housing Land Trusts

FOR the purpose of exempting a certain affordable housing land trust agreement from the application of the common law rule against perpetuities; authorizing a certain affordable housing land trust agreement to be recorded in the land records; exempting a certain affordable housing land trust agreement from certain provisions relating to a possibility of reverter and right of entry; exempting a certain affordable housing land trust agreement from certain provisions relating to the creation and redemption of reversionary interests; providing for the applicability of this Act; requiring an affordable housing land trust to register with the State Department of Assessments and Taxation; requiring the Department to maintain an online list of registered affordable housing land trusts; authorizing an affordable housing land trust to conduct certain activities relating to the acquisition, leasing, management, maintenance, and preservation of residential real property under certain circumstances; imposing certain conditions on an affordable housing land trust agreement; providing that the affordable housing land trust agreement and a certain affidavit shall be recorded and indexed in the county land records in a certain manner and accepted for recordation by the clerk without the payment of certain taxes; establishing that a certain recordation terminates a certain right of rescission and provides certain proof that a contract of sale was not rescinded; authorizing an affordable housing land trust to repurchase any interest in or take possession of certain residential property under certain circumstances; requiring a certain seller to execute a certain affidavit concerning certain notification to the affordable housing land trust and the trust's failure to exercise a certain right to repurchase; requiring the recordation of the affidavit; establishing that the recordation of the affidavit provides certain proof that the affordable housing land trust failed to exercise a certain right of repurchase; limiting the reversionary interest of an affordable housing land trust under certain circumstances; requiring a tax assessment of certain affordable housing trust property to be done in a certain manner and to include a certain notation; prohibiting a nonprofit organization from operating an affordable housing land trust under certain circumstances; providing for the transfer of certain property interests under certain circumstances; defining certain terms; and generally relating to affordable housing land trusts.

BY repealing and reenacting, with amendments,
Article – Estates and Trusts
Section 11–102(b)(11) and (12)
Annotated Code of Maryland
(2001 Replacement Volume and 2009 Supplement)

BY adding to
Article – Estates and Trusts
Section 11–102(b)(13)
Annotated Code of Maryland
(2001 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Real Property
Section 3–102(a), 6–101, 8–110(a), and 8–111.2
Annotated Code of Maryland
(2003 Replacement Volume and 2009 Supplement)

BY adding to
Article – Real Property
Section 14–501 through 14–511 to be under the new subtitle "Subtitle 5. Affordable Housing Land Trusts"
Annotated Code of Maryland
(2003 Replacement Volume and 2009 Supplement)

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

Article – Estates and Trusts

11–102.

(b) Subject to §§ 4–409 of this article and 11–103 of this subtitle, the common–law rule against perpetuities as now recognized in the State is preserved, but the rule does not apply to the following:

(11) A nondonative property interest as described in § 11–102.1 of this subtitle; **[**or**]**

(12) A trust created under § 14–112 of this article to provide for the care of an animal alive during the lifetime of the settlor**; OR**

(13) AN AFFORDABLE HOUSING LAND TRUST AGREEMENT EXECUTED UNDER TITLE 14, SUBTITLE 5 OF THE REAL PROPERTY ARTICLE.

Article – Real Property

3–102.

(a) (1) Any other instrument affecting property, including any contract for the grant of property, or any subordination agreement establishing priorities between interests in property may be recorded.

(2) The following instruments also may be recorded:

(i) Any notice of deferred property footage assessment for street construction;

(ii) Any boundary survey plat signed and sealed by a professional land surveyor or property line surveyor licensed in the State;

(iii) Any assumption agreement by which a person agrees to assume the liability of a debt or other obligation secured by a mortgage or deed of trust;

(iv) Any release of personal liability of a borrower or guarantor under a mortgage or under a note or other obligation secured by a deed of trust; **[**or**]**

(v) A ground rent redemption certificate or a ground rent extinguishment certificate issued under § 8–110 of this article or a ground lease extinguishment certificate issued under § 8–708 of this article**; OR**

(VI) AN AFFORDABLE HOUSING LAND TRUST AGREEMENT EXECUTED UNDER TITLE 14, SUBTITLE 5 OF THIS ARTICLE WITH ANY TRANSFER OF PROPERTY FOR WHICH AN AFFORDABLE HOUSING LAND TRUST HAS A REVERSIONARY INTEREST.

(3) The recording of any instrument constitutes constructive notice from the date of recording.

6–101.

(a) **THIS SECTION DOES NOT APPLY TO AN AFFORDABLE HOUSING LAND TRUST AGREEMENT EXECUTED UNDER TITLE 14, SUBTITLE 5 OF THIS ARTICLE.**

(B) This section is effective on July 1, 1969, with respect to (1) inter vivos instruments taking effect on or after that date, (2) wills of persons who die on or after that date, and (3) appointments by inter vivos instruments or wills made on or after that date under powers created before that date.

[(b)**] (C)** If the specified contingency of a special limitation creating a possibility of reverter or of a condition subsequent creating a right of entry for condition broken does not occur within 30 years of the effective date of the instrument creating the possibility or condition, the possibility or condition no longer is valid thereafter.

8–110.

(a) (1) This section does not apply to leases of property leased for business, commercial, manufacturing, mercantile, or industrial purposes or any other purpose which is not primarily residential, where the term of the lease, including all renewals provided for, does not exceed 99 years. A lease of the entire property improved or to be improved by any apartment, condominium, cooperative, or other building for multiple–family use on the property constitutes a business and not a

residential purpose. The term "multiple–family use" does not apply to any duplex or single–family structure converted to a multiple–dwelling unit.

(2) Except as provided in subsection (f) of this section, this section does not apply to irredeemable leases executed before April 9, 1884.

(3) This section does not apply to leases of the ground or site upon which dwellings or mobile homes are erected or placed in a mobile home development or mobile home park.

(4) THIS SECTION DOES NOT APPLY TO AN AFFORDABLE HOUSING LAND TRUST AGREEMENT EXECUTED UNDER TITLE 14, SUBTITLE 5 OF THIS ARTICLE.

8–111.2.

(a) This section does not apply to property:

(1) Leased for business, commercial, manufacturing, mercantile, or industrial purposes, or any other purpose that is not primarily residential;

(2) Improved or to be improved by any apartment, condominium, cooperative, or other building for multifamily use of greater than four dwelling units; **[**or**]**

(3) Leased for dwellings or mobile homes that are erected or placed in a mobile home development or mobile home park**; OR**

(4) SUBJECT TO AN AFFORDABLE HOUSING LAND TRUST AGREEMENT EXECUTED UNDER TITLE 14, SUBTITLE 5 OF THIS ARTICLE.

(b) On or after January 22, 2007, the owner of a fee simple or leasehold estate in residential property that is or was used, intended to be used, or authorized to be used for four or fewer dwelling units may not create a reversionary interest in the property under a ground lease or a ground sublease for a term of years renewable forever subject to the payment of a periodic ground rent.

SUBTITLE 5. AFFORDABLE HOUSING LAND TRUSTS.

14–501.

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

(B) "AFFORDABLE HOUSING LAND TRUST" MEANS AN ENTITY THAT: ~~**PROVIDES**~~

(1) PROVIDES AFFORDABLE HOUSING TO LOW–INCOME FAMILIES AND MODERATE–INCOME FAMILIES ~~AND THAT IS~~ THROUGH AN AFFORDABLE HOUSING LAND TRUST AGREEMENT; AND

(2) IS ORGANIZED OR MANAGED BY:

~~(1)~~ (I) A NONPROFIT ORGANIZATION EXEMPT FROM TAXATION UNDER § 501(C)(2), (3), OR (4) OF THE UNITED STATES INTERNAL REVENUE CODE; OR

~~(2)~~ (II) A UNIT OR INSTRUMENTALITY OF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE.

(C) "AFFORDABLE HOUSING LAND TRUST AGREEMENT" MEANS AN AGREEMENT BETWEEN AN AFFORDABLE HOUSING LAND TRUST AND A PURCHASER OF REAL PROPERTY OWNED BY THE AFFORDABLE HOUSING LAND TRUST, OR FOR WHICH THE AFFORDABLE HOUSING LAND TRUST HAS A PROPRIETARY OR REVERSIONARY INTEREST, THAT:

(1) GRANTS THE AFFORDABLE HOUSING LAND TRUST A PREEMPTIVE RIGHT TO PURCHASE OR REPURCHASE THE PROPERTY, INCLUDING ANY IMPROVEMENTS ON THE PROPERTY;

(2) CONTAINS LANGUAGE RESTRICTING THE TRANSFER, LEASE, SUBLEASE, ASSIGNMENT, OR OCCUPANCY OF THE PROPERTY WITH REGARD TO:

(I) POTENTIAL TRANSFEREES, SUBLESSEES, ASSIGNEES, OR OCCUPANTS; AND

(II) THE PRICE AT WHICH THE PROPERTY MAY BE TRANSFERRED; OR

(3) IMPOSES OTHER CONDITIONS ON THE USE OR TRANSFER OF THE PROPERTY THAT WOULD TRIGGER A REVERSIONARY INTEREST AND THAT ARE DESIGNED TO ENSURE THAT THE PROPERTY REMAINS AVAILABLE AND AFFORDABLE TO LOW–INCOME FAMILIES AND MODERATE–INCOME FAMILIES.

(D) "FAMILY" MEANS A HOUSEHOLD CONSISTING OF ONE OR MORE INDIVIDUALS.

(E) "LOW–INCOME FAMILY" MEANS A HOUSEHOLD WITH AN INCOME THAT DOES NOT EXCEED 80% OF THE AREA MEDIAN INCOME FOR A HOUSEHOLD OF THE SAME SIZE.

(F) "MODERATE–INCOME FAMILY" MEANS A HOUSEHOLD WITH AN INCOME THAT DOES NOT EXCEED 140% OF THE AREA MEDIAN INCOME FOR A HOUSEHOLD OF THE SAME SIZE.

(G) "NONPROFIT STATUS" MEANS THE RECOGNITION BY THE INTERNAL REVENUE SERVICE THAT AN AFFORDABLE HOUSING LAND TRUST IS EXEMPT FROM TAXATION UNDER § 501(C)(2), (3), OR (4) OF THE INTERNAL REVENUE CODE.

14–502.

(A) AN AFFORDABLE HOUSING LAND TRUST AGREEMENT CREATED UNDER THIS SUBTITLE:

(1) IS NOT A GROUND LEASE; AND

(2) IS NOT SUBJECT TO ANY PROVISION CONCERNING GROUND LEASES UNDER TITLE 8 OR TITLE 14, SUBTITLE 1 OF THIS ARTICLE OR UNDER ANY OTHER PROVISION OF THE CODE.

(B) THIS SUBTITLE DOES NOT APPLY TO ANY GROUND LEASE THAT IS SUBJECT TO TITLE 8 OR TITLE 14, SUBTITLE 1 OF THIS ARTICLE.

(C) THIS SUBTITLE MAY NOT BE CONSTRUED TO EXEMPT ANY AFFORDABLE HOUSING LAND TRUST OR ANY AFFORDABLE HOUSING LAND TRUST AGREEMENT FROM ANY PROVISION OF LAW MANDATING EQUAL TREATMENT OR PROHIBITING DISCRIMINATION.

14–503.

(A) IN THIS SECTION, "DEPARTMENT" MEANS THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION.

(B) EACH AFFORDABLE HOUSING LAND TRUST SHALL REGISTER ITS CREATION WITH THE DEPARTMENT ON A FORM PRESCRIBED BY THE DEPARTMENT.

(C) AN AFFORDABLE HOUSING LAND TRUST SHALL SUBMIT UPDATES RELATING TO ITS ORGANIZATION, TAX STATUS, ADDRESS, OFFICERS, AND ANY OTHER INFORMATION AS REQUIRED BY THE DEPARTMENT.

(D) (1) THE DEPARTMENT SHALL MAINTAIN AN ONLINE LIST OF REGISTERED AFFORDABLE HOUSING LAND TRUSTS IN THE STATE.

(2) THE DEPARTMENT IS NOT RESPONSIBLE FOR THE COMPLETENESS OR ACCURACY OF THE CONTENTS OF THE ONLINE LIST OR THE ACCURACY OF ANY REGISTRATION.

(E) THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT AND ENFORCE THE PROVISIONS OF THIS SECTION.

14–504.

IN ACCORDANCE WITH THIS SUBTITLE, AN AFFORDABLE HOUSING LAND TRUST MAY:

(1) ACQUIRE RESIDENTIAL REAL PROPERTY;

(2) ACQUIRE AN INTEREST IN PROPERTY FOR THE CONSTRUCTION OF RESIDENTIAL REAL PROPERTY;

(3) MAKE IMPROVEMENTS ON RESIDENTIAL REAL PROPERTY;

(4) ENTER INTO AFFORDABLE HOUSING LAND TRUST AGREEMENTS WITH PERSONS WHO MEET THE CRITERIA SET OUT IN THIS SUBTITLE AND ANY OTHER CRITERIA AS ESTABLISHED IN THE AFFORDABLE HOUSING LAND TRUST AGREEMENT FOR THE TRANSFER OF AN INTEREST IN RESIDENTIAL REAL PROPERTY; AND

(5) ENGAGE IN OTHER ACTIVITIES RELATED TO THE SALE, LEASING, MANAGEMENT, MAINTENANCE, AND PRESERVATION OF PROPERTIES UNDER THE CONTROL OF THE AFFORDABLE HOUSING LAND TRUST.

14–505.

(A) AN AFFORDABLE HOUSING LAND TRUST AGREEMENT MAY:

(1) RESTRICT THE TRANSFER, LEASE, SUBLEASE, OR ASSIGNMENT OF POSSESSION OR OF ANY INTEREST IN THE PROPERTY TO A PERSON WHO DOES NOT MEET THE CONDITIONS SET FORTH IN THE AFFORDABLE HOUSING LAND TRUST AGREEMENT FOR THAT PROPERTY;

(2) GRANT THE AFFORDABLE HOUSING LAND TRUST THE RIGHT TO REPURCHASE ANY INTEREST IN THE PROPERTY AND ANY IMPROVEMENTS ON THE PROPERTY UNDER TERMS SET FORTH IN THE AFFORDABLE HOUSING LAND TRUST AGREEMENT AND IN ACCORDANCE WITH THE REQUIREMENTS OF § ~~10–205 OF THIS ARTICLE~~ 14–506 OF THIS SUBTITLE;

(3) GRANT THE AFFORDABLE HOUSING LAND TRUST THE RIGHT TO TAKE POSSESSION OF THE PROPERTY AND SELL THE PROPERTY IF A CONDITION DEFINED IN THE AGREEMENT IS MET AND IN ACCORDANCE WITH THE REQUIREMENTS OF § ~~10–205 OF THIS ARTICLE~~ 14–507 OF THIS SUBTITLE;

(4) PROVIDE FOR THE REVERSION OF THE PROPERTY AT THE END OF THE TERM OF THE AFFORDABLE HOUSING LAND TRUST AGREEMENT UNDER CONDITIONS SET FORTH IN THE AGREEMENT;

(5) PROVIDE A MECHANISM OR FORMULA FOR THE SHARING OF ANY PROCEEDS FROM A FUTURE SALE OR TRANSFER OF AN INTEREST IN THE PROPERTY UNDER TERMS SET FORTH IN THE AGREEMENT; AND

(6) PROVIDE OTHER MECHANISMS TO ENFORCE THE TERMS OF THE AFFORDABLE HOUSING LAND TRUST AGREEMENT.

(B) AN AFFORDABLE HOUSING LAND TRUST SHALL RECORD ANY AFFORDABLE HOUSING LAND TRUST AGREEMENT IN ACCORDANCE WITH SUBSECTION (F) OF THIS SECTION AND TITLE 3 OF THIS ARTICLE.

(C) AN AFFORDABLE HOUSING LAND TRUST AGREEMENT:

(1) MAY NOT EXTEND FOR A TERM LONGER THAN 99 YEARS; AND

(2) MAY BE RENEWED UNDER CONDITIONS SET FORTH IN THE AGREEMENT.

(D) AN AFFORDABLE HOUSING LAND TRUST AGREEMENT SHALL:

(1) BE IN WRITING; AND

(2) CLEARLY IDENTIFY EACH TERM AND CONDITION.

(E) (1) A COPY OF AN AFFORDABLE HOUSING LAND TRUST AGREEMENT SHALL BE PROVIDED TO THE PURCHASER OF ANY PROPERTY COVERED BY THE AGREEMENT AT LEAST 15 DAYS BEFORE THE PURCHASER ENTERS INTO A CONTRACT ACQUIRING AN INTEREST IN OR POSSESSION OF ANY PROPERTY COVERED BY THE AGREEMENT.

(2) (I) IF A COPY OF THE AFFORDABLE HOUSING LAND TRUST AGREEMENT IS NOT PROVIDED AS REQUIRED UNDER THIS SUBSECTION, A CONTRACT ENTERED INTO BY A PURCHASER OF ANY PROPERTY COVERED BY THE AGREEMENT IS ~~INVALID~~ VOIDABLE BY THE PURCHASER.

(II) THE FAILURE TO PROVIDE A COPY OF THE AFFORDABLE HOUSING LAND TRUST AGREEMENT AS REQUIRED UNDER THIS SUBSECTION IS CAUSE FOR THE RESCISSION OF ANY TRANSACTION INVOLVING THE TRANSFER OF ANY INTEREST IN THE PROPERTY BY THE PURCHASER.

(F) A COPY OF THE AFFORDABLE HOUSING LAND TRUST AGREEMENT AND A SIGNED, NOTARIZED AFFIDAVIT ACKNOWLEDGING RECEIPT OF THE AFFORDABLE HOUSING LAND TRUST AGREEMENT BY THE TRANSFEREE SHALL BE ~~RECORDED~~:

(1) RECORDED IN THE LAND RECORDS OF THE COUNTY IN WHICH THE PROPERTY IS LOCATED;

(2) INDEXED IN THE GRANTOR AND GRANTEE INDICES WITH THE SELLER AS GRANTOR AND THE PURCHASER AS GRANTEE; AND

(3) NOTWITHSTANDING THE FACT THAT A COPY OF THE AFFORDABLE HOUSING LAND TRUST AGREEMENT, RATHER THAN THE ORIGINAL, IS OFFERED FOR RECORD WITH THE AFFIDAVIT, ACCEPTED FOR RECORDING BY THE CLERK WITHOUT PAYMENT OF RECORDATION AND TRANSFER TAXES.

(G) RECORDATION OF A COPY OF THE AFFORDABLE HOUSING LAND TRUST AGREEMENT AND THE AFFIDAVIT:

(1) TERMINATES THE RIGHT OF RESCISSION; AND

(2) PROVIDES A CONCLUSIVE PRESUMPTION THAT A CONTRACT OF SALE WAS NOT RESCINDED.

(H) THE TERMS OF AN AFFORDABLE HOUSING LAND TRUST AGREEMENT MAY BE MODIFIED OR CHANGED ONLY WITH THE WRITTEN CONSENT OF ALL THE PARTIES.

14–506.

(A) (1) SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, AN AFFORDABLE HOUSING LAND TRUST AGREEMENT MAY AUTHORIZE THE AFFORDABLE HOUSING LAND TRUST TO REPURCHASE ANY INTEREST IN THE PROPERTY COVERED AND ANY IMPROVEMENTS ON IT UNDER CONDITIONS SET FORTH IN THE AGREEMENT.

(2) THE TIME PERIOD DURING WHICH THE AFFORDABLE HOUSING LAND TRUST MAY EXERCISE THE RIGHT TO REPURCHASE SHALL BE SET FORTH IN THE AFFORDABLE HOUSING LAND TRUST AGREEMENT AND MAY NOT EXCEED ~~60~~ 120 DAYS FROM THE DATE THAT THE AFFORDABLE HOUSING LAND TRUST RECEIVES NOTICE OF AN EVENT THAT WOULD GIVE THE AFFORDABLE HOUSING LAND TRUST THE RIGHT TO EXERCISE THE RIGHT TO REPURCHASE.

(3) THE FAILURE OF AN AFFORDABLE HOUSING LAND TRUST TO EXERCISE THE RIGHT TO REPURCHASE DOES NOT PROHIBIT THE AFFORDABLE HOUSING LAND TRUST FROM EXERCISING ANY OTHER RIGHT ESTABLISHED IN THE AGREEMENT, INCLUDING ~~ANY PROVISION TO SHARE IN THE PROCEEDS OF ANY TRANSFER~~ THE RIGHT TO SHARE IN THE PROCEEDS OF THE FIRST SALE TO A PURCHASER FOLLOWING THE FAILURE OF THE LAND TRUST TO EXERCISE ITS RIGHT TO REPURCHASE.

(B) (1) EXCEPT AS PROVIDED IN SUBSECTION (A)(3) OF THIS SECTION OR IN THE AFFORDABLE HOUSING LAND TRUST AGREEMENT, THE FAILURE TO EXERCISE A RIGHT TO REPURCHASE EXTINGUISHES THE RIGHT OF THE AFFORDABLE HOUSING LAND TRUST TO EXERCISE ANY REVERSIONARY INTEREST IN THE FUTURE.

(2) A SUBSEQUENT PURCHASER WHO ACQUIRES THE SPECIFIED INTEREST IN THE PROPERTY IN AN ARMS–LENGTH, THIRD–PARTY TRANSACTION FOR A FAIR MARKET PRICE AFTER THE AFFORDABLE HOUSING LAND TRUST HAS NOT EXERCISED ITS RIGHT TO REPURCHASE RECEIVES TITLE, FREE OF ANY ~~RESTRICTIONS ARISING AS A RESULT OF THE AFFORDABLE HOUSING LAND TRUST AGREEMENT~~ RIGHTS ESTABLISHED IN THE AFFORDABLE HOUSING LAND TRUST AGREEMENT THAT WOULD OTHERWISE HAVE BEEN ENFORCEABLE BY THE AFFORDABLE HOUSING LAND TRUST.

(3) (I) A SELLER WHO SELLS THE SPECIFIED INTEREST IN THE PROPERTY TO A PURCHASER IN AN ARMS–LENGTH THIRD–PARTY TRANSACTION FOR A FAIR MARKET PRICE AFTER THE AFFORDABLE HOUSING LAND TRUST HAS FAILED TO EXERCISE ITS RIGHT TO REPURCHASE SHALL EXECUTE A SIGNED, NOTARIZED AFFIDAVIT ATTESTING TO THE FACT OF THE SELLER'S NOTIFICATION TO THE AFFORDABLE HOUSING LAND TRUST AND THE AFFORDABLE HOUSING LAND TRUST'S FAILURE TO EXERCISE ITS RIGHT TO REPURCHASE.

(II) THE AFFIDAVIT SHALL BE RECORDED WITH THE DEED TRANSFERRING THE SPECIFIED INTEREST IN THE PROPERTY TO THE PURCHASER IN ACCORDANCE WITH § 14–505(F) OF THIS SUBTITLE.

(III) RECORDATION OF THE AFFIDAVIT UNDER THIS PARAGRAPH PROVIDES A CONCLUSIVE PRESUMPTION OF THE FACT THAT THE AFFORDABLE HOUSING LAND TRUST FAILED TO EXERCISE ITS RIGHT TO REPURCHASE.

14–507.

AN AFFORDABLE HOUSING LAND TRUST AGREEMENT MAY AUTHORIZE THE AFFORDABLE HOUSING LAND TRUST TO TAKE POSSESSION OF THE PROPERTY AND ANY IMPROVEMENTS AND SELL OR TRANSFER THE SPECIFIED INTEREST IN THE PROPERTY IF:

(1) A CONDITION DEFINED IN THE AFFORDABLE HOUSING LAND TRUST AGREEMENT AUTHORIZING THE ACTION IS MET;

(2) THE SALE IS MADE ~~TO A DISINTERESTED PARTY UNDER CONDITIONS THAT ENSURE THAT A FAIR MARKET PRICE IS OBTAINED~~ UNDER TITLE 14, CHAPTER 300 OF THE MARYLAND RULES;

(3) THE OWNER OF THE INTEREST IN THE PROPERTY RETAINS THE RIGHT TO ANY PROCEEDS OF A SALE AS SET FORTH IN THE AFFORDABLE HOUSING LAND TRUST AGREEMENT; AND

(4) THE RIGHT OF THE OWNER TO THE PROCEEDS HAS PRECEDENCE OVER ANY CLAIM BY THE AFFORDABLE HOUSING LAND TRUST TO THE PROCEEDS OF THE SALE.

14–508.

THE REVERSIONARY RIGHTS OF AN AFFORDABLE HOUSING LAND TRUST AS SET FORTH IN THE AFFORDABLE HOUSING LAND TRUST AGREEMENT ARE LIMITED TO PROVISIONS THAT RELATE TO:

(1) THE TRANSFER OF THE PROPERTY TO A PERSON WHO IS NOT A PARTY TO THE AGREEMENT OR A PERSON WHO DOES NOT MEET THE CONDITIONS SET FORTH IN THE AFFORDABLE HOUSING LAND TRUST AGREEMENT;

(2) THE POSSESSION OF THE PROPERTY BY A PERSON WHO DOES NOT MEET THE CONDITIONS SET FORTH IN THE AFFORDABLE HOUSING LAND TRUST AGREEMENT;

(3) THE TRANSFER OF AN INTEREST IN THE PROPERTY TO A PERSON WHO DOES NOT MEET THE CONDITIONS SET FORTH IN THE AFFORDABLE HOUSING LAND TRUST AGREEMENT;

(4) THE WASTE, DESTRUCTION, OR ABANDONMENT OF THE PROPERTY; OR

(5) THE FAILURE TO COMPLY WITH ANY FINANCIAL PROVISION IN THE AFFORDABLE HOUSING LAND TRUST AGREEMENT.

14–509.

(A) IN ANY ASSESSMENT FOR TAX PURPOSES OF PROPERTY SUBJECT TO AN AFFORDABLE HOUSING LAND TRUST AGREEMENT, THE PROPERTY SHALL BE ASSESSED BASED ON ITS MARKET VALUE SUBJECT TO ANY RESTRICTIONS IN THE AFFORDABLE HOUSING LAND TRUST AGREEMENT.

(B) THE ASSESSMENT SHALL NOTE THAT THE SALE WAS NOT AN ARMS–LENGTH TRANSFER ON THE PROPERTY TAX RECORD.

14–510.

(A) A NONPROFIT ORGANIZATION OPERATING AN AFFORDABLE HOUSING LAND TRUST THAT GIVES UP OR LOSES ITS NONPROFIT STATUS MAY NO LONGER OPERATE AN AFFORDABLE HOUSING LAND TRUST UNDER THE TERMS OF THIS SUBTITLE.

(B) A NONPROFIT ORGANIZATION OPERATING AN AFFORDABLE HOUSING LAND TRUST MAY TRANSFER ITS INTEREST IN ANY AFFORDABLE HOUSING LAND TRUST AGREEMENT TO ANOTHER AFFORDABLE HOUSING LAND TRUST, PROVIDED THAT THE NONPROFIT ORGANIZATION DOES NOT RECEIVE ANY FINANCIAL OR OTHER VALUABLE COMPENSATION FOR THE TRANSFER OTHER THAN COMPENSATION FOR INCIDENTAL COSTS ASSOCIATED WITH THE TRANSFER.

(C) IF A NONPROFIT ORGANIZATION OPERATING AN AFFORDABLE HOUSING LAND TRUST GIVES UP OR LOSES ITS NONPROFIT STATUS AND DOES NOT TRANSFER ITS INTEREST IN AN AFFORDABLE HOUSING LAND TRUST AGREEMENT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE AFFORDABLE HOUSING LAND TRUST AGREEMENT IS ABROGATED AND ANY REVERSIONARY INTEREST CONTAINED IN THE AGREEMENT OR ANY PROVISION FOR THE SHARING OF PROCEEDS BECOMES UNENFORCEABLE.

(D) IF AN AFFORDABLE HOUSING LAND TRUST AGREEMENT BECOMES UNENFORCEABLE, THE TITLE HOLDER TO THE PROPERTY OBTAINS FEE SIMPLE TITLE TO THE PROPERTY WITHOUT RESTRICTION.

14–511.

THIS SUBTITLE MAY BE CITED AS THE AFFORDABLE HOUSING LAND TRUST ACT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 611

(Senate Bill 784)

AN ACT concerning

Maryland Statutory Trust Act

FOR the purpose of clarifying and revising the Maryland Business Trust Act and renaming it to be the Maryland Statutory Trust Act; providing that a use of a certain designation or statement in a certain certificate of trust or governing instrument does not create a certain presumption or inference; providing for the construction of certain provisions of this Act; clarifying that a statutory trust has certain general powers under certain circumstances; clarifying the requirements for, and time at which, a statutory trust is formed; providing for the restatement of a certificate of trust under certain circumstances; providing for the execution and effective time of certain documents; clarifying that a governing instrument of a statutory trust may contain certain provisions relating to the nature and division of beneficial interests in the statutory trust, the rights of certain persons, amendments to the governing instrument, and actions by or on behalf of the statutory trust in the event there are no trustees; clarifying that a statutory trust is not required to execute its governing instrument and that it is bound by its governing instrument; clarifying that a beneficial owner or trustee of a statutory trust is bound by the statutory trust's governing instrument; clarifying the types of consideration that may be contributed for a beneficial interest in a statutory trust; clarifying and altering the powers of a statutory trust to indemnify and hold harmless, and to pay or reimburse certain expenses incurred by, certain persons; altering the circumstances under which certain records of a statutory trust may be inspected and copied; clarifying that, except as provided in the governing instrument of a

statutory trust, meetings of beneficial owners or trustees may be held in a certain manner, beneficial owners or trustees may vote or consent to a certain action in a certain manner, and certain actions must be approved by the beneficial owners or trustees by a certain percentage of votes; clarifying certain powers, duties, and liabilities of the trustees of a statutory trust; providing that a governing instrument may not eliminate the duty of a trustee to perform the trustee's duties in good faith; providing for certain limits on the duties of a trustee; providing that no creditor of a trustee shall have the right to exercise any legal or equitable remedy with respect to certain property under certain circumstances; providing that a trustee of a certain statutory trust shall be deemed to be independent and disinterested when making a certain determination or taking certain action; providing that certain persons, in the governing instrument of a statutory trust or other writing, may consent to be subject to certain jurisdiction or arbitration and to be served with legal process in a certain manner; altering the vote by which the trustees of a statutory trust must approve a merger or consolidation; altering certain requirements for articles of merger or consolidation; establishing that, subject to the Maryland Constitution, certain laws govern the organization, internal affairs, and liability of the trustees of a foreign statutory trust, and a foreign statutory trust may not be denied registration under certain circumstances; requiring a foreign statutory trust to register with the State Department of Assessments and Taxation before doing certain business in the State; establishing certain requirements for registration; prohibiting a foreign statutory trust from doing any kind of business in the State that a domestic statutory trust is prohibited from doing under the laws of the State; authorizing a foreign statutory trust to cancel its registration in a certain manner; establishing certain penalties for failing to register with the Department and for transacting certain business on behalf of a foreign statutory trust that has not registered with the Department; authorizing the Attorney General to bring a certain action; specifying certain actions that do and do not constitute doing business in the State; providing that by doing certain business in the State a foreign statutory trust assents to the laws of the State; providing for a merger of a foreign statutory trust; providing for the forfeiture of the right of a foreign statutory trust to do business in the State; defining certain terms; altering and repealing certain definitions; making certain conforming and stylistic changes; and generally relating to statutory trusts.

BY repealing and reenacting, with amendments,
Article – Corporations and Associations
Section 12–101 through 12–610, 12–801 through 12–803, and 12–805 through 12–810 to be under the amended title "Title 12. Statutory Trusts"
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

BY adding to
Article – Corporations and Associations

Section 12–101.1, 12–105, 12–306, 12–404, 12–405, and 12–611; and 12–901 through 12–912 to be under the new subtitle "Subtitle 9. Foreign Statutory Trusts"
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,
Article – Corporations and Associations
Section 12–701 and 12–804
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article 1 – Rules of Interpretation
Section 15
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article 66B – Land Use
Section 14.09(c)(4)
Annotated Code of Maryland
(2003 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Business Regulation
Section 4–401(i)
Annotated Code of Maryland
(2004 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Commercial Law
Section 1–201(28) and 8–103(a)
Annotated Code of Maryland
(2002 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Commercial Law
Section 11–201(f), 11–301(j), 11–401(d), 11–501(f), 11–601(g), 11–701(c), 11–801(d), 11–901, 11–1101(d), 11–1201(d), 12–101(g), 12–301(f), 12–401(h), 12–501(k), 12–601(q), 12–701(f), 12–801(f), 12–901(f)(1), 12–1001(g)(1), 13–101(h), 14–101(d), 14–201(d), 14–301(e), 14–401(f), 14–501(d), 14–601(c), 14–701(d), 14–801(b), 14–901(i), 14–1001(d), 14–1201(j), 14–1301(c), 14–1901(g), 14–2801(d), 14–3401(c), 14–3601(h), 15–102(a)(2), 15–301(e), 16–101(d), 17–101(e) and (l), 18–101(e), 21–101(m), and 22–102(a)(51)
Annotated Code of Maryland

(2005 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Corporations and Associations
Section 1–101, 1–203(b)(3)(ii), 1–301(a), 3–101(b), 3–102(a)(3), 4A–101, 8–103(a), 8–501.1(a) and (c)(1), 9A–101(n), (o), and (p), 9A–902(c), and 10–208(a)
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

BY adding to
Article – Corporations and Associations
Section 9A–101(n) and (q) and 9A–902(h) and (i)
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 9–401(d)
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 8–213(f)
Annotated Code of Maryland
(2002 Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Environment
Section 1–801(h)
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Estates and Trusts
Section 9–201(i), 11–102(b)(10), 15–201(d), 15–301(f), 15–401(g), and 15–501(j)
Annotated Code of Maryland
(2001 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Family Law
Section 9.5–101(m) and 10–301(o)
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,

Article – Financial Institutions
Section 5–401(b) and (d), 8–101(b), 11–101(a)(4), 11–201(e), 11–401(h), and 11–501(p)
Annotated Code of Maryland
(2003 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Insurance
Section 5–608(a)(3)
Annotated Code of Maryland
(2003 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Real Property
Section 2–122(a)(3), 7–109(a)(2), and 10–501(h)
Annotated Code of Maryland
(2003 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Tax – General
Section 10–102.1(a)(4)(iv) and (7)(iv)
Annotated Code of Maryland
(2004 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 11–101(a)
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

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

Article – Corporations and Associations

Title 12. **[**Business**]** **STATUTORY** Trusts.

12–101.

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

(b) "Beneficial owner" means any owner **OF RECORD** of a beneficial interest in a **[**business**]** **STATUTORY** trust, the fact of ownership to be determined and evidenced, whether by means of registration, the issuance of certificates or otherwise, in conformity to the applicable provisions of the governing instrument of the **[**business**]** **STATUTORY** trust.

[(c) (1) "Business trust" means an unincorporated business, trust, or association that:

(i) Is created by a governing instrument under which:

1. Property is or will be held, managed, administered, controlled, invested, reinvested, or operated by a trustee for the benefit of persons as are or may become entitled to a beneficial interest in the trust property; or

2. Business or professional activities for profit are carried on or will be carried on by a trustee for the benefit of persons as are or may become entitled to a beneficial interest in the trust property; and

(ii) Files a certificate of trust under § 12–204 of this title.

(2) "Business trust" includes:

(i) A trust of the type known at common law as a "business trust" or "Massachusetts trust"; or

(ii) A trust qualifying as a real estate mortgage investment conduit under Section 860D of the United States Internal Revenue Code of 1986, as amended, or under any successor provision.

(3) "Business trust" does not include a trust organized as a real estate investment trust under Title 8 of this article.

(d) "Foreign limited liability company" has the meaning stated in § 4A–101(j) of this article.

(e) "Foreign limited partnership" has the meaning stated in § 10–101(f) of this article.]

(C) "FOREIGN BUSINESS ENTITY" MEANS:

(1) A FOREIGN STATUTORY TRUST; OR

(2) A CORPORATION, GENERAL OR LIMITED PARTNERSHIP, COMMON–LAW TRUST, LIMITED LIABILITY COMPANY, REAL ESTATE INVESTMENT TRUST, LIMITED LIABILITY COMPANY, OR ANY OTHER UNINCORPORATED BUSINESS FORMED, ORGANIZED, OR EXISTING UNDER THE LAWS OF ANOTHER STATE, THE UNITED STATES, A FOREIGN COUNTRY, OR OTHER FOREIGN JURISDICTION.

(D) "FOREIGN STATUTORY TRUST" MEANS A TRUST THAT IS:

(1) FORMED UNDER THE LAWS OF ANOTHER STATE, THE UNITED STATES, A FOREIGN COUNTRY, OR OTHER FOREIGN JURISDICTION; AND

(2) REQUIRED BY THE LAWS OF THE JURISDICTION IN WHICH IT IS FORMED TO FILE A RECORD WITH A PUBLIC OFFICIAL IN THAT JURISDICTION.

[(f)**] (E)** "Governing instrument" means a **DECLARATION OF TRUST OR OTHER** trust instrument which **[**creates a business trust and**]** provides for the governance of the affairs of **[**the business**] A STATUTORY** trust and the conduct of its business.

[(g)**] (F)** (1) "Other business entity" means a corporation, a general or limited partnership, a common–law trust, a limited liability company, a real estate investment trust **[**or corporation**]**, or any other unincorporated business.

(2) "Other business entity" does not include a **[**business**] STATUTORY** trust.

[(h)**] (G)** "Person" means a natural person, partnership, limited partnership, limited liability company, trust, estate, association, corporation, custodian, nominee**,** or any other individual or entity in its own or any representative capacity.

(H) (1) "STATUTORY TRUST" MEANS AN UNINCORPORATED BUSINESS, TRUST, OR ASSOCIATION THAT IS:

(I) FORMED BY FILING AN INITIAL CERTIFICATE OF TRUST UNDER § 12–204 OF THIS TITLE; AND

(II) GOVERNED BY A GOVERNING INSTRUMENT.

(2) "STATUTORY TRUST" INCLUDES A TRUST FORMED UNDER THIS TITLE ON OR BEFORE MAY 31, 2010, AS A BUSINESS TRUST, AS THE TERM BUSINESS TRUST WAS THEN DEFINED IN THIS TITLE.

(i) (1) "Trustee" means the person appointed as a trustee in accordance with the governing instrument of a **[**business**] STATUTORY** trust.

(2) "Trustee" may include a beneficial owner of a **[**business**] STATUTORY** trust.

12–101.1.

THE USE OF THE DESIGNATION "BUSINESS TRUST" OR A STATEMENT IN A CERTIFICATE OF TRUST OR GOVERNING INSTRUMENT EXECUTED ON OR BEFORE MAY 31, 2010, TO THE EFFECT THAT A TRUST IS OR WILL QUALIFY AS A MARYLAND BUSINESS TRUST WITHIN THE MEANING OF OR IN ACCORDANCE WITH THIS TITLE MAY NOT CREATE A PRESUMPTION OR AN INFERENCE THAT THE TRUST IS A BUSINESS TRUST FOR PURPOSES OF TITLE 11 OF THE UNITED STATES CODE.

12–102.

(a) Except **[**to the extent otherwise**]** **AS** provided in the governing instrument of a **[**business**]** **STATUTORY** trust or in this title, the laws of this State pertaining to trusts are hereby made applicable to **[**business**]** **STATUTORY** trusts.

(b) For purposes of any tax imposed by the Tax – General Article, a **[**business**]** **STATUTORY** trust shall be classified as a corporation, an association, a partnership, a trust**,** or otherwise, as shall be determined under the United States Internal Revenue Code of 1986, as amended, or under any successor provision.

(c) Any **[**business**]** **STATUTORY** trust qualifying as a real estate mortgage investment conduit under **[**Section**]** **§** 860D of the Internal Revenue Code or any successor provision shall be exempt from income tax except **WITH RESPECT TO** that portion of its income that is subject to federal income tax.

12–103.

A **[**business**]** **STATUTORY** trust established in accordance with the provisions of this title is a separate legal entity.

12–104.

This title may be cited as the "Maryland **[**Business**]** **STATUTORY** Trust Act".

12–105.

(A) THIS TITLE SHALL BE LIBERALLY CONSTRUED TO GIVE MAXIMUM EFFECT TO THE PRINCIPLE OF FREEDOM OF CONTRACT AND TO THE ENFORCEABILITY OF GOVERNING INSTRUMENTS.

(B) THE PRESUMPTION THAT A CIVIL STATUTE IN DEROGATION OF THE COMMON LAW IS CONSTRUED STRICTLY DOES NOT APPLY TO THIS TITLE.

12–201.

(a) Except as provided in subsection (b) of this section, a **[**business**]** **STATUTORY** trust may carry on any lawful business for any purposes.

(b) A **[**business**]** **STATUTORY** trust may not carry on the business of:

(1) Granting policies of insurance or assuming insurance risks; or

(2) Banking.

(C) EXCEPT AS PROVIDED IN ITS CERTIFICATE OF TRUST OR GOVERNING INSTRUMENT, A STATUTORY TRUST HAS THE GENERAL POWERS, WHETHER OR NOT THE GENERAL POWERS ARE SET FORTH IN ITS CERTIFICATE OF TRUST OR GOVERNING INSTRUMENT, TO:

(1) SUE, BE SUED, COMPLAIN, AND DEFEND IN ALL COURTS;

(2) HAVE, USE, ALTER, OR ABANDON A TRUST SEAL;

(3) TRANSACT ITS BUSINESS, CARRY ON ITS OPERATIONS, AND EXERCISE THE POWERS GRANTED BY THIS ARTICLE IN ANY STATE, TERRITORY, DISTRICT, AND POSSESSION OF THE UNITED STATES AND IN ANY FOREIGN COUNTRY;

(4) MAKE CONTRACTS AND GUARANTEES, INCUR LIABILITIES, AND BORROW MONEY;

(5) SELL, LEASE, EXCHANGE, TRANSFER, CONVEY, MORTGAGE, PLEDGE, AND OTHERWISE DISPOSE OF ANY OR ALL OF ITS ASSETS;

(6) ISSUE BONDS, NOTES, AND OTHER OBLIGATIONS AND SECURE THE OBLIGATIONS BY MORTGAGE OR DEED OF TRUST OF ANY OR ALL OF ITS ASSETS;

(7) ACQUIRE BY PURCHASE OR IN ANY OTHER MANNER, AND TAKE, RECEIVE, OWN, HOLD, USE, EMPLOY, IMPROVE, AND OTHERWISE DEAL WITH ANY INTEREST IN REAL OR PERSONAL PROPERTY, WHEREVER LOCATED;

(8) PURCHASE, TAKE, RECEIVE, SUBSCRIBE FOR, OR OTHERWISE ACQUIRE, OWN, HOLD, VOTE, USE, EMPLOY, SELL, MORTGAGE, LOAN, PLEDGE, OR OTHERWISE DISPOSE OF AND OTHERWISE USE AND DEAL IN AND WITH STOCK AND OTHER INTERESTS IN AND OBLIGATIONS OF OTHER BUSINESS ENTITIES, OTHER STATUTORY TRUSTS, AND INDIVIDUALS;

(9) ACQUIRE ITS OWN SHARES OF BENEFICIAL INTEREST, BONDS, NOTES, AND OTHER OBLIGATIONS AND SECURITIES;

(10) INVEST ITS SURPLUS FUNDS, LEND MONEY FROM TIME TO TIME IN ANY MANNER THAT MAY BE APPROPRIATE TO ENABLE THE STATUTORY TRUST TO CARRY ON ITS OPERATIONS OR FULFILL THE PURPOSES SPECIFIED IN ITS GOVERNING INSTRUMENT, AND TAKE AND HOLD REAL AND PERSONAL PROPERTY AS SECURITY FOR THE PAYMENT OF FUNDS SO INVESTED OR LOANED;

(11) BE A PROMOTER, A PARTNER, A MEMBER, AN ASSOCIATE, OR A MANAGER OF ANY PARTNERSHIP, JOINT VENTURE, TRUST, OR OTHER ENTERPRISE;

(12) MAKE GIFTS OR CONTRIBUTIONS IN CASH, OTHER PROPERTY, OR STOCK OR OTHER SECURITIES OF THE STATUTORY TRUST TO OR FOR THE USE OF:

(I) THE UNITED STATES, THIS STATE, ANOTHER STATE OF THE UNITED STATES, A TERRITORY, POSSESSION, OR DISTRICT OF THE UNITED STATES, OR ANY INSTITUTION, AGENCY, OR POLITICAL SUBDIVISION OF ANY OF THEM; AND

(II) ANY GOVERNMENTAL OR OTHER ORGANIZATION, WHETHER INSIDE OR OUTSIDE THE UNITED STATES, FOR RELIGIOUS, CHARITABLE, SCIENTIFIC, CIVIC, PUBLIC WELFARE, LITERARY, OR EDUCATIONAL PURPOSES;

(13) ELECT ITS OFFICERS AND APPOINT ITS AGENTS, DEFINE THEIR DUTIES, DETERMINE THEIR COMPENSATION, AND ADOPT AND CARRY INTO EFFECT EMPLOYEE AND OFFICER BENEFIT PLANS;

(14) EXERCISE GENERALLY THE POWERS SET FORTH IN ITS GOVERNING INSTRUMENT AND THOSE GRANTED BY LAW; AND

(15) DO EVERY OTHER ACT NOT INCONSISTENT WITH LAW WHICH IS APPROPRIATE TO PROMOTE AND ATTAIN THE PURPOSES SET FORTH IN ITS GOVERNING INSTRUMENT.

12–202.

(a) Except **[**to the extent otherwise**] AS** provided in **[**the**] ITS** governing instrument **[**of the business trust, a business**], A STATUTORY** trust:

(1) Shall have perpetual existence; and

(2) May not be terminated or revoked by a beneficial owner or other person except in accordance with the terms of the governing instrument of the **[**business**]** **STATUTORY** trust.

(b) Except **[**to the extent otherwise**]** **AS** provided in the governing instrument of a **[**business**]** **STATUTORY** trust, the death, incapacity, dissolution, termination, or bankruptcy of a beneficial owner shall not result in the termination or dissolution of a **[**business**]** **STATUTORY** trust.

[(c) In the event that a business trust does not have perpetual existence, a business trust is dissolved and its affairs shall be wound up at the time or on the happening of events specified in the governing instrument.

(d) On dissolution of a business trust and until the filing of a certificate of cancellation as provided in § 12–204(d) of this subtitle, the persons who, under the governing instrument of the business trust, are responsible for winding up the business trust's affairs may, in the name of and for and on behalf of the business trust, prosecute and defend suits, whether civil, criminal, or administrative, gradually settle and close the business trust business, dispose of and convey the business trust property, discharge or make reasonable provision for the business trust liabilities, and distribute to the beneficial owners any remaining assets of the business trust.

(e) (1) A business trust which has dissolved shall pay or make reasonable provision to pay all claims and obligations, including all contingent, conditional, or unmatured claims and obligations, known to the business trust and all claims and obligations which are known to the business trust but for which the identity of the claimant is unknown.

(2) If there are sufficient assets, such claims and obligations shall be paid in full and any such provision for payment shall be made in full.

(3) If there are insufficient assets, such claims and obligations shall be paid or provided for according to their priority and, among claims and obligations of equal priority, ratably to the extent of assets available.

(4) Unless otherwise provided in the governing instrument of a business trust, any remaining assets shall be distributed to the beneficial owners.

(5) Any person, including any trustee, who under the governing instrument of the business trust is responsible for winding up a business trust's affairs who has complied with this subsection is not personally liable to the claimants of the dissolved business trust by reason of such person's actions in winding up the business trust.**]**

12–203.

(a) A Maryland [business] **STATUTORY** trust shall have:

(1) A principal office in this State; and

(2) At least one resident agent who [shall be] **IS**:

(i) [A citizen of the State] **AN INDIVIDUAL** who resides in the State; or

(ii) A Maryland corporation.

(b) (1) A [business] **STATUTORY** trust may designate or change its resident agent or principal office by filing for record with the Department a certified copy of a resolution of its trustees that authorizes the designation or change.

(2) A [business] **STATUTORY** trust may change the address of its resident agent by filing for record with the Department a statement of the change signed by one of its trustees or by an officer of the [business] **STATUTORY** trust.

(3) A designation or change of a [business] **STATUTORY** trust's principal office or its resident agent or its resident agent's address under this subsection is effective when the Department accepts the resolution or statement for record.

(c) (1) A resident agent who changes the resident agent's **NAME OR** address in the State shall notify the Department of the change by filing for record with the Department a statement of the change signed by the resident agent or on behalf of the resident agent.

(2) The statement shall include:

(i) The names of the [business] **STATUTORY** trusts for which the change is effective;

(ii) The resident agent's old and new addresses **OR THE RESIDENT AGENT'S OLD AND NEW NAMES**; and

(iii) The date on which the change is effective.

(3) If the old and new addresses of the resident agent are the same as the old and new addresses of the principal office of the [business] **STATUTORY** trust, the statement may include a change of address for the principal office if:

(i) The resident agent notifies the **[**business**]** **STATUTORY** trust in writing that the statement will be filed; and

(ii) The statement recites that the resident agent has done so.

(4) The **STATEMENT OF THE** change of **NAME OR** address of the resident agent or principal office **OF A STATUTORY TRUST** is effective when the Department accepts the statement for record.

(d) (1) A resident agent may resign by filing with the Department a counterpart or photocopy of the resident agent's signed resignation.

(2) Unless a later time is specified in the resignation, the resignation is effective:

(i) At the time it is filed with the Department, if the **[**business**]** **STATUTORY** trust has more than one resident agent; or

(ii) 10 days after it is filed with the Department, if the **[**business**]** **STATUTORY** trust has only one resident agent.

(e) Service of process on a registered agent designated by a **[**business**]** **STATUTORY** trust under subsection (b) of this section shall be as effective as if served on one of the trustees of the **[**business**]** **STATUTORY** trust.

12–204.

(a) (1) A certificate of trust filed by a **[**business**]** **STATUTORY** trust with the Department shall set forth:

(i) The name of the **[**business**]** **STATUTORY** trust;

(ii) The name and the business address of the resident agent;

(iii) The address of the principal office of the **[**business**]** **STATUTORY** trust in the State; **[**and**]**

(IV) ANY NOTICE PROVIDED IN ACCORDANCE WITH § 12–501(D) OF THIS TITLE; AND

[(iv)**]** **(V)** Any other matters the trustees determine to include in the certificate **OF TRUST**.

(2) A **[**business**]** **STATUTORY** trust is formed at the **EFFECTIVE** time of the filing of the initial certificate of trust with the Department **[**or at any later date

or time specified in the certificate of trust if, in either case, there has been substantial compliance with the requirements**] AS PROVIDED IN SUBSECTION (E)** of this section.

(3) A certificate of trust shall be signed by all of the trustees.

(b) (1) **(I) [**A**] EXCEPT AS PROVIDED IN THE GOVERNING INSTRUMENT OR THE CERTIFICATE OF TRUST OF A STATUTORY TRUST, A** certificate of trust may be amended by filing a certificate of amendment to the certificate of trust with the Department.

(II) The certificate of amendment shall set forth:

[(i)**] 1.** The name of the **[**business**] STATUTORY** trust; and

[(ii)**] 2.** The amendment to the certificate of trust.

(2) A certificate of trust may be amended at any time for any purpose as the trustees may determine. **[**A trustee who becomes aware that any statement in a certificate of trust was false when made or that any matter described has changed making the certificate of trust false in any material respect shall promptly file a certificate of amendment.

(3) A certificate of amendment shall be signed by one or more of the trustees or by an officer of the trust duly authorized by a majority of the trustees.**]**

(C) (1) EXCEPT AS PROVIDED IN THE GOVERNING INSTRUMENT OR CERTIFICATE OF TRUST OF A STATUTORY TRUST, A CERTIFICATE OF TRUST MAY BE:

(I) RESTATED BY INTEGRATING INTO A SINGLE INSTRUMENT ALL THE PROVISIONS OF THE CERTIFICATE OF TRUST THAT ARE THEN IN EFFECT AS A RESULT OF THERE HAVING BEEN FILED ONE OR MORE CERTIFICATES OF AMENDMENT IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION; AND

(II) AMENDED OR FURTHER AMENDED BY THE FILING OF A RESTATED CERTIFICATE OF TRUST.

(2) THE RESTATED CERTIFICATE OF TRUST SHALL BE SPECIFICALLY DESIGNATED AS A RESTATED CERTIFICATE OF TRUST IN ITS HEADING AND SHALL SET FORTH:

(I) THE PRESENT NAME OF THE STATUTORY TRUST;

(II) THE DATE OF FILING OF THE ORIGINAL CERTIFICATE OF TRUST WITH THE DEPARTMENT;

(III) THE INFORMATION REQUIRED TO BE INCLUDED IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION; AND

(IV) ANY OTHER INFORMATION THE TRUSTEES DETERMINE TO INCLUDE IN THE RESTATED CERTIFICATE OF TRUST.

(3) EXCEPT AS PROVIDED IN THE GOVERNING INSTRUMENT OR CERTIFICATE OF TRUST OF A STATUTORY TRUST, A CERTIFICATE OF TRUST MAY BE RESTATED AT ANY TIME FOR ANY PURPOSE AS THE TRUSTEES MAY DETERMINE.

[(c)**] (D)** (1) A certificate of trust shall be canceled on the completion of winding up of the **[**business**] STATUTORY** trust and its termination.

(2) A certificate of cancellation shall be filed with the Department and set forth:

(i) The name of the **[**business**] STATUTORY** trust;

(ii) The date of filing of its **INITIAL** certificate of trust; and

(iii) Any other information the trustees determine to include in the certificate of cancellation.

[(2) A certificate of cancellation shall be signed by a majority of the trustees or by an officer of the trust duly authorized by a majority of the trustees, or if there is no trustee, as provided in the governing instrument of the business trust.**]**

[(d)**] (E)** (1) **[**A**] ARTICLES OF MERGER OR CONSOLIDATION, A** certificate of trust, **A RESTATED CERTIFICATE OF TRUST, A** certificate of amendment, or **A** certificate of cancellation shall be effective **[**when**]:**

(I) WHEN accepted for record by the Department**;** or

(II) [at**] AT** any later time specified in the **ARTICLES OR** certificate.

(2) If any **ARTICLES OR** certificate filed in accordance with this section provides for a future effective **[**date or**]** time and if the transaction is terminated or amended to change the future effective **[**date or**]** time prior to the future effective **[**date or**]** time, the **ARTICLES OR** certificate shall be terminated or amended

by the filing, prior to the future effective [date or] time set forth in [such] **THE** original **ARTICLES OR** certificate, of a certificate of termination or amendment of the original **ARTICLES OR** certificate[, executed] **THAT:**

(I) IS EXECUTED and filed in accordance with this title[, which shall identify]**;**

(II) IDENTIFIES the original **ARTICLES OR** certificate which has been terminated or amended**;** and [shall state]

(III) STATES that the original **ARTICLES OR** certificate has been terminated or amended.

[(e)] **(F)** The execution of **ARTICLES OR** a certificate by a [trustee or duly authorized officer] **PERSON IN THE MANNER PROVIDED IN § 12–205 OF THIS SUBTITLE** constitutes an affirmation under the penalties [of] **FOR** perjury that, to the best of the [trustee's or officer's] **PERSON'S** knowledge and belief, the facts stated in the **ARTICLES OR** certificate are true.

12–205.

(A) (1) ARTICLES OF MERGER OR CONSOLIDATION, A RESTATED CERTIFICATE OF TRUST, A CERTIFICATE OF AMENDMENT, A CERTIFICATE OF CANCELLATION, OR AN AMENDMENT OF A CERTIFICATE OR ARTICLES SHALL BE EXECUTED:

(I) IN THE MANNER REQUIRED BY § 1–301 OF THIS ARTICLE; OR

(II) 1. BY A PERSON DULY AUTHORIZED BY ONE OR MORE OF THE TRUSTEES; OR

2. IF THERE IS NO TRUSTEE, AS PROVIDED IN THE GOVERNING INSTRUMENT OF THE STATUTORY TRUST.

(2) IF ARTICLES OF MERGER OR CONSOLIDATION OR A CERTIFICATE OF TERMINATION OR AMENDMENT OF ARTICLES OF MERGER OR CONSOLIDATION IS BEING FILED BY ANOTHER BUSINESS ENTITY OR A FOREIGN BUSINESS ENTITY, THE ARTICLES OF MERGER OR CONSOLIDATION OR THE CERTIFICATE OF TERMINATION OR AMENDMENT OF ARTICLES OF MERGER OR CONSOLIDATION SHALL BE EXECUTED BY A PERSON AUTHORIZED TO EXECUTE THE ARTICLES OR CERTIFICATE ON BEHALF OF THE OTHER BUSINESS ENTITY OR FOREIGN BUSINESS ENTITY.

[(a)**] (B)** (1) An executed copy of each certificate required by this subtitle shall be filed with the Department.

(2) The Department may not accept for record any certificate that does not meet the requirements of this subtitle.

(3) The Department may not accept for record or filing any certificate or other document until all required fees have been paid to the Department.

[(b)**] (C)** When the Department accepts for record any certificate or any document designating or changing the name or address of a resident agent or principal office of a Maryland **[**business**] STATUTORY** trust, the Department shall promptly record the document.

[(c) If a business trust is filing articles of merger or consolidation or a certificate of termination or amendment of a merger or consolidation, the articles of merger or consolidation or certificate of termination or amendment of a merger or consolidation must be signed by a majority of the trustees, or by an officer of the trust duly authorized by a majority of the trustees, or if the articles of merger or consolidation or certificate of termination or amendment of a merger or consolidation is being filed by another business entity, the articles of merger or consolidation or certificate of termination or amendment of a merger or consolidation must be signed by a person authorized to execute such instrument on behalf of such other business entity.**]**

(d) The fact that a certificate of trust is on file in the office of the Department is notice **[**that**]:**

(1) THAT the entity formed in connection with the filing of the certificate of trust is a **[**business**] STATUTORY** trust formed under the laws of the State **[**and is notice of**];**

(2) OF all other facts which are required to be set forth in a certificate of trust by § 12–204 of this subtitle **[**and is notice of**]; AND**

(3) OF the limitation on liability of a series of a **[**business**] STATUTORY** trust which is permitted to be set forth in a certificate of trust by § 12–501(d) of this title.

12–206.

The name of each **[**business**] STATUTORY** trust as set forth in its certificate of trust shall comply with the requirements of Title 1, Subtitle 5 of this article.

12–207.

(a) A governing instrument may:

(1) Provide that a person shall become a beneficial owner and shall become bound by the governing instrument if **[**such**]** **THE** person, or a representative authorized by **[**such**]** **THE** person orally, in writing, or by other action such as payment for a beneficial interest, complies with the conditions for becoming a beneficial owner set forth in the governing instrument or any other writing and acquires a beneficial interest;

(2) Consist of one or more agreements, instruments, or other writings and may include or incorporate bylaws containing provisions relating to the business of the **[**business**]** **STATUTORY** trust, the conduct of its affairs, and its rights or powers or the rights or powers of its trustees, beneficial owners, agents, or employees; and

(3) Contain any provision that is not inconsistent with law or with the information contained in the certificate of trust.

(b) A governing instrument may contain any provision relating to the management of the business and affairs of the **[**business**]** **STATUTORY** trust, and the rights, duties, and obligations of the trustees, beneficial owners, and other persons, which is not contrary to any provision or requirement of this title and, without limitation:

(1) May provide for classes, groups, or series of trustees **[**or**]**, beneficial owners, or **[**classes, groups, or series of**]** beneficial interests, having **[**such relative**]** **THE PREFERENCES,** rights, powers, and duties as the governing instrument may provide, and may **[**make provision**]** **PROVIDE** for the future creation **[**in the manner provided in the governing instrument**]** of additional classes, groups, or series of trustees, beneficial owners, or beneficial interests, having the **[**relative**]** **PREFERENCES,** rights, powers, and duties as may from time to time be established, including **PREFERENCES,** rights, powers, and duties senior or subordinate to**, OR ON PARITY WITH,** existing **OR FUTURE** classes, groups, or series of trustees, beneficial owners, or beneficial interests;

(2) May establish or provide for the establishment of designated **CLASSES, GROUPS, OR** series of trustees, beneficial owners, or beneficial interests having **[**separate**]** **THE PREFERENCES,** rights, powers, **[**or**]** **AND** duties **AS THE GOVERNING INSTRUMENT MAY PROVIDE** with respect to specified property or obligations of the **[**business**]** **STATUTORY** trust or profits and losses associated with specified property or obligations and, to the extent provided in the governing instrument, any **[**series**]** **CLASSES, GROUPS, OR SERIES OF TRUSTEES, BENEFICIAL OWNERS, OR BENEFICIAL INTERESTS** may have a separate business purpose or investment objective;

(3) MAY PROVIDE FOR THE DIVISION OF BENEFICIAL INTERESTS IN THE STATUTORY TRUST INTO A FIXED OR UNLIMITED NUMBER OF SHARES OR OTHER UNITS OR THE COMBINATION OF SHARES OR OTHER UNITS OF BENEFICIAL INTERESTS IN THE STATUTORY TRUST;

[(3)**] (4)** May provide for the taking of any action, including the amendment of the governing instrument, the accomplishment of a merger or consolidation, the appointment of one or more trustees, the sale, lease, exchange, transfer, pledge, or other disposition of all or any part of the assets of the **[**business**] STATUTORY** trust or the assets of any series, **[**or**]** the dissolution of the **[**business**] STATUTORY** trust, or **[**may provide for the taking of any action to create**] THE CREATION**, under the provisions of the governing instrument, **OF** a class, group, or series of beneficial interests that was not previously outstanding, in any such case without the vote or approval of any particular trustee or beneficial owner, or class, group, or series of trustees or beneficial owners;

[(4)**] (5)** May grant to, or withhold from, all or certain trustees or beneficial owners, or a specified class, group, or series of trustees or beneficial owners, the right to vote, separately or with any or all other classes, groups, or series of trustees or beneficial owners, on any matter, such voting being on a per capita, number, financial interest, class, group, series, or any other basis;

[(5)**] (6)** May, if and to the extent that voting rights are granted under the governing instrument, set forth provisions relating to notice of the time, place, or purpose of any meeting at which any matter is to be voted on, waiver of any such notice, action by consent without a meeting, the establishment of record dates, quorum requirements, voting in person, by proxy**,** or in any other manner, or any other matter with respect to the exercise of the right to vote;

[(6)**] (7)** May provide for the present or future creation of more than one **[**business**] STATUTORY** trust, including the creation of a future **[**business**] STATUTORY** trust to which all or any part of the assets, liabilities, profits, or losses of any existing **[**business**] STATUTORY** trust will be transferred, and for the conversion of beneficial interests in an existing **[**business**] STATUTORY** trust or series, into beneficial interests in the separate **[**business**] STATUTORY** trust or series; **[**and**]**

[(7)**] (8)** May provide for the appointment, election, or engagement, either as agents or independent contractors of the **[**business**] STATUTORY** trust or as delegates of the trustees, **[**of**]** officers, employees, managers, or other persons who may manage the business and affairs of the **[**business**] STATUTORY** trust and may have the titles and the relative rights, powers, and duties as the governing instrument shall provide**[**.**]; ~~AND~~**

(9) MAY PROVIDE RIGHTS TO ANY PERSON, INCLUDING A PERSON WHO IS NOT A PARTY TO THE GOVERNING INSTRUMENT, TO THE EXTENT SET FORTH IN THE GOVERNING INSTRUMENT;

(10) MAY PROVIDE FOR THE MANNER IN WHICH THE GOVERNING INSTRUMENT MAY BE AMENDED, INCLUDING BY REQUIRING THE APPROVAL OF A PERSON WHO IS NOT A PARTY TO THE GOVERNING INSTRUMENT OR THE SATISFACTION OF CONDITIONS, AND TO THE EXTENT THE GOVERNING INSTRUMENT PROVIDES FOR THE MANNER IN WHICH IT MAY BE AMENDED, THE GOVERNING INSTRUMENT MAY BE AMENDED ONLY IN THAT MANNER OR AS OTHERWISE PERMITTED BY LAW, PROVIDED THAT THE APPROVAL OF A PERSON MAY BE WAIVED BY THE PERSON AND THAT CONDITIONS MAY BE WAIVED BY ALL PERSONS FOR WHOSE BENEFIT THE CONDITIONS WERE INTENDED; AND

(11) MAY PROVIDE FOR ACTION BY OR ON BEHALF OF THE STATUTORY TRUST IN THE EVENT THERE ARE NO TRUSTEES.

(C) (1) A STATUTORY TRUST IS NOT REQUIRED TO EXECUTE ITS GOVERNING INSTRUMENT.

(2) A STATUTORY TRUST IS BOUND BY ITS GOVERNING INSTRUMENT WHETHER OR NOT IT EXECUTES THE GOVERNING INSTRUMENT.

(3) A BENEFICIAL OWNER OR A TRUSTEE IS BOUND BY THE GOVERNING INSTRUMENT WHETHER OR NOT THE BENEFICIAL OWNER OR TRUSTEE EXECUTES THE GOVERNING INSTRUMENT.

12–208.

Except **[**to the extent otherwise**]** **AS** provided in the governing instrument of a **[**business**]** **STATUTORY** trust, the trustees shall **[**choose and supervise**]** **ELECT** the officers**[**,**]** **AND APPOINT THE** managers, employees, and other **[**persons**]** **AGENTS** of the **[**business**]** **STATUTORY** trust.

12–301.

(a) (1) **[**A contribution of a beneficial owner to the business trust may be in cash, property, or services rendered, or a promissory note or other obligation to contribute cash or property or to perform services.

(2)**]** A person may become a beneficial owner of a **[**business**]** **STATUTORY** trust and may receive a beneficial interest in a **[**business trust without making a contribution or being obligated to make a contribution to the business trust**]**

STATUTORY TRUST WITHOUT PAYMENT OF CONSIDERATION TO THE STATUTORY TRUST.

(2) THE CONSIDERATION FOR A BENEFICIAL INTEREST IN A STATUTORY TRUST MAY CONSIST OF:

(I) MONEY;

(II) TANGIBLE OR INTANGIBLE PROPERTY;

(III) LABOR OR SERVICES ACTUALLY PERFORMED FOR THE STATUTORY TRUST;

(IV) A PROMISSORY NOTE OR OTHER OBLIGATION FOR FUTURE PAYMENT OF MONEY;

(V) THE TRANSFER OF TANGIBLE OR INTANGIBLE PROPERTY;

(VI) A CONTRACT FOR FUTURE PERFORMANCE OF LABOR OR SERVICES; OR

(VII) ANY COMBINATION OF THE CONSIDERATION DESCRIBED IN ITEMS (I) THROUGH (VI) OF THIS PARAGRAPH.

(b) **[**(1)**]** Except as provided in the governing instrument**[**, a**] OF A STATUTORY TRUST OR BY AGREEMENT BETWEEN THE BENEFICIAL OWNER AND THE STATUTORY TRUST:**

(1) A beneficial owner is obligated to the **[**business**] STATUTORY** trust to perform any promise to contribute cash or property or to perform services, even if the beneficial owner is unable to perform because of death, disability, or any other reason**[**.**];**

(2) Subject to the provisions of **[**paragraph**] ITEM** (3) of this subsection, if a beneficial owner does not make the required contribution of property or services, the beneficial owner is obligated **[**at**] TO** the **[**option of the business**] STATUTORY** trust to contribute cash equal to that portion of the agreed value, as stated in the records of the **[**business**] STATUTORY** trust, of the contribution that has not been made**[**.**]; AND**

(3) The **[**option**] OBLIGATION** provided in **[**paragraph**] ITEM** (2) of this subsection shall be in addition to, and not in lieu of, any other rights, including

the right to specific performance, that the **[**business**]** **STATUTORY** trust may have against the beneficial owner under the governing instrument or applicable law.

(c) (1) A governing instrument may provide that the interest of any beneficial owner who fails to make any contribution that the beneficial owner is obligated to make shall be subject to specific penalties for, or specified consequences of, the failure.

(2) The penalty or consequence may take the form of:

(i) Reducing or eliminating the defaulting beneficial owner's proportionate interest in the **[**business**]** **STATUTORY** trust, subordinating the beneficial owner's interest to that of nondefaulting beneficial owners;

(ii) A forced sale of the beneficial owner's interest;

(iii) A forfeiture **OR CANCELLATION** of the beneficial owner's interest;

(iv) A lending by other beneficial owners of the amount necessary to meet the defaulting beneficial owner's commitment;

(v) A fixing of the value of the defaulting beneficial owner's interest by appraisal or by formula, and a redemption or sale of the defaulting beneficial owner's interest at that value; or

(vi) Any other penalty or consequence.

12–302.

(a) Except **[**to the extent otherwise**]** **AS** provided in the governing instrument of **[**the business**]** **A STATUTORY** trust, the beneficial owners shall be entitled to the same limitation of personal liability extended to **[**shareholders**]** **STOCKHOLDERS** of a Maryland corporation formed under Title 2 of this article.

(b) (1) Neither an obligation of a beneficial owner or trustee of a **[**business**]** **STATUTORY** trust to the **[**business**]** **STATUTORY** trust arising under the governing instrument or a separate agreement in writing, or a note, instrument, or other writing evidencing any such obligation of a beneficial owner or trustee, shall be subject to the defense of usury.

(2) A beneficial owner or trustee may not interpose the defense of usury with respect to any obligation identified in paragraph (1) of this subsection in any action.

12–303.

(a) Except **[**to the extent otherwise**]** **AS** provided in the governing instrument of **[**the business**]** **A STATUTORY** trust, a beneficial owner shall have an undivided beneficial interest in the property of the **[**business**]** **STATUTORY** trust and shall share in the profits and losses of the **[**business**]** **STATUTORY** trust in the proportion of the entire undivided beneficial interest in the **[**business**]** **STATUTORY** trust owned by the beneficial owner.

(b) (1) Except **[**to the extent otherwise**]** **AS** provided in the governing instrument of a **[**business**]** **STATUTORY** trust, a beneficial owner has no interest in specific **[**business trust**]** property **OF THE STATUTORY TRUST**.

(2) A creditor of the beneficial owner has no right to obtain possession of, or otherwise exercise legal or equitable remedies with respect to, the property of the **[**business**]** **STATUTORY** trust.

(c) A **[**beneficial owner's**]** beneficial interest in **[**the business**]** **A STATUTORY** trust is personal property notwithstanding the nature of the property of the trust.

(d) **[**A beneficial owner's**]** **EXCEPT AS PROVIDED IN THE GOVERNING INSTRUMENT OF A STATUTORY TRUST, A** beneficial interest in the **[**business**]** **STATUTORY** trust is freely transferable **[**except to the extent otherwise provided in the governing instrument of the business trust**]**.

(e) Except **[**to the extent otherwise**]** **AS** provided in the governing instrument of a **[**business**]** **STATUTORY** trust, at the time a beneficial owner becomes entitled to receive a distribution, the beneficial owner has the status of, and is entitled to all remedies available to, a creditor of the **[**business**]** **STATUTORY** trust with respect to the distribution.

(F) A governing instrument may provide for the establishment of record dates with respect to allocations and distributions by a **[**business**]** **STATUTORY** trust **OR FOR ANY OTHER PURPOSE**.

(G) EXCEPT AS PROVIDED IN THE GOVERNING INSTRUMENT OF A STATUTORY TRUST OR BY AGREEMENT, A BENEFICIAL OWNER SHALL HAVE NO PREEMPTIVE RIGHT TO ACQUIRE ANY BENEFICIAL INTEREST OR OTHER INTEREST IN THE STATUTORY TRUST.

12–304.

(a) **[**Subject to the standards and restrictions, if any, set forth**]** **EXCEPT AS PROVIDED** in **[**the**]** **ITS** governing instrument **[**of a business trust, a business**]**, **A STATUTORY** trust shall have the power to **[**indemnify**]**:

(1) INDEMNIFY and hold harmless**, AND TO OBLIGATE ITSELF TO INDEMNIFY AND HOLD HARMLESS,** any beneficial owner from and against any and all claims and demands whatsoever**; AND**

(2) PAY OR REIMBURSE IN ADVANCE OF FINAL DISPOSITION OF A PROCEEDING, AS DEFINED IN § 2–418 OF THIS ARTICLE, ANY EXPENSES INCURRED IN CONNECTION WITH THE PROCEEDING.

(b) The absence of a provision for indemnity in the governing instrument of a **[**business**] STATUTORY** trust may not be construed to deprive a beneficial owner of any right to indemnity that is otherwise available to the beneficial owner under the laws of the State.

12–305.

(a) **[**Except to the extent otherwise provided in the governing instrument of a business trust, each beneficial owner of a business trust has the right, subject to such reasonable standards, including standards governing what information and documents are to be furnished at what time and location and at whose expense, as may be established by the trustees, to obtain from the business trust from time to time on reasonable demand for any purpose reasonably related to the beneficial owner's interest as a beneficial owner of the business trust**] EXCEPT AS PROVIDED IN THE GOVERNING INSTRUMENT OF A STATUTORY TRUST, A BENEFICIAL OWNER, A HOLDER OF A VOTING TRUST CERTIFICATE IN THE STATUTORY TRUST, OR A BENEFICIAL OWNER'S AGENT MAY INSPECT AND COPY DURING USUAL BUSINESS HOURS ANY OF THE FOLLOWING STATUTORY TRUST DOCUMENTS**:

(1) **[**A copy of the**] THE** governing instrument and **[**certificate of trust and all amendments, together with copies of any written powers of attorney under which the governing instrument and any certificate and any amendments have been executed**] ALL AMENDMENTS**;

(2) **[**A current list of the name and last known business or mailing address of each beneficial owner and trustee; and

(3) Information regarding the business and financial condition of the business trust.**] MINUTES OF THE PROCEEDINGS OF THE BENEFICIAL OWNERS;**

(3) AN ANNUAL STATEMENT OF AFFAIRS; AND

(4) VOTING TRUST AGREEMENTS ON FILE AT THE STATUTORY TRUST'S PRINCIPAL OFFICE.

(B) (1) EXCEPT AS PROVIDED IN THE GOVERNING INSTRUMENT OF A STATUTORY TRUST, A BENEFICIAL OWNER, WHO FOR AT LEAST 6 MONTHS HAS

BEEN THE BENEFICIAL OWNER OF RECORD OF OUTSTANDING BENEFICIAL INTERESTS OF ANY SERIES OR CLASS OF BENEFICIAL INTERESTS OF THE STATUTORY TRUST ENTITLED TO CAST AT LEAST 5% OF ALL THE VOTES ENTITLED TO BE CAST GENERALLY IN THE ELECTION OF TRUSTEES, MAY PRESENT TO ANY OFFICER OF THE STATUTORY TRUST A WRITTEN REQUEST FOR A LIST OF THE BENEFICIAL OWNERS OF RECORD OF THAT SERIES OR CLASS AS DISCLOSED BY THE RECORDS OF THE STATUTORY TRUST RELATING TO THE ISSUANCE AND TRANSFER OF BENEFICIAL INTERESTS.

(2) EXCEPT AS PROVIDED IN THE GOVERNING INSTRUMENT OF A STATUTORY TRUST, WITHIN 20 DAYS AFTER A REQUEST FOR INFORMATION IS MADE UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE STATUTORY TRUST SHALL PREPARE AND HAVE AVAILABLE ON FILE AT ITS PRINCIPAL OFFICE A LIST THAT:

(I) IS VERIFIED UNDER OATH BY ONE OF ITS OFFICERS OR ITS TRANSFER AGENT OR REGISTRAR; AND

(II) SETS FORTH THE NAME AND ADDRESS OF EACH BENEFICIAL OWNER OF RECORD OF THE SERIES OR CLASS AND THE NUMBER OF SHARES OF THE SERIES OR CLASS HELD BY THE BENEFICIAL OWNER.

[(b)**] (C)** Except **[**to the extent otherwise**] AS** provided in the governing instrument of a **[**business**] STATUTORY** trust, each trustee shall have the right to examine all **[**the**] DOCUMENTS AND** information **[**described in subsection (a) of this section**] REGARDING THE STATUTORY TRUST** for any purpose reasonably related to the **PERFORMANCE OF THE** trustee's **[**position**] DUTIES** as a trustee.

[(c)**] (D)** Except **[**to the extent otherwise**] AS** provided in **[**the**] ITS** governing instrument **[**of a business trust, the trustees of a business**] A STATUTORY** trust shall have the right to keep confidential from the beneficial owners, for such period of time as the trustees deem reasonable, any information that **[**the**]:**

(1) THE trustees reasonably believe to be in the nature of trade secrets or other information, the disclosure of which the trustees in good faith believe is not in the best interest of the **[**business**] STATUTORY** trust or could damage the **[**business**] STATUTORY** trust or its business **[**or which the business**]; OR**

(2) THE STATUTORY trust is required by law or by agreement with a third party to keep confidential.

[(d)**] (E)** A **[**business**] STATUTORY** trust may maintain its records in other than a written form if such form is capable of conversion into a written form within a reasonable time.

[(e) Any demand by a beneficial owner or trustee under this section shall be in writing and shall state the purpose of the demand.]

12–306.

(A) EXCEPT AS PROVIDED IN THE GOVERNING INSTRUMENT OF A STATUTORY TRUST:

(1) MEETINGS OF BENEFICIAL OWNERS MAY BE HELD AT ANY PLACE OR BY CONFERENCE TELEPHONE OR IN ANY OTHER MANNER BY WHICH ALL PERSONS PARTICIPATING IN THE MEETING MAY HEAR EACH OTHER; AND

(2) PARTICIPATION IN A MEETING IN ACCORDANCE WITH ITEM (1) OF THIS SUBSECTION SHALL CONSTITUTE PRESENCE IN PERSON AT THE MEETING.

(B) EXCEPT AS PROVIDED IN THE GOVERNING INSTRUMENT OF A STATUTORY TRUST, ON ANY MATTER THAT IS TO BE VOTED ON BY THE BENEFICIAL OWNERS:

(1) THE BENEFICIAL OWNERS MAY TAKE ACTION ON THE MATTER WITHOUT A MEETING, WITHOUT PRIOR NOTICE, AND WITHOUT A VOTE IF A CONSENT OR CONSENTS IN WRITING, SETTING FORTH THE ACTION TAKEN, IS SIGNED BY THE BENEFICIAL OWNERS HAVING NOT LESS THAN THE MINIMUM NUMBER OF VOTES THAT WOULD BE NECESSARY TO AUTHORIZE OR TAKE THE ACTION AT A MEETING AT WHICH ALL INTERESTS IN THE STATUTORY TRUST ENTITLED TO VOTE ON THE MATTER WERE PRESENT AND VOTED; AND

(2) A BENEFICIAL OWNER MAY VOTE:

(I) IN PERSON; OR

(II) BY PROXY GRANTED IN WRITING, BY MEANS OF TELEPHONIC OR ELECTRONIC TRANSMISSION, OR AS OTHERWISE PERMITTED BY APPLICABLE LAW.

(C) EXCEPT AS PROVIDED IN THE GOVERNING INSTRUMENT OF A STATUTORY TRUST, A CONSENT TRANSMITTED BY ELECTRONIC TRANSMISSION BY A BENEFICIAL OWNER OR BY A PERSON AUTHORIZED TO ACT FOR A BENEFICIAL OWNER SHALL BE DEEMED TO BE WRITTEN AND SIGNED FOR PURPOSES OF THIS SECTION.

(D) EXCEPT AS PROVIDED IN THIS TITLE OR THE GOVERNING INSTRUMENT OF A STATUTORY TRUST, ANY ACT REQUIRING THE APPROVAL OF THE BENEFICIAL OWNERS SHALL BE APPROVED BY THE AFFIRMATIVE VOTE OF A MAJORITY OF ALL THE VOTES ENTITLED TO BE CAST ON THE MATTER.

12–401.

(a) Except **[**to the extent**] AS** provided in **[**the**] ITS** governing instrument **[**of the business trust**]**, the business and affairs of **[**the business**] A STATUTORY** trust shall be managed under the direction of its trustees.

(b) Except **[**to the extent**] AS** provided in the governing instrument of a **[**business**] STATUTORY** trust, neither the power to give direction to a trustee or other **[**persons**] PERSON** nor the exercise by any person**, INCLUDING A BENEFICIAL OWNER,** of a direction**[**, including a beneficial owner,**]** shall cause that person to have duties, including fiduciary duties, or liabilities relating to the **[**business**] STATUTORY** trust or to a beneficial owner.

12–402.

(a) Subject to the provisions of subsections **[**(b) and (c)**] (D) AND (E)** of this section, and except **[**to the extent otherwise**] AS** provided in the governing instrument of a **[**business**] STATUTORY** trust, a trustee, when acting in such capacity, is not personally liable to any person other than the **[**business**] STATUTORY** trust or a beneficial owner for any act, omission, or obligation of the **[**business**] STATUTORY** trust or any trustee.

[(b) In the absence of any provision in the governing instrument of the business trust, a trustee shall have no duty or liability to the business trust or a beneficial owner for any act greater than that of directors of a Maryland corporation to the corporation as provided in Title 2, Subtitle 4 of this article.**]**

(B) SUBJECT TO SUBSECTION (C) OF THIS SECTION, A TRUSTEE SHALL PERFORM THE TRUSTEE'S DUTIES AS A TRUSTEE, INCLUDING THE DUTIES AS A MEMBER OF A COMMITTEE OF THE TRUSTEES ON WHICH THE TRUSTEE SERVES:

(1) IN GOOD FAITH;

(2) IN A MANNER THAT THE TRUSTEE REASONABLY BELIEVES TO BE IN THE BEST INTERESTS OF THE STATUTORY TRUST; AND

(3) WITH THE CARE THAT AN ORDINARILY PRUDENT PERSON IN A LIKE POSITION WOULD USE UNDER SIMILAR CIRCUMSTANCES.

(C) THE GOVERNING INSTRUMENT OF A STATUTORY TRUST MAY INCLUDE A PROVISION EXPANDING OR LIMITING THE DUTIES OF A TRUSTEE SET FORTH IN SUBSECTION (B) OF THIS SECTION, PROVIDED THAT THE GOVERNING INSTRUMENT MAY NOT ELIMINATE THE DUTY TO ACT IN GOOD FAITH.

(D) (1) A TRUSTEE WHO PERFORMS THE DUTIES OF A TRUSTEE IN ACCORDANCE WITH THE STANDARD PROVIDED UNDER SUBSECTION (B) OF THIS SECTION, AS MAY BE EXPANDED OR LIMITED IN THE GOVERNING INSTRUMENT IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION, HAS NO LIABILITY BY REASON OF BEING OR HAVING BEEN A TRUSTEE OF THE STATUTORY TRUST.

(2) A TRUSTEE SHALL HAVE NO DUTIES OTHER THAN AS SET FORTH IN SUBSECTION (B) OF THIS SECTION, AS EXPANDED OR LIMITED IN THE GOVERNING INSTRUMENT IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION.

[(c)**]** **(3)** The governing instrument of a **[**business**]** **STATUTORY** trust may **[**not**]** include **[**any**]** **A** provision **EXPANDING OR** limiting the liability of its trustees and officers to the **STATUTORY** trust or its beneficial owners**, PROVIDED THAT THE GOVERNING INSTRUMENT MAY NOT LIMIT THE LIABILITY OF ITS TRUSTEES AND OFFICERS** to any extent greater than that permitted by Title 2, Subtitle 4 of this article in connection with the **LIMITATION OF** liability of directors and officers of a Maryland corporation.

(E) NO CREDITOR OF A TRUSTEE SHALL HAVE ANY RIGHT TO OBTAIN POSSESSION OF, OR OTHERWISE EXERCISE ANY LEGAL OR EQUITABLE REMEDY WITH RESPECT TO, ANY PROPERTY OF THE STATUTORY TRUST WITH RESPECT TO ANY CLAIM AGAINST, OR OBLIGATION OF, THE TRUSTEE IN THE TRUSTEE'S INDIVIDUAL CAPACITY.

12–403.

(a) **[**Subject to the standards and restrictions, if any, set forth in the**]** **EXCEPT AS PROVIDED IN ITS** governing instrument **[**of a business trust**]**, a **[**business**]** **STATUTORY** trust shall have the power to **[**indemnify**]:**

(1) INDEMNIFY and hold harmless**, AND TO OBLIGATE ITSELF TO INDEMNIFY AND HOLD HARMLESS,** any trustee**, OFFICER, EMPLOYEE,** or **[**other person**]** **AGENT** from and against any and all claims and demands **WHATSOEVER; AND**

(2) PAY OR REIMBURSE IN ADVANCE OF FINAL DISPOSITION OF A PROCEEDING, AS DEFINED IN § 2–418 OF THIS ARTICLE, REASONABLE EXPENSES INCURRED IN CONNECTION WITH THE PROCEEDING.

(b) **[**Unless otherwise**]** **EXCEPT AS** provided **[**by**]** **IN** the governing instrument of a **[**business**]** **STATUTORY** trust, a trustee shall be indemnified to the same extent as a director of a corporation under § 2–418 of this article.

12–404.

(A) EXCEPT AS PROVIDED IN THE GOVERNING INSTRUMENT OF A STATUTORY TRUST:

(1) MEETINGS OF TRUSTEES MAY BE HELD AT ANY PLACE OR BY CONFERENCE TELEPHONE OR IN ANY OTHER MANNER BY WHICH ALL PERSONS PARTICIPATING IN THE MEETING AS TRUSTEES MAY HEAR EACH OTHER; AND

(2) PARTICIPATION IN A MEETING IN ACCORDANCE WITH ITEM (1) OF THIS SUBSECTION SHALL CONSTITUTE PRESENCE IN PERSON AT THE MEETING.

(B) EXCEPT AS PROVIDED IN THE GOVERNING INSTRUMENT OF A STATUTORY TRUST, ON ANY MATTER THAT IS TO BE VOTED ON BY THE TRUSTEES:

(1) THE TRUSTEES MAY TAKE ACTION ON THE MATTER WITHOUT A MEETING, WITHOUT PRIOR NOTICE, AND WITHOUT A VOTE IF A CONSENT OR CONSENTS IN WRITING, SETTING FORTH THE ACTION TAKEN, IS SIGNED BY THE TRUSTEES HAVING NOT LESS THAN THE MINIMUM NUMBER OF VOTES THAT WOULD BE NECESSARY TO AUTHORIZE OR TAKE THE ACTION AT A MEETING AT WHICH ALL TRUSTEES ENTITLED TO VOTE ON THE MATTER WERE PRESENT AND VOTED; AND

(2) A TRUSTEE MAY VOTE:

(I) IN PERSON; OR

(II) BY PROXY GRANTED IN WRITING, BY MEANS OF TELEPHONIC OR ELECTRONIC TRANSMISSION, OR AS OTHERWISE PERMITTED BY APPLICABLE LAW.

(C) EXCEPT AS PROVIDED IN THE GOVERNING INSTRUMENT OF A STATUTORY TRUST, A CONSENT TRANSMITTED BY ELECTRONIC TRANSMISSION BY A TRUSTEE OR BY A PERSON AUTHORIZED TO ACT FOR A TRUSTEE SHALL BE DEEMED TO BE WRITTEN AND SIGNED FOR PURPOSES OF THIS SECTION.

(D) EXCEPT AS PROVIDED IN THE GOVERNING INSTRUMENT OF A STATUTORY TRUST, ANY ACT REQUIRING THE APPROVAL OF THE TRUSTEES SHALL BE APPROVED BY THE AFFIRMATIVE VOTE OF A MAJORITY OF THE TRUSTEES.

12–405.

(A) THIS SECTION APPLIES TO A STATUTORY TRUST THAT IS AN INVESTMENT COMPANY, AS DEFINED BY THE INVESTMENT COMPANY ACT OF 1940.

(B) A TRUSTEE OF A STATUTORY TRUST WHO WITH RESPECT TO THE STATUTORY TRUST IS NOT AN INTERESTED PERSON, AS DEFINED BY THE INVESTMENT COMPANY ACT OF 1940, SHALL BE DEEMED TO BE INDEPENDENT AND DISINTERESTED WHEN MAKING A DETERMINATION OR TAKING ANY ACTION AS A TRUSTEE.

12–501.

(a) **[**A business trust may sue and be sued, and service**]** **SERVICE** of process on **[**one of the trustees shall be sufficient to constitute service on the business trust**]** **A STATUTORY TRUST MAY BE EFFECTED IN THE SAME MANNER AS SERVICE OF PROCESS ON A MARYLAND CORPORATION**.

[(b) A business trust may be sued for debts and other obligations or liabilities contracted or incurred by the trustees, or by the duly authorized agents of such trustees, in the performance of their respective duties under the governing instrument of the business trust, and for any damages to persons or property resulting from the negligence of such trustees or agents acting in the performance of such respective duties.**]**

(B) IN THE GOVERNING INSTRUMENT OF A STATUTORY TRUST OR OTHER WRITING, A TRUSTEE, BENEFICIAL OWNER, OR OTHER PERSON MAY CONSENT TO BE:

(1) SUBJECT TO:

(I) THE NONEXCLUSIVE JURISDICTION OF THE COURTS OF, OR ARBITRATION IN, A SPECIFIED JURISDICTION;

(II) THE EXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE; OR

(III) THE EXCLUSIVITY OF ARBITRATION IN A SPECIFIED JURISDICTION OR THE STATE; AND

(2) SERVED WITH LEGAL PROCESS IN THE MANNER PRESCRIBED IN THE GOVERNING INSTRUMENT OF THE STATUTORY TRUST OR OTHER WRITING.

(c) The property of a **[**business**] STATUTORY** trust is subject to attachment and execution as if the **[**business**] STATUTORY** trust was a corporation.

(d) Notwithstanding the provisions of this section, **[**in the event that**] IF** the governing instrument of a **[**business**] STATUTORY** trust, including **THE GOVERNING INSTRUMENT OF** a **[**business**] STATUTORY** trust which is a registered investment company under the Investment Company Act of 1940, creates one or more series **OR CLASSES** as provided in § 12–207(b) of this title, and if separate and distinct records are maintained for any such series **OR CLASS** and the assets associated with any such series **OR CLASS** are held and accounted for separately from the other assets of the **[**business**] STATUTORY** trust, or any other series **OR CLASS**, and if the governing instrument so provides, and notice of the limitation on liabilities of a series **OR CLASS** as referenced in this subsection is set forth in the certificate of trust of the **[**business**] STATUTORY** trust, then **[**the**]:**

(1) THE debts, liabilities, obligations, and expenses incurred, contracted for, or otherwise existing with respect to a particular series **OR CLASS** shall be enforceable against the assets of that series **OR CLASS** only, and not against the assets of the **[**business**] STATUTORY** trust generally or any other series **OR CLASS[**, and, unless**]; AND**

(2) UNLESS otherwise provided in the governing instrument, none of the debts, liabilities, obligations, and expenses incurred, contracted for, or otherwise existing with respect to the **[**business**] STATUTORY** trust generally or any other series **OR CLASS** shall be enforceable against the assets of that series **OR CLASS**.

12–601.

[Unless the governing instrument provides otherwise**] EXCEPT AS PROVIDED IN ITS GOVERNING INSTRUMENT**, a **[**Maryland business**] STATUTORY** trust may merge or consolidate with or into one or more **[**business trusts or**] STATUTORY TRUSTS,** other business entities **[**formed or organized or existing under the laws of Maryland or any other state or the United States or any foreign country or other foreign jurisdiction**], OR FOREIGN BUSINESS ENTITIES**.

12–602.

(a) **[**Unless otherwise**] EXCEPT AS** provided in the governing instrument of a **[**business**] STATUTORY** trust, a merger or consolidation shall be approved by each **[**business**] STATUTORY** trust which is to merge or consolidate by **A MAJORITY OF THE TRUSTEES AND BY THE BENEFICIAL OWNERS BY** the affirmative vote of two–thirds of **[**the trustees and two–thirds of the outstanding beneficial interests of such business trust entitled to vote**] ALL THE VOTES ENTITLED TO BE CAST ON THE MATTER**.

(b) **[**A merger need be approved by a business trust**] EXCEPT AS PROVIDED IN ITS GOVERNING INSTRUMENT, A MERGER IN WHICH A STATUTORY TRUST IS THE** successor **REQUIRES** only **[**by**] THE APPROVAL OF** a majority of **[**its entire board of**] THE** trustees if:

(1) The merger does not reclassify or change its outstanding **[**shares**] BENEFICIAL INTERESTS** or otherwise amend its governing instrument **IN ANY MANNER REQUIRING A VOTE OF THE BENEFICIAL OWNERS**; and

(2) The number of **[**shares**] BENEFICIAL INTERESTS** to be issued or delivered in the merger is not more than 20 percent of the number of its **[**shares**] BENEFICIAL INTERESTS** of the same class or series outstanding immediately before the merger becomes effective.

(c) The merger or consolidation shall be approved by any other business entity **OR FOREIGN BUSINESS ENTITY** party to the merger or consolidation in the manner required by the charter, declaration of trust, partnership agreement, or other organization document of the entity and the laws of the jurisdiction where the entity is organized.

12–603.

(A) In **OR IN** connection with a merger or consolidation, **BENEFICIAL INTERESTS OR OTHER** rights or securities of, or interests in, a **[**business trust or**] STATUTORY TRUST,** other business entity**, OR FOREIGN BUSINESS ENTITY** which is a **[**constituent**]** party to the merger or consolidation may be exchanged for or converted into cash, property, rights, or securities of, or interests in, the **[**surviving or resulting business trust**] SUCCESSOR** or any other **BUSINESS ENTITY OR FOREIGN BUSINESS ENTITY**, whether or not a party to the transaction.

(B) Notwithstanding **[**prior**]** approval **BY THE TRUSTEES OR BENEFICIAL OWNERS**, an agreement of merger or consolidation may be terminated or amended **[**under**] AT ANY TIME PRIOR TO THE EFFECTIVE TIME OF THE MERGER OR CONSOLIDATION:**

(1) BY AGREEMENT OF THE PARTIES TO THE MERGER OR CONSOLIDATION; OR

(2) UNDER a provision for the termination or amendment **OF THE MERGER OR CONSOLIDATION** contained in the agreement of merger or consolidation.

12–604.

Articles of merger or consolidation shall**[**:

(1) Be executed for each party to the articles in the manner required by Title 1 of this article;

(2) Be filed for the record with the Department; and

(3) Include the provisions required under § 12–605 of this subtitle**] BE FILED FOR RECORD WITH THE DEPARTMENT**.

12–605.

Articles of merger or consolidation shall state:

(1) The name and jurisdiction of formation or organization of each **[**of the business trusts**] STATUTORY TRUST** or other business **[**entities**] ENTITY** which is to merge or consolidate and as to each foreign **BUSINESS** entity, the date of its formation, and whether it is registered or qualified to do business in the State;

(2) THE NAME OF THE SUCCESSOR;

[(2)**] (3)** Each county in the State where each entity party to the articles of merger **OR CONSOLIDATION** has its principal office and any of the parties other than the successor owns an interest in land;

[(3)**] (4)** If the successor is a foreign business **[**trust or other business**]** entity, the location of its principal office in the jurisdiction in which it is organized and the name and address of its resident agent in the State;

[(4)**] (5)** That **[**an agreement of**] THE** merger or consolidation has been approved **[**and executed by each of the business trusts or**] BY EACH STATUTORY TRUST,** other business **[**entities which**] ENTITY, OR FOREIGN BUSINESS ENTITY THAT** is to merge or consolidate in **[**this**] THE** manner required by its governing instrument or certificate of trust and by the laws of the place where it is organized;

[(5) The name of the successor trust or other business entity;**]**

(6) Any amendment to the **[**charter, certificate of limited partnership, articles of organization of a limited liability company, or governing instrument**]** **CERTIFICATE OF TRUST** of the successor to be effected as part of the merger or consolidation;

[(7) As to each corporation party to the articles:

(i) The total number of shares of stock of all classes which the corporation has authority to issue;

(ii) The number of shares of stock of each class;

(iii) The par value of the shares of stock of each class or a statement that the shares are without par value; and

(iv) If there are any shares of stock with par value, the aggregate par value of all the shares of all classes;

(8) As to each business trust party to the articles:

(i) The total number of shares of beneficial interest of all classes which the business trust has authority to issue; and

(ii) The number of shares of beneficial interest of each class;

(9) As to each limited partnership party to the articles:

(i) The percentages of partnership interests of each class of partnership interests of the limited partnership; and

(ii) The class of partners and the respective percentage of partnership interests in each class of partnership interests;

(10) As to each limited liability company party to the articles:

(i) The percentages of membership interests of each class of membership interests of the limited liability company; and

(ii) The class of members and the respective percentage of membership interests in each class of membership interests;

(11) If the charter, certificate of limited partnership, articles of organization of a limited liability company, governing instrument or certificate of trust of the successor is amended in a manner that changes any of the information required under items (2) through (5) of this section, that information as it was both immediately before and as changed by the merger;

(12) The manner and basis of converting or exchanging issued stock of the merging corporations, outstanding partnership interests of the merging limited partnership, or shares of beneficial interests of the merging business trusts into different stock of a corporation, partnership interests of a limited partnership, outstanding membership interest of a limited liability company, shares of beneficial interests of a business trust, or other consideration, and the treatment of any issued stock of the merging corporations, partnership interest of the merging limited partnerships, membership interest of the merging limited liability company, or shares of beneficial interest of the merging business trusts not to be converted or exchanged;

(13) The future effective date or time, which shall be a date or time certain, of the merger or consolidation if it is not to be effective on the filing of the certificate of merger or consolidation;

(14) That the executed agreement of merger or consolidation is on file at the principal place of business of the successor trust or other business entity, and shall state the address of that principal place of business; and

(15) That a copy of the agreement of merger or consolidation will be furnished by the successor trust or other business entity, on request and without cost, to any beneficial owner of any business trust or any person holding an interest in any other business entity which is to merge or consolidate.**]**

(7) (I) THE MANNER AND BASIS OF CONVERTING OR EXCHANGING ISSUED BENEFICIAL INTERESTS OR OTHER OWNERSHIP INTERESTS OF EACH MERGING OR CONSOLIDATING STATUTORY TRUST, OTHER BUSINESS ENTITY, OR FOREIGN BUSINESS ENTITY INTO:

1. DIFFERENT BENEFICIAL INTERESTS OR OTHER OWNERSHIP INTERESTS OF A STATUTORY TRUST, ANOTHER BUSINESS ENTITY, OR FOREIGN BUSINESS ENTITY; OR

2. ANY OTHER CONSIDERATION; AND

(II) THE TREATMENT OF ANY BENEFICIAL INTERESTS OR OTHER OWNERSHIP INTERESTS OF EACH MERGING OR CONSOLIDATING STATUTORY TRUST, OTHER BUSINESS ENTITY, OR FOREIGN BUSINESS ENTITY NOT BEING CONVERTED OR EXCHANGED; AND

(8) THE FUTURE EFFECTIVE TIME, WHICH SHALL BE A TIME CERTAIN, OF THE MERGER OR CONSOLIDATION IF IT IS NOT TO BE EFFECTIVE ON THE ACCEPTANCE FOR RECORD BY THE DEPARTMENT OF THE ARTICLES OF MERGER OR CONSOLIDATION.

12–606.

Unless a future effective **[**date or**]** time is provided in articles of merger or consolidation, in which event a merger or consolidation shall be effective at **[**any such**] THE** future effective **[**date or**]** time, a merger or consolidation shall be effective on the **[**filing with**] ACCEPTANCE FOR RECORD BY** the Department of articles of merger or consolidation.

12–607.

(a) Notwithstanding anything to the contrary contained in **[**the**] ITS** governing instrument **[**of a business trust, a**], THE** governing instrument of a **[**business**] STATUTORY** trust containing a specific reference to this section may provide that an agreement of merger or consolidation approved in accordance with this subtitle may:

(1) Effect any amendment to the governing instrument of the **[**business**] STATUTORY** trust; or

(2) Effect the adoption of a new governing instrument of the **[**business**] STATUTORY** trust if it is the successor trust in the merger or consolidation.

(b) **[**(1)**]** Any amendment to the governing instrument of a **[**business**] STATUTORY** trust or adoption of a new governing instrument of **[**the business**] A STATUTORY** trust made under this section shall be effective at the effective time **[**or date**]** of the merger or consolidation.

[(2)**] (C)** The provisions of this **[**subsection**] SECTION** may not be construed to limit the accomplishment of a merger or consolidation or of any of the matters referred to **[**herein**] IN THIS SECTION** by any other means provided for in the governing instrument of a **[**business**] STATUTORY** trust or other agreement or as otherwise permitted by law, including that the governing instrument of any constituent **[**business**] STATUTORY** trust to the merger or consolidation shall be the governing instrument of the successor trust.

12–608.

(a) The Department shall prepare certificates of merger **OR CONSOLIDATION** that specify:

(1) The name of each party to the articles **OF MERGER OR CONSOLIDATION**;

(2) The name of the successor and the location of its principal office in the State or, if it has none, its principal place of business; and

(3) The time the articles **OF MERGER OR CONSOLIDATION** are accepted for record by the Department.

(b) In addition to any other provision of law with respect to recording, the Department shall send one certificate each to the clerk of the circuit court for each county where the articles show that a merging **[**business**]** **OR CONSOLIDATING STATUTORY** trust, corporation, partnership, limited partnership, or limited liability company other than the successor owns an interest in land.

(c) On receipt of a certificate, a clerk promptly shall record it with the land records.

12–609.

(a) In order to keep the land assessment records current in each county, the Department shall require a **[**business**]** **STATUTORY** trust, corporation, partnership, limited partnership, or limited liability company to submit with the articles **OF MERGER OR CONSOLIDATION** a property certificate for each county where a merging **[**business**]** **OR CONSOLIDATING STATUTORY** trust, corporation, partnership, limited partnership, or limited liability company other than the successor owns an interest in land.

(b) A property certificate is not required with respect to any property in which the only interest owned by the merging **[**business**]** **OR CONSOLIDATING STATUTORY** trust, corporation, partnership, limited partnership, or limited liability company is a security interest.

(c) The property certificate shall be in the form and number of copies which the Department requires and may include the certificate of the Department required by subsection (a) of this section.

(d) (1) The property certificate shall provide a deed reference or other description sufficient to identify the property.

(2) The Department shall indicate on the certificate the time the articles **OF MERGER OR CONSOLIDATION** are accepted for record and send a copy of it to the chief assessor of the county where the property is located.

(e) A transfer, vesting, or devolution of title to the property is not invalidated or otherwise affected by any error or defect in the property certificate, failure to file it, or failure by the Department to act on it.

12–610.

(a) Consummation of a merger **OR CONSOLIDATION** has the effects provided in this section.

(b) The separate existence of each [business] **STATUTORY** trust, [corporation, partnership, limited partnership, or limited liability company] **OTHER BUSINESS ENTITY OR FOREIGN BUSINESS ENTITY** party to the articles **OF MERGER OR CONSOLIDATION**, except the successor, ceases.

(c) The [shares] **BENEFICIAL INTERESTS** of each [business] **STATUTORY** trust party to the articles **OF MERGER OR CONSOLIDATION** which are to be converted or exchanged under the terms of the articles **OF MERGER OR CONSOLIDATION** cease to exist, subject to the rights of an objecting [shareholder under this subtitle] **BENEFICIAL OWNER UNDER THE GOVERNING INSTRUMENT OR AGREEMENT OF MERGER OR CONSOLIDATION**.

(d) In addition to any other purposes and powers set forth in the articles **OF MERGER OR CONSOLIDATION**, if the articles **OF MERGER OR CONSOLIDATION** provide, the successor has the purposes and powers of each party to the articles of **MERGER OR CONSOLIDATION**.

(e) (1) The assets of each party to the articles **OF MERGER OR CONSOLIDATION**, including any legacies which it would have been capable of taking, transfer to, vest in, and devolve on the successor without further act or deed.

(2) Confirmatory deeds, assignments, or similar instruments to evidence the transfer may be executed and delivered at any time in the name of the transferring party to the articles **OF MERGER OR CONSOLIDATION** by its last acting officers or trustees or by the appropriate officers or trustees of the successor.

(f) (1) **(I)** The successor is liable for all the debts and obligations of each nonsurviving party to the articles **OF MERGER OR CONSOLIDATION**.

(II) An existing claim, action, or proceeding pending by or against any nonsurviving party to the articles **OF MERGER OR CONSOLIDATION** may be prosecuted to judgment as if the merger **OR CONSOLIDATION** had not taken place, or, on motion of the successor or any party, the successor may be substituted as a party and the judgment against the nonsurviving party to the articles **OF MERGER OR CONSOLIDATION** constitutes a lien on the property of the successor.

(2) A merger **OR CONSOLIDATION** does not impair the rights of creditors or any liens on the property of any [business] **STATUTORY** trust, [corporation, partnership, limited partnership, or limited liability company] **OTHER BUSINESS ENTITY, OR FOREIGN BUSINESS ENTITY** party to the articles **OF MERGER OR CONSOLIDATION**.

12–611.

(A) IN THE EVENT THAT A STATUTORY TRUST DOES NOT HAVE PERPETUAL EXISTENCE, A STATUTORY TRUST SHALL BE DISSOLVED AND ITS AFFAIRS WOUND UP AS PROVIDED IN ITS GOVERNING INSTRUMENT.

(B) ON DISSOLUTION OF A STATUTORY TRUST AND UNTIL THE FILING OF A CERTIFICATE OF CANCELLATION AS PROVIDED IN § 12–204(D) OF THIS TITLE, THE TRUSTEES OR OTHER PERSONS WHO ARE RESPONSIBLE FOR WINDING UP THE AFFAIRS OF THE STATUTORY TRUST:

(1) SHALL COLLECT AND DISTRIBUTE THE ASSETS OF THE STATUTORY TRUST, APPLYING THEM TO THE PAYMENT, SATISFACTION, AND DISCHARGE OF EXISTING DEBTS AND OBLIGATIONS OF THE STATUTORY TRUST, INCLUDING REASONABLE EXPENSES OF LIQUIDATION, AND DISTRIBUTE THE REMAINING ASSETS AMONG THE BENEFICIAL OWNERS; AND

(2) MAY CARRY OUT THE CONTRACTS OF THE STATUTORY TRUST, SELL ALL OR ANY PART OF THE ASSETS OF THE STATUTORY TRUST AT PUBLIC OR PRIVATE SALE, SUE OR BE SUED IN THE NAME OF THE STATUTORY TRUST, AND DO ALL OTHER ACTS CONSISTENT WITH LAW AND THE GOVERNING INSTRUMENT OF THE STATUTORY TRUST NECESSARY OR PROPER TO LIQUIDATE THE STATUTORY TRUST AND WIND UP ITS AFFAIRS.

(C) ANY PERSON, INCLUDING ANY TRUSTEE, WHO IS RESPONSIBLE FOR WINDING UP THE AFFAIRS OF A STATUTORY TRUST AND WHO HAS COMPLIED WITH SUBSECTION (B) OF THIS SECTION IS NOT PERSONALLY LIABLE TO ANY CLAIMANT OF THE DISSOLVED STATUTORY TRUST BY REASON OF THE PERSON'S ACTIONS IN WINDING UP THE STATUTORY TRUST.

(D) (1) EXCEPT AS PROVIDED IN THE GOVERNING INSTRUMENT OF A STATUTORY TRUST:

(I) A SERIES OR CLASS ESTABLISHED IN ACCORDANCE WITH § 12–207(B) OF THIS TITLE MAY BE DISSOLVED AND ITS AFFAIRS WOUND UP WITHOUT CAUSING THE DISSOLUTION OF THE STATUTORY TRUST OR ANY OTHER SERIES OR CLASS OF THE STATUTORY TRUST;

(II) THE DISSOLUTION, WINDING UP, LIQUIDATION, OR TERMINATION OF THE STATUTORY TRUST OR ANY SERIES OR CLASS OF THE STATUTORY TRUST SHALL NOT AFFECT THE LIMITATION OF LIABILITY PROVIDED BY § 12–501(D) OF THIS TITLE WITH RESPECT TO A SERIES OR CLASS ESTABLISHED IN ACCORDANCE WITH § 12–207(B) OF THIS TITLE; AND

(III) THE DEATH, INCAPACITY, DISSOLUTION, TERMINATION, OR BANKRUPTCY OF A BENEFICIAL OWNER OF A SERIES OR CLASS DESCRIBED IN ITEM (II) OF THIS PARAGRAPH SHALL NOT RESULT IN THE TERMINATION OR DISSOLUTION OF THE SERIES OR CLASS, AND THE SERIES OR CLASS MAY NOT BE TERMINATED OR REVOKED BY A BENEFICIAL OWNER OF THE SERIES OR CLASS OR OTHER PERSON EXCEPT IN ACCORDANCE WITH THE TERMS OF THE GOVERNING INSTRUMENT.

(2) A SERIES OR CLASS ESTABLISHED IN ACCORDANCE WITH § 12–207(B) OF THIS TITLE SHALL BE DISSOLVED AND ITS AFFAIRS WOUND UP AS PROVIDED IN THE GOVERNING INSTRUMENT.

(3) ON DISSOLUTION OF A SERIES OR CLASS OF A STATUTORY TRUST, THE PERSONS WHO ARE RESPONSIBLE FOR WINDING UP THE AFFAIRS OF THE SERIES OR CLASS, IN THE NAME OF THE STATUTORY TRUST AND FOR AND ON BEHALF OF THE STATUTORY TRUST AND THE SERIES OR CLASS:

(I) SHALL PROVIDE FOR THE CLAIMS AND OBLIGATIONS OF THE SERIES OR CLASS AND DISTRIBUTE THE ASSETS OF THE SERIES OR CLASS AS PROVIDED UNDER SUBSECTION (B)(1) OF THIS SECTION; AND

(II) MAY TAKE ALL ACTIONS WITH RESPECT TO THE SERIES OR CLASS SET FORTH IN SUBSECTION (B)(2) OF THIS SECTION.

(4) ANY PERSON, INCLUDING ANY TRUSTEE, WHO IS RESPONSIBLE FOR WINDING UP THE AFFAIRS OF A SERIES OR CLASS WHO HAS COMPLIED WITH PARAGRAPH (3) OF THIS SUBSECTION MAY NOT BE PERSONALLY LIABLE TO THE CLAIMANTS OF THE DISSOLVED SERIES OR CLASS BY REASON OF THE PERSON'S ACTIONS IN WINDING UP THE SERIES OR CLASS.

12–701.

Fees for documents filed or requested under this title shall be as provided for in § 1–203 of this article.

12–801.

(a) (1) Except with respect to a tax collectible locally, the State Comptroller shall certify to the Department, as soon as practicable after October 1 of each year, a list of every Maryland **[**business**]** **STATUTORY** trust that has not paid a tax that was due before October 1 of the year.

(2) When the Comptroller certifies the list to the Department, the Comptroller shall mail to each listed **[**business**]** **STATUTORY** trust, at the **[**business**]**

STATUTORY trust's address as it appears on the Comptroller's records, a notice that the **[**business**]** **STATUTORY** trust's right to do business in the State and the right to the use of its name will be forfeited unless the **[**business**]** **STATUTORY** trust pays all taxes, interest, and penalties due.

(3) The failure of a **[**business**]** **STATUTORY** trust to receive the notice mailed in accordance with paragraph (2) of this subsection does not affect the forfeiture of the **[**business**]** **STATUTORY** trust's right to do business in the State or to use its name.

(b) (1) As soon as practicable after October 1 of each year, the Secretary of Labor, Licensing, and Regulation shall certify to the Department a list of every Maryland **[**business**]** **STATUTORY** trust that has not paid an unemployment insurance contribution or made a reimbursement payment that was due before October 1 of the year.

(2) When the Secretary certifies the list to the Department, the Secretary shall mail to each listed **[**business**]** **STATUTORY** trust, at the **[**business**]** **STATUTORY** trust's address as it appears on the Secretary's records, a notice that the **[**business**]** **STATUTORY** trust's right to do business in the State and the right to the use of its name will be forfeited unless the **[**business**]** **STATUTORY** trust pays all contributions, reimbursement payments, interest, and penalties due.

(3) The failure of a **[**business**]** **STATUTORY** trust to receive the notice mailed in accordance with paragraph (2) of this subsection does not affect the forfeiture of the **[**business**]** **STATUTORY** trust's right to do business in the State or to use its name.

(c) As soon as practicable after October 1 of each year, the Department shall certify a list of every Maryland **[**business**]** **STATUTORY** trust that has not filed an annual report with the Department as required by law or has not paid a tax that was due before October 1 of the year.

(d) After the lists are certified, the Department shall issue a proclamation declaring, for each **[**business**]** **STATUTORY** trust included on a list, that the right to do business in the State and to use the name of the **[**business**]** **STATUTORY** trust is forfeited as of the date of the proclamation, without proceedings of any kind at law or at equity.

12–802.

(a) (1) Within 10 days after the issuance of a proclamation under § 12–801(d) of this subtitle, the Department shall mail notice of the proclamation to each **[**business**]** **STATUTORY** trust named in the proclamation.

(2) The notice shall be addressed to the **[**business**]** **STATUTORY** trust at the **[**business**]** **STATUTORY** trust's mailing address on file with the Department or, if none, at any other address for the **[**business**]** **STATUTORY** trust appearing on the records of the Department.

(b) A **[**business**]** **STATUTORY** trust that pays all taxes, unemployment insurance contributions, reimbursement payments, interest, and penalties due within 60 days after the issuance of the proclamation shall have its right to do business in the State and to use its name reinstated in accordance with § 12–805 of this subtitle retroactive to the date of forfeiture.

12–803.

(a) If the Department is satisfied that a **[**business**]** **STATUTORY** trust named in a proclamation issued under § 12–801(d) of this subtitle has not failed to pay the taxes, unemployment insurance contributions, or reimbursement payments, or to file the report within the period specified in § 12–801 of this subtitle, or that the **[**business**]** **STATUTORY** trust has been mistakenly reported to the Department by the State Comptroller or the Secretary of Labor, Licensing, and Regulation, the Department may file in its records a proclamation correcting the mistake.

(b) The effect of a proclamation correcting a mistake under subsection (a) of this section is to restore the right of the **[**business**]** **STATUTORY** trust to do business in the State and to use the name of the **[**business**]** **STATUTORY** trust as if the right had at all times remained in full force and effect.

12–804.

This subtitle does not repeal, supersede, or in any manner affect any remedy or provision of law:

(1) For the collection of taxes, unemployment insurance contributions, or reimbursement payments and any interest and penalties due; or

(2) To compel the filing of annual reports.

12–805.

If the authority of a **[**business**]** **STATUTORY** trust to do business in the State and to use its name has been forfeited for nonpayment of taxes, unemployment insurance contributions, or reimbursement payments, or for failure to file an annual report, the **[**business**]** **STATUTORY** trust may apply for reinstatement by filing a certificate of reinstatement with the Department in accordance with § 12–806 of this subtitle.

12–806.

A certificate of reinstatement shall include:

(1) The name of the **[**business**]** **STATUTORY** trust at the time its right to do business in the State was forfeited;

(2) The name that the **[**business**]** **STATUTORY** trust will use after reinstatement, which shall comply with the provisions of this article with respect to **[**business**]** **STATUTORY** trust names;

(3) The address of the principal office of the **[**business**]** **STATUTORY** trust in the State if different from its principal office in the State at the time the right to do business in the State was forfeited; and

(4) The name and address of the resident agent of the **[**business**]** **STATUTORY** trust.

12–807.

The Department may not accept a certificate of reinstatement for record unless:

(1) All annual reports required to be filed by the **[**business**]** **STATUTORY** trust, or which would have been required if the right to do business in the State had not been forfeited, are filed; and

(2) Unemployment insurance contributions or reimbursement payments, all State and local taxes, except taxes on real estate, and all interest and penalties due by the **[**business**]** **STATUTORY** trust, or which would have become due if the right to do business had not been forfeited, are paid, whether or not barred by limitations.

12–808.

Except in a proceeding by the State or any of its political subdivisions, the acceptance of a certificate of reinstatement for record by the Department is conclusive evidence of:

(1) The payment of all fees, taxes, unemployment insurance contributions, and reimbursement payments required to be paid;

(2) The filing of all reports required to be filed; and

(3) The reinstatement of the right of the **[**business**]** **STATUTORY** trust to do business in the State.

12–809.

(a) Any person that transacts business in the name of, or for the account of, a [business] **STATUTORY** trust knowing that the [business] **STATUTORY** trust's right to do business in the State has been forfeited and has not been reinstated at the time the business was transacted is guilty of a misdemeanor and on conviction is subject to a fine of not more than $500.

(b) A prosecution for a violation of subsection (a) of this section, concerning acts alleged to have occurred while the right of a [business] **STATUTORY** trust to do business in the State was forfeited, may not be instituted after the date that a certificate of reinstatement of the [business] **STATUTORY** trust is filed.

12–810.

The forfeiture of the right to do business in the State and the right to the use of the name of the [business] **STATUTORY** trust under this title does not:

(1) Impair the validity of a contract entered into by the [business] **STATUTORY** trust or any act of the [business] **STATUTORY** trust before or after the forfeiture; or

(2) Prevent the [business] **STATUTORY** trust from defending any action, suit, or proceeding in a court of the State.

SUBTITLE 9. FOREIGN STATUTORY TRUSTS.

12–901.

(A) SUBJECT TO THE MARYLAND CONSTITUTION:

(1) THE LAWS OF THE JURISDICTION UNDER WHICH A FOREIGN STATUTORY TRUST IS FORMED GOVERN ITS ORGANIZATION, INTERNAL AFFAIRS, AND THE LIABILITY OF ITS TRUSTEES; AND

(2) A FOREIGN STATUTORY TRUST MAY NOT BE DENIED REGISTRATION BY REASON OF ANY DIFFERENCE BETWEEN THE LAWS UNDER WHICH THE FOREIGN STATUTORY TRUST IS FORMED AND THE LAWS OF THIS STATE.

(B) A FOREIGN STATUTORY TRUST MAY NOT DO ANY KIND OF INTRASTATE, INTERSTATE, OR FOREIGN BUSINESS IN THIS STATE WHICH THE LAWS OF THIS STATE PROHIBIT A DOMESTIC STATUTORY TRUST FROM DOING.

12–902.

(A) BEFORE DOING ANY INTERSTATE, INTRASTATE, OR FOREIGN BUSINESS IN THIS STATE, A FOREIGN STATUTORY TRUST SHALL REGISTER WITH THE DEPARTMENT.

(B) TO REGISTER, A FOREIGN STATUTORY TRUST SHALL SUBMIT TO THE DEPARTMENT AN APPLICATION FOR REGISTRATION AS A FOREIGN STATUTORY TRUST EXECUTED BY AN AUTHORIZED PERSON AND SETTING FORTH:

(1) THE NAME OF THE FOREIGN STATUTORY TRUST AND, IF DIFFERENT, THE NAME UNDER WHICH IT PROPOSES TO REGISTER AND DO BUSINESS IN THIS STATE;

(2) THE JURISDICTION UNDER THE LAWS OF WHICH IT WAS FORMED AND THE DATE OF ITS FORMATION;

(3) THE GENERAL CHARACTER OF THE BUSINESS IT PROPOSES TO TRANSACT IN THIS STATE;

(4) THE NAME AND ADDRESS OF ITS RESIDENT AGENT IN THIS STATE;

(5) A STATEMENT THAT THE DEPARTMENT IS APPOINTED AS THE RESIDENT AGENT OF THE FOREIGN STATUTORY TRUST IF NO RESIDENT AGENT HAS BEEN DESIGNATED UNDER ITEM (4) OF THIS SUBSECTION OR, IF A RESIDENT AGENT HAS BEEN DESIGNATED, THE RESIDENT AGENT'S AUTHORITY HAS BEEN REVOKED OR THE RESIDENT AGENT CANNOT BE FOUND OR SERVED WITH THE EXERCISE OF REASONABLE DILIGENCE; AND

(6) THE ADDRESS OF THE OFFICE REQUIRED TO BE MAINTAINED IN THE JURISDICTION OF ITS FORMATION BY THE LAWS OF THAT JURISDICTION OR, IF NOT SO REQUIRED, OF THE PRINCIPAL OFFICE OF THE FOREIGN STATUTORY TRUST.

12–903.

A FOREIGN STATUTORY TRUST MAY REGISTER WITH THE DEPARTMENT UNDER ANY NAME, WHETHER OR NOT IT IS THE NAME UNDER WHICH IT IS REGISTERED IN ITS JURISDICTION OF FORMATION, AS PROVIDED UNDER TITLE 1, SUBTITLE 5 OF THIS ARTICLE.

12–904.

IF ANY STATEMENT IN THE APPLICATION FOR REGISTRATION OF A FOREIGN STATUTORY TRUST IS FALSE WHEN MADE OR ANY ARRANGEMENTS OR OTHER FACTS DESCRIBED HAVE CHANGED MAKING THE APPLICATION INACCURATE IN ANY RESPECT, A FOREIGN STATUTORY TRUST SHALL PROMPTLY FILE WITH THE DEPARTMENT A CERTIFICATE, EXECUTED BY AN AUTHORIZED PERSON, CORRECTING THE STATEMENT.

12–905.

(A) A FOREIGN STATUTORY TRUST MAY CANCEL ITS REGISTRATION BY FILING WITH THE DEPARTMENT A CERTIFICATE OF CANCELLATION EXECUTED BY AN AUTHORIZED PERSON.

(B) THE FILING OF A CERTIFICATE OF CANCELLATION DOES NOT TERMINATE THE AUTHORITY OF THE DEPARTMENT TO ACCEPT SERVICE OF PROCESS ON THE FOREIGN STATUTORY TRUST WITH RESPECT TO CAUSES OF ACTION ARISING OUT OF DOING BUSINESS IN THIS STATE.

12–906.

(A) IF A FOREIGN STATUTORY TRUST IS DOING OR HAS DONE ANY INTRASTATE, INTERSTATE, OR FOREIGN BUSINESS IN THIS STATE WITHOUT COMPLYING WITH THE REQUIREMENTS OF THIS SUBTITLE, THE FOREIGN STATUTORY TRUST AND ANY PERSON CLAIMING UNDER IT MAY NOT MAINTAIN SUIT IN ANY COURT IN THIS STATE, UNLESS THE STATUTORY TRUST SHOWS TO THE SATISFACTION OF THE COURT THAT:

(1) THE FOREIGN STATUTORY TRUST OR THE PERSON CLAIMING UNDER IT HAS PAID THE PENALTY SPECIFIED IN SUBSECTION (D)(1) OF THIS SECTION; AND

(2) (I) THE FOREIGN STATUTORY TRUST OR A FOREIGN STATUTORY TRUST SUCCESSOR TO IT HAS COMPLIED WITH THE REQUIREMENTS OF THIS TITLE; OR

(II) THE FOREIGN STATUTORY TRUST AND ANY FOREIGN STATUTORY TRUST SUCCESSOR TO IT ARE NO LONGER DOING INTRASTATE, INTERSTATE, OR FOREIGN BUSINESS IN THIS STATE.

(B) THE FAILURE OF A FOREIGN STATUTORY TRUST TO REGISTER IN THIS STATE DOES NOT:

(1) IMPAIR THE VALIDITY OF A CONTRACT OR ACT OF THE FOREIGN STATUTORY TRUST; OR

(2) PREVENT THE FOREIGN STATUTORY TRUST FROM DEFENDING ANY ACTION, SUIT, OR PROCEEDING IN A COURT OF THIS STATE.

(C) A FOREIGN STATUTORY TRUST, BY DOING BUSINESS IN THIS STATE WITHOUT REGISTRATION, APPOINTS THE DEPARTMENT AS ITS AGENT FOR SERVICE OF PROCESS WITH RESPECT TO CAUSES OF ACTION ARISING OUT OF DOING BUSINESS IN THIS STATE.

(D) (1) (I) IF A FOREIGN STATUTORY TRUST DOES ANY INTRASTATE, INTERSTATE, OR FOREIGN BUSINESS IN THIS STATE WITHOUT REGISTERING, THE DEPARTMENT SHALL IMPOSE A PENALTY OF $200 ON THE FOREIGN STATUTORY TRUST.

(II) THE PENALTY UNDER THIS SUBSECTION SHALL BE COLLECTED AND MAY BE REDUCED OR ABATED UNDER § 14–704 OF THE TAX – PROPERTY ARTICLE.

(2) A TRUSTEE OR AN AGENT WHO TRANSACTS INTRASTATE, INTERSTATE, OR FOREIGN BUSINESS IN THIS STATE ON BEHALF OF A FOREIGN BUSINESS TRUST THAT HAS NOT REGISTERED WITH THE DEPARTMENT IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING $1,000.

12–907.

THE ATTORNEY GENERAL MAY BRING AN ACTION TO RESTRAIN A FOREIGN STATUTORY TRUST FROM DOING BUSINESS IN THIS STATE IN VIOLATION OF THIS SUBTITLE.

12–908.

(A) IN ADDITION TO ANY OTHER ACTIVITIES WHICH MAY NOT CONSTITUTE DOING BUSINESS IN THIS STATE, FOR THE PURPOSES OF THIS SUBTITLE, THE FOLLOWING ACTIVITIES OF A FOREIGN STATUTORY TRUST DO NOT CONSTITUTE DOING BUSINESS IN THIS STATE:

(1) MAINTAINING, DEFENDING, OR SETTLING AN ACTION, A SUIT, A CLAIM, A DISPUTE, OR AN ADMINISTRATIVE OR ARBITRATION PROCEEDING;

(2) HOLDING MEETINGS OF ITS TRUSTEES OR AGENTS OR CARRYING ON OTHER ACTIVITIES THAT RELATE TO ITS INTERNAL AFFAIRS;

(3) MAINTAINING BANK ACCOUNTS;

(4) CONDUCTING AN ISOLATED TRANSACTION NOT IN THE COURSE OF A NUMBER OF SIMILAR TRANSACTIONS;

(5) FORECLOSING MORTGAGES AND DEEDS OF TRUST ON PROPERTY IN THIS STATE;

(6) AS A RESULT OF DEFAULT UNDER A MORTGAGE OR DEED OF TRUST, ACQUIRING TITLE TO PROPERTY IN THIS STATE BY FORECLOSURE, DEED IN LIEU OF FORECLOSURE, OR OTHERWISE;

(7) HOLDING, PROTECTING, RENTING, MAINTAINING, AND OPERATING PROPERTY IN THIS STATE ACQUIRED AS DESCRIBED IN ITEM (6) OF THIS SUBSECTION; OR

(8) SELLING OR TRANSFERRING TITLE TO PROPERTY IN THIS STATE ACQUIRED AS DESCRIBED IN ITEM (6) OF THIS SUBSECTION TO ANY PERSON, INCLUDING THE FEDERAL HOUSING ADMINISTRATION OR THE VETERANS ADMINISTRATION.

(B) IN ADDITION TO ANY OTHER ACTIVITIES WHICH MAY CONSTITUTE DOING BUSINESS IN THIS STATE, FOR THE PURPOSES OF THIS SUBTITLE, A FOREIGN STATUTORY TRUST THAT OWNS INCOME PRODUCING REAL OR TANGIBLE PERSONAL PROPERTY IN THIS STATE, OTHER THAN PROPERTY EXEMPTED BY SUBSECTION (A) OF THIS SECTION, SHALL BE CONSIDERED TO BE DOING BUSINESS IN THIS STATE.

12–909.

BY DOING INTRASTATE, INTERSTATE, OR FOREIGN BUSINESS IN THIS STATE, A FOREIGN STATUTORY TRUST ASSENTS TO THE LAWS OF THIS STATE.

12–910.

WITH RESPECT TO A CAUSE OF ACTION AS TO WHICH A FOREIGN STATUTORY TRUST WOULD NOT OTHERWISE BE SUBJECT TO SUIT IN THIS STATE, COMPLIANCE WITH THIS SUBTITLE:

(1) DOES NOT OF ITSELF RENDER A FOREIGN STATUTORY TRUST SUBJECT TO SUIT IN THIS STATE; AND

(2) IS NOT CONSIDERED AS CONSENT BY IT TO BE SUED IN THIS STATE.

12–911.

(A) IF A FOREIGN STATUTORY TRUST THAT OWNS PROPERTY RIGHTS, PRIVILEGES, FRANCHISES, OR OTHER ASSETS LOCATED IN THIS STATE IS A PARTY TO A MERGER IN WHICH A FOREIGN BUSINESS ENTITY IS THE SUCCESSOR, THE TRANSFER TO, VESTING IN, OR DEVOLUTION ON THE SUCCESSOR OF THE PROPERTY RIGHTS, PRIVILEGES, FRANCHISES, OR OTHER ASSETS OF THE NONSURVIVING FOREIGN STATUTORY TRUST IS EFFECTIVE AS PROVIDED BY THE LAWS OF THE JURISDICTION THAT GOVERNS THE MERGER.

(B) THE SUCCESSOR DESCRIBED IN SUBSECTION (A) OF THIS SECTION SHALL FILE WITH THE DEPARTMENT A CERTIFICATE EXECUTED BY AN AUTHORIZED PERSON THAT SPECIFIES:

(1) EACH COUNTY IN THIS STATE WHERE A FOREIGN STATUTORY TRUST PARTY TO THE MERGER, EXCEPT THE SUCCESSOR, OWNED AN INTEREST IN LAND;

(2) THE NAME OF EACH PARTY TO THE MERGER;

(3) THE JURISDICTION UNDER THE LAWS OF WHICH EACH PARTY WAS FORMED; AND

(4) THE NAME OF THE SUCCESSOR.

(C) IF A COPY OF THE DOCUMENT EFFECTING THE MERGER HAS NOT BEEN FILED WITH THE DEPARTMENT AS PROVIDED IN § 12–205 OF THIS TITLE, THE SUCCESSOR SHALL FILE WITH THE DEPARTMENT AN OFFICIALLY CERTIFIED COPY OF THAT DOCUMENT.

(D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, WHEN THE DEPARTMENT RECEIVES THE ARTICLES AND ANY CERTIFICATE OF THE SUCCESSOR, THE DEPARTMENT SHALL PREPARE AND FILE CERTIFICATES OF MERGER IN THE MANNER PROVIDED FOR A STATUTORY TRUST.

(2) THE CERTIFICATE OF MERGER:

(I) NEED NOT STATE THE PRINCIPAL OFFICE IN THE STATE OF A FOREIGN STATUTORY TRUST THAT DOES NOT HAVE A PRINCIPAL OFFICE; AND

(II) SHALL INCLUDE OTHER INFORMATION SPECIFIED IN THE CERTIFICATE FILED BY THE SUCCESSOR.

12–912.

(A) THE DEPARTMENT MAY FORFEIT THE RIGHT OF A FOREIGN STATUTORY TRUST TO DO BUSINESS IN THE STATE IF THE FOREIGN STATUTORY TRUST FAILS TO FILE WITH THE DEPARTMENT ANY REPORT OR FAILS TO PAY ANY LATE FILING PENALTY REQUIRED BY LAW:

(1) WITHIN THE TIME REQUIRED BY LAW; AND

(2) THEREAFTER, WITHIN 30 DAYS AFTER THE DEPARTMENT MAKES A WRITTEN DEMAND FOR THE DELINQUENT REPORT OR LATE FILING PENALTY.

(B) UNLESS THE DEPARTMENT EXCUSES A REASONABLE DELAY FOR GOOD CAUSE SHOWN, THE FORFEITURE IS EFFECTIVE 15 DAYS AFTER WRITTEN NOTICE OF FORFEITURE FROM THE DEPARTMENT WITHOUT LEGAL PROCEEDINGS OF ANY KIND.

(C) THE DEMAND FOR A DELINQUENT REPORT OR LATE FILING PENALTY AND THE NOTICE OF FORFEITURE SHALL BE ADDRESSED TO THE FOREIGN STATUTORY TRUST:

(1) AT THE ADDRESS OF THE FOREIGN STATUTORY TRUST ON FILE WITH THE DEPARTMENT; OR

(2) IF THE FOREIGN STATUTORY TRUST HAS NO ADDRESS ON FILE WITH THE DEPARTMENT, IN CARE OF THE SECRETARY OF STATE OR CORRESPONDING OFFICIAL OF THE JURISDICTION IN WHICH THE FOREIGN STATUTORY TRUST WAS FORMED OR IS EXISTING, IF KNOWN TO THE DEPARTMENT.

(D) ON FORFEITURE OF THE RIGHT OF A FOREIGN STATUTORY TRUST TO DO BUSINESS IN THE STATE, THE FOREIGN STATUTORY TRUST IS SUBJECT TO THE SAME RULES, LEGAL PROVISIONS, AND SANCTIONS AS IF IT HAD NEVER REGISTERED TO DO BUSINESS IN THE STATE.

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

Article 1 – Rules of Interpretation

15.

Unless such a construction would be unreasonable, the word person shall include corporation, partnership, business trust, **STATUTORY TRUST,** or limited liability company.

Article 66B – Land Use

14.09.

(c) Notwithstanding any other provisions of this article or of the local laws of Worcester County, an application for zoning classification or reclassification shall contain the following information:

(4) If the applicant is a joint venture, unincorporated association, real estate investment trust, or other business trust **OR STATUTORY TRUST**, the names and residences of all persons holding an interest of more than 20% in the joint venture, unincorporated association, real estate investment trust, or other business trust **OR STATUTORY TRUST**, respectively.

Article – Business Regulation

4–401.

(i) "Person" means an individual, corporation, business trust, **STATUTORY TRUST,** estate, trust, partnership, limited liability company, association, joint venture, governmental agency or instrumentality, public corporation, or any other legal or commercial entity.

Article – Commercial Law

1–201.

Subject to additional definitions contained in the subsequent titles of this article which are applicable to specific titles or subtitles thereof, and unless the context otherwise requires, in Titles 1 through 10 of this article:

(28) "Organization" includes a corporation, government or governmental subdivision or agency, business trust, **STATUTORY TRUST,** estate,

trust, partnership or association, two or more persons having a joint or common interest, or any other legal or commercial entity.

8–103.

(a) A share or similar equity interest issued by a corporation, business trust, **STATUTORY TRUST,** joint stock company, or similar entity is a security.

11–201.

(f) "Person" includes an individual, corporation, business trust, **STATUTORY TRUST,** estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

11–301.

(j) "Person" includes an individual, corporation, business trust, **STATUTORY TRUST,** estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

11–401.

(d) "Person" includes an individual, corporation, business trust, **STATUTORY TRUST,** estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

11–501.

(f) "Person" includes an individual, corporation, business trust, **STATUTORY TRUST,** estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

11–601.

(g) "Person" includes an individual, corporation, business trust, **STATUTORY TRUST,** estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

11–701.

(c) "Person" includes an individual, corporation, business trust, **STATUTORY TRUST,** estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

11–801.

(d) "Person" includes an individual, corporation, business trust, **STATUTORY TRUST,** estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

11–901.

In this subtitle, "person" means an individual, corporation, business trust, **STATUTORY TRUST,** estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

11–1101.

(d) (1) "Person" means an individual, corporation, business trust, **STATUTORY TRUST,** estate, trust, partnership, association, 2 or more persons having a joint or common interest, or any other legal commercial entity.

(2) "Person" includes a liquidation service.

11–1201.

(d) "Person" means an individual, corporation, business trust, **STATUTORY TRUST,** estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.

12–101.

(g) "Person" includes an individual, corporation, business trust, **STATUTORY TRUST,** estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

12–301.

(f) "Person" includes an individual, corporation, business trust, **STATUTORY TRUST,** estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

12–401.

(h) "Person" includes an individual, corporation, business trust, **STATUTORY TRUST,** estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

12–501.

(k) "Person" includes an individual, corporation, business trust, **STATUTORY TRUST,** estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

12–601.

(q) "Person" includes an individual, corporation, business trust, **STATUTORY TRUST,** estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

12–701.

(f) "Person" includes an individual, corporation, business trust, **STATUTORY TRUST,** estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

12–801.

(f) "Person" includes an individual, corporation, business trust, **STATUTORY TRUST,** estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

12–901.

(f) (1) "Credit grantor" means any individual, corporation, business trust, **STATUTORY TRUST,** estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity making a loan or other extension of credit under this subtitle which is incorporated, chartered, or licensed pursuant to State or federal law, the lending operations of which are subject to supervision, examination, and regulation by a State or federal agency or which is licensed under Title 12, Subtitle 4 of the Financial Institutions Article or is a retailer.

12–1001.

(g) (1) "Credit grantor" means any individual, corporation, business trust, **STATUTORY TRUST,** estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity making a loan or other extension of credit under this subtitle which is incorporated, chartered, or licensed pursuant to State or federal law, the lending operations of which are subject to supervision, examination, and regulation by a State or federal agency or which is licensed under Title 12, Subtitle 4 of the Financial Institutions Article or is a retailer.

13–101.

(h) "Person" includes an individual, corporation, business trust, **STATUTORY TRUST,** estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

14–101.

(d) "Person" includes an individual, corporation, business trust, **STATUTORY TRUST,** estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

14–201.

(d) "Person" includes an individual, corporation, business trust, **STATUTORY TRUST,** estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

14–301.

(e) "Person" includes an individual, corporation, business trust, **STATUTORY TRUST,** estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

14–401.

(f) "Person" includes an individual, corporation, business trust, **STATUTORY TRUST,** estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

14–501.

(d) "Person" includes an individual, corporation, business trust, **STATUTORY TRUST,** estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

14–601.

(c) "Person" means an individual, corporation, business trust, **STATUTORY TRUST,** estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

14–701.

(d) "Person" includes an individual, corporation, business trust, **STATUTORY TRUST,** estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

14–801.

(b) "Person" includes an individual, corporation, business trust, **STATUTORY TRUST,** estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

14–901.

(i) "Person" includes an individual, corporation, business trust, **STATUTORY TRUST,** estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

14–1001.

(d) "Person" includes an individual, corporation, business trust, **STATUTORY TRUST,** estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

14–1201.

(j) "Person" includes an individual, corporation, government or governmental subdivision or agency, business trust, **STATUTORY TRUST,** estate, trust, partnership, association, two or more persons having a joint or common interest, and any other legal or commercial entity.

14–1301.

(c) "Person" includes an individual, corporation, business trust, **STATUTORY TRUST,** estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

14–1901.

(g) "Person" includes an individual, corporation, government or governmental subdivision or agency, business trust, **STATUTORY TRUST,** estate, trust, partnership, association, 2 or more persons having a joint or common interest, and any other legal or commercial entity.

14–2801.

(d) "Person" includes an individual, corporation, business trust, **STATUTORY TRUST,** estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

14–3401.

(c) (1) "Person" includes an individual, corporation, business trust, **STATUTORY TRUST,** estate**,** trust, partnership, association, two or more persons having a joint or common interest, or any other commercial entity.

(2) "Person" does not include a unit of State or local government.

14–3601.

(h) "Person" includes an individual, corporation, business trust, **STATUTORY TRUST,** estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

15–102.

(a) (2) "Person" includes an individual, corporation, business trust, **STATUTORY TRUST,** estate, trust, partnership, limited liability company, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

15–301.

(e) "Person" includes an individual, corporation, business trust, **STATUTORY TRUST,** estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

16–101.

(d) "Person" includes the State, any county, municipal corporation, or other political subdivision of the State, or any of their units, or an individual, corporation, business trust, **STATUTORY TRUST,** estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

17–101.

(e) "Business association" means any corporation, joint stock company, business trust, **STATUTORY TRUST,** partnership, or any association for business purposes of two or more individuals.

(l) "Person" includes the State, any county, municipal corporation, or other political subdivision of the State, or any of their units, an individual, business association, corporation, business trust, **STATUTORY TRUST,** estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

18–101.

(e) "Person" includes an individual, corporation, business trust, **STATUTORY TRUST,** estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

21–101.

(m) "Person" means an individual, corporation, business trust, **STATUTORY TRUST,** estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation, or any other legal or commercial entity.

22–102.

(a) In this title:

(51) "Person" means an individual, corporation, business trust, **STATUTORY TRUST,** estate, trust, partnership, limited liability company, association, joint venture, governmental subdivision, instrumentality, or agency, public corporation, or any other legal or commercial entity.

Article – Corporations and Associations

1–101.

(a) In this article, unless the context clearly requires otherwise, the following words have the meanings indicated.

(b) "Address" means the post office address, and includes street and number, if any, county or municipal area, and state and, if outside the United States, country.

(c) "Articles of transfer" means articles of sale, articles of lease, articles of asset exchange, or articles of transfer.

(d) "Assets" means any tangible, intangible, real, or personal property or other assets, including goodwill and franchises.

(E) "BUSINESS TRUST" MEANS AN UNINCORPORATED TRUST OR ASSOCIATION, INCLUDING A COMMON–LAW TRUST, A MASSACHUSETTS TRUST, A REAL ESTATE INVESTMENT TRUST AS DEFINED IN § 8–101 OF THIS ARTICLE, A STATUTORY TRUST AS DEFINED IN § 12–101 OF THIS ARTICLE, AND A FOREIGN STATUTORY TRUST AS DEFINED IN § 12–101 OF THIS ARTICLE, THAT IS ENGAGED IN BUSINESS AND IN WHICH PROPERTY IS ACQUIRED, HELD, MANAGED, ADMINISTERED, CONTROLLED, INVESTED, OR DISPOSED OF BY TRUSTEES OR THE TRUST FOR THE BENEFIT AND PROFIT OF ANY PERSON WHO MAY BECOME A HOLDER OF A TRANSFERABLE UNIT OF BENEFICIAL INTEREST IN THE TRUST.

[(e)**] (F)** (1) "Charter" includes:

(i) A charter granted by special act of the General Assembly;

(ii) Articles or certificate of incorporation;

(iii) Amended articles or certificate of incorporation;

(iv) Articles of restatement, if approved as described in § 2–609 of this article;

(v) Articles of amendment and restatement; and

(vi) Articles or agreements of consolidation.

(2) "Charter" includes the documents referred to in paragraph (1) of this subsection, either as:

(i) Originally passed or accepted for record; or

(ii) As amended, corrected, or supplemented by special act of the General Assembly, articles of amendment, articles of amendment and reduction, articles of extension, articles supplementary, articles or agreements of merger, articles of revival, or a certificate of correction.

[(f)**] (G)** "Charter document" means any:

(1) Document enumerated in subsection **[**(e)**] (F)** of this section; and

(2) Articles of reduction, articles or agreements of transfer, articles of merger, articles of share exchange, articles of dissolution, and stock issuance statements.

[(g)**] (H)** "Clerk of the court" means clerk of the circuit court for any county.

[(h)**] (I)** "Convertible securities" includes:

(1) Shares of stock which by their terms are convertible into shares of stock of one or more classes; and

(2) Obligations which by their terms are convertible into shares of stock of one or more classes.

[(i)**] (J)** "County" includes Baltimore City.

[(j)**] (K)** "Department" means the State Department of Assessments and Taxation.

[(k)**] (L)** "Director" means a member of the governing body of a corporation, whether designated as a director, trustee, or manager or by any other title.

[(l)**] (M)** "Electronic transmission" means any form of communication, not directly involving the physical transmission of paper, that creates a record that:

(1) May be retained, retrieved, and reviewed by a recipient of the communication; and

(2) May be reproduced directly in paper form by a recipient through an automated process.

[(m)**] (N)** "Foreign corporation" means a corporation, association, or joint–stock company organized under the laws of the United States, another state of the United States, a territory, possession, or district of the United States, or a foreign country.

[(n)**] (O)** "Mail" means to deposit in the United States mails postage prepaid.

[(o)**] (P)** "Maryland corporation" means a corporation organized and existing under the laws of the State.

[(p)**] (Q)** "Municipal area" means any incorporated or unincorporated city, town, or village.

[(q)**] (R)** "Person" includes an individual, corporation, business trust, **STATUTORY TRUST,** estate, trust, partnership, limited partnership, limited liability company, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

[(r)**] (S)** "Principal office" means:

(1) The place in this State filed or recorded with the Department as the principal office of a corporation or domestic limited partnership; or

(2) If there is no principal office designated, the main office of the corporation or domestic limited partnership in this State for the transaction of business.

[(s)**] (T)** "Resident agent" means an individual residing in this State or a Maryland corporation whose name, address, and designation as a resident agent are filed or recorded with the Department in accordance with the provisions of this article.

[(t)**] (U)** "Share exchange" means a transaction:

(1) In which a corporation acquires all the issued or all the outstanding shares of stock of one or more classes of another corporation by a stockholder vote under this article; and

(2) Which does not affect the corporate existence of either corporation.

[(u)**] (V)** "Stated capital" means the amount of stated capital determined in accordance with Title 2, Subtitle 3 of this article.

[(v)**] (W)** "Stockholder" means a person who is a record holder of shares of stock in a corporation and includes a member of a corporation organized without stock.

[(w)**] (X)** "Stockholder rights plan" means an agreement or other instrument under which a corporation issues rights to its stockholders that:

(1) May be exercised under specified circumstances to purchase stock or other securities of a corporation or any other person; and

(2) May become void if owned by a designated person or classes of persons under specified circumstances.

[(x)**] (Y)** "Successor" means:

(1) A new corporation formed by consolidation;

(2) A corporation or other entity surviving a merger;

(3) A corporation acquiring stock in a share exchange; or

(4) A vendee, lessee, or other transferee in a transfer of assets.

[(y)**] (Z)** "Transfer assets", "transfer its assets", and "transfer of assets" mean to sell, lease, exchange, or otherwise transfer all or substantially all of the assets of a corporation.

1–203.

(b) (3) (ii) For each of the following documents which are filed but not recorded, the filing fee is as indicated:

Annual report of a Maryland corporation, except a charitable or benevolent institution, nonstock corporation, savings and loan corporation, credit union, family farm, and banking institution $300

Annual report of a foreign corporation subject to the jurisdiction of this State, except a national banking association, savings and loan association, credit union, nonstock corporation, and charitable and benevolent institution $300

Annual report of a Maryland savings and loan association, banking institution, or credit union or of a foreign savings and loan association, national banking association, or credit union that is subject to the jurisdiction of this State $300

Annual report of a Maryland limited liability company, limited liability partnership, limited partnership, or of a foreign limited liability company, foreign limited liability partnership, or foreign limited partnership, except a family farm $300

Annual report of a business trust $300

Annual report of a real estate investment trust **OR FOREIGN STATUTORY TRUST** doing business in this State $300

Annual report of a family farm $100

1–301.

(a) Articles supplementary and articles of amendment, restatement, restatement and amendment, consolidation, merger, share exchange, transfer, and extension and, except as provided in § 3–406(b) of this article, articles of dissolution shall be executed as follows:

(1) They shall be signed and acknowledged for each corporation, **[**business**]** **STATUTORY** trust, or real estate investment trust party to the articles, by its chairman or vice chairman of the board of directors or board of trustees, its chief executive officer, chief operating officer, president or one of its vice presidents;

(2) They shall be witnessed or attested by the secretary or an assistant secretary of each corporation, **[**business**]** **STATUTORY** trust, or real estate investment trust party to the articles, or, if authorized by the bylaws or resolution of the board of directors or board of trustees and the articles so state, by any other officer or agent of the corporation, **[**business**]** **STATUTORY** trust, or real estate investment trust;

(3) They shall be signed and acknowledged for each other entity party to the articles by a majority of the entire board of trustees or other governing body; and

(4) Except as provided in subsection (b) of this section, the matters and facts set forth in the articles with respect to authorization and approval shall be verified under oath as follows:

(i) With respect to any Maryland corporation, **[**business**]** **STATUTORY** trust, or real estate investment trust party to the articles, by the chairman or the secretary of the meeting at which the articles or transaction were approved, or by the chairman or vice chairman of the board of directors or board of trustees, chief executive officer, chief operating officer, president, vice president, secretary, or assistant secretary of the corporation, **[**business**]** **STATUTORY** trust, or real estate investment trust;

(ii) With respect to any foreign corporation party to articles of consolidation, merger, or share exchange, by the chief executive officer, chief operating officer, president, vice president, secretary, or assistant secretary of the corporation; and

(iii) With respect to any other Maryland or foreign entity party to the articles, by the chief executive officer, chief operating officer, president, vice president, secretary, assistant secretary, managing trustee, or persons acting in a similar position for the entity.

3–101.

(b) **[**"Business**]** **"DOMESTIC BUSINESS** trust" **OR "BUSINESS TRUST"** means **[**an unincorporated trust or association, including a common–law trust, Massachusetts trust, or Maryland real estate investment trust as defined in § 8–101(b) of this article, which is engaged in business and in which property is acquired, held, managed, administered, controlled, invested, or disposed of by trustees for the benefit and profit of any person who may become a holder of a transferable unit of beneficial interest in the trust**]** **A BUSINESS TRUST FORMED UNDER THE LAWS OF THE STATE**.

3–102.

(a) A Maryland corporation having capital stock may:

(3) Merge into a **[**Maryland**]** **DOMESTIC** or foreign business trust having transferable units of beneficial interest, or have one or more such business trusts merge into it;

4A–101.

(a) In this title the following terms have the meanings indicated.

(b) "Articles of organization" means the articles of organization filed with the Department for the purpose of forming a limited liability company as specified in § 4A–204 of this title and includes all amendments and restatements of them.

(c) "Authorized person" means any person, whether or not a member, who is authorized by the articles of organization, by an operating agreement, or otherwise, to execute or file a document required or permitted to be executed or filed on behalf of a limited liability company or foreign limited liability company under this title, or to otherwise act as an agent of the limited liability company.

(d) "Bankrupt" means bankrupt under the federal Bankruptcy Code as amended or insolvent under any state insolvency act.

[(e) "Business trust" means a business trust or a foreign business trust as defined in § 8–501.1 of this article.**]**

[(f)**] (E)** "Capital contribution" means anything of value that a person contributes as capital to the limited liability company in that person's capacity as a member, including cash, property, services rendered or a promissory note or other binding obligation to contribute cash or property or to perform services.

[(g)**] (F)** "Capital interest" means the fair market value, as of the date contributed, of a member's capital contribution, whether or not returned to the member.

[(h)**] (G)** "Corporation" means a Maryland corporation or a foreign corporation as defined in § 1–101 of this article.

[(i)**] (H)** "Court" includes every court having jurisdiction in the case.

[(j)**] (I)** "Foreign limited liability company" means a limited liability company formed under the laws of a state other than the State of Maryland.

[(k)**] (J)** "Interest" means a member's share of the profits and losses of the limited liability company and the right to receive distributions from the limited liability company.

[(l)**] (K)** "Limited liability company" or "domestic limited liability company" means a permitted form of unincorporated business organization which is organized and existing under this title.

[(m)**] (L)** "Limited partnership" means a Maryland limited partnership or foreign limited partnership as defined in § 10–101 of this article.

[(n)**] (M)** (1) "Member" means a person with an interest in a limited liability company with the rights and obligations specified under this title.

(2) "Member" includes a person who has been admitted as a member of a limited liability company organized in the State or a foreign limited liability company.

[(o)**] (N)** "Operating agreement" means the agreement and any amendments thereto, of the members as to the affairs of a limited liability company and the conduct of its business.

[(p)**] (O)** "Partnership" means a partnership formed under the laws of this State, any other state, or under the laws of a foreign country.

[(q)**] (P)** (1) "Professional service" has the meaning stated in § 5–101 of this article.

(2) "Professional service" includes a service provided by:

(i) An architect;

(ii) An attorney;

(iii) A certified public accountant;

(iv) A chiropractor;

(v) A dentist;

(vi) An osteopath;

(vii) A physician;

(viii) A podiatrist;

(ix) A professional engineer;

(x) A psychologist;

(xi) A licensed real estate broker, licensed associate real estate broker, or licensed real estate salesperson; or

(xii) A veterinarian.

[(r)**] (Q)** "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

8–103.

(a) This title does not limit present law as it applies to the creation of or doing of business in the State by**[**:

(1) A "common–law trust";

(2) A**]** **A** "business trust"**[**; or

(3) A "Massachusetts trust."**]** **OTHER THAN A MARYLAND REAL ESTATE INVESTMENT TRUST.**

8–501.1.

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

[(2) "Business trust" means an unincorporated trust or association, including a Maryland real estate investment trust, a common–law trust, or a Massachusetts trust, which is engaged in business and in which property is acquired, held, managed, administered, controlled, invested, or disposed of for the benefit and profit of any person who may become a holder of a transferable unit of beneficial interest in the trust.**]**

[(3)**]** **(2)** "Domestic limited liability company" means a limited liability company formed under the laws of the State.

[(4)**]** **(3)** "Domestic limited partnership" means a partnership formed by 2 or more persons under the laws of the State and having one or more general partners and one or more limited partners.

[(5)**]** **(4)** "Domestic partnership" or "partnership" means a partnership formed under the laws of the State.

[(6)**]** **(5)** "Foreign business trust" means a business trust organized under the laws of the United States, another state of the United States, or a territory, possession, or district of the United States, or under the laws of a foreign country.

[(7)**]** **(6)** "Foreign limited liability company" means a limited liability company formed under the laws of any state other than the State of Maryland or under the laws of a foreign country.

[(8)**]** **(7)** "Foreign limited partnership" means a partnership formed under the laws of any state other than the State of Maryland or under the laws of a foreign country and having as partners one or more general partners and one or more limited partners.

[(9)**]** **(8)** "Foreign partnership" means a partnership formed under the laws of any state, other than this State, or under the laws of a foreign country.

[(10)**] (9)** "Maryland real estate investment trust" means a real estate investment trust in compliance with the provisions of this title.

(c) A merger shall be approved in the manner provided by this section, except that:

(1) A foreign business trust, a Maryland business trust, other than a Maryland real estate investment trust, a corporation, a domestic or foreign partnership, or a domestic or foreign limited partnership party to the merger shall have the merger advised, authorized, and approved in the manner and by the vote required by its declaration of trust, **GOVERNING INSTRUMENT,** charter, or partnership agreement and the laws of the place where it is organized;

9A–101.

(N) "REAL ESTATE INVESTMENT TRUST" MEANS A MARYLAND REAL ESTATE INVESTMENT TRUST AS DEFINED IN § 8–101 OF THIS ARTICLE.

[(n)**] (O)** "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or insular possession subject to the jurisdiction of the United States.

[(o)**] (P)** "Statement" means a statement of partnership authority under § 9A–303 of this title, a statement of denial under § 9A–304 of this title, a statement of dissociation under § 9A–704 of this title, a statement of dissolution under § 9A–805 of this title, or an amendment or cancellation of any of the foregoing.

(Q) "STATUTORY TRUST" MEANS A MARYLAND STATUTORY TRUST AS DEFINED IN § 12–101 OF THIS ARTICLE.

[(p)**] (R)** "Transfer" includes an assignment, conveyance, lease, mortgage, deed, and encumbrance.

9A–902.

(c) A **[**business**] REAL ESTATE INVESTMENT** trust shall approve the merger under the provisions of § 8–501.1 of this article.

(H) A STATUTORY TRUST SHALL APPROVE THE MERGER UNDER THE PROVISIONS OF § 12–602 OF THIS ARTICLE.

(I) A BUSINESS TRUST, OTHER THAN A MARYLAND REAL ESTATE INVESTMENT TRUST OR STATUTORY TRUST, SHALL HAVE THE MERGER

APPROVED IN THE MANNER AND BY THE VOTE REQUIRED BY THE LAWS OF THE PLACE WHERE IT IS FORMED.

10–208.

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

[(2) "Business trust" means a business trust or a foreign business trust as defined in § 8–501.1 of this article.**]**

[(3)**] (2)** "Corporation" means a Maryland corporation or a foreign corporation.

[(4)**] (3)** "Limited liability company" means a Maryland or a foreign limited liability company as defined by § 4A–101 of this article.

[(5)**] (4)** "Majority in interest of the limited partners" means a majority in interest of each class of the limited partners (such majorities determined on the basis of the sharing of profits and losses by the limited partners).

[(6)**] (5)** "Foreign partnership" means a partnership formed under the laws of any state, other than this State, or under the laws of a foreign country.

Article – Courts and Judicial Proceedings

9–401.

(d) "Person" means an individual, corporation, business trust, **STATUTORY TRUST,** estate, trust, partnership, limited liability company, association, joint venture, public corporation, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

Article – Criminal Law

8–213.

(f) (1) "Person" has the meaning stated in § 1–101 of this article.

(2) "Person" includes a business trust, **STATUTORY TRUST,** estate, trust, and two or more persons having a joint or common interest.

Article – Environment

1–801.

(h) "Person" means an individual, corporation, business trust, **STATUTORY TRUST,** estate, trust, partnership, limited liability company, association, joint venture, public corporation, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

Article – Estates and Trusts

9–201.

(i) "Person" means an individual, corporation, business trust, **STATUTORY TRUST,** estate, trust, partnership, limited liability company, association, joint venture, governmental subdivision, governmental agency, governmental instrumentality, public corporation, legal entity, or commercial entity.

11–102.

(b) Subject to §§ 4–409 of this article and 11–103 of this subtitle, the common–law rule against perpetuities as now recognized in the State is preserved, but the rule does not apply to the following:

(10) A right or privilege, including an option, warrant, pre–emptive right, right of first refusal, right of first option, right of first negotiation, call right, exchange right, or conversion right, to acquire an interest in a domestic or foreign joint venture, partnership, limited liability partnership, limited partnership, limited liability limited partnership, corporation, cooperative, limited liability company, business trust, **STATUTORY TRUST,** or similar enterprise, whether the interest is characterized as a joint venture interest, partnership interest, limited partnership interest, membership interest, security, stock, or otherwise;

15–201.

(d) "Person" includes an individual, a corporation, government or governmental subdivision or agency, business trust, **STATUTORY TRUST,** estate, trust, partnership or association, two or more persons having a joint or common interest, or any other legal or commercial entity.

15–301.

(f) "Person" includes an individual, a corporation, government or governmental subdivision or agency, business trust, **STATUTORY TRUST,** estate, trust, partnership or association, two or more persons having a joint or common interest, or any other legal or commercial entity.

15–401.

(g) "Person" means an individual, corporation, business trust, **STATUTORY TRUST,** estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

15–501.

(j) "Person" means an individual, corporation, business trust, **STATUTORY TRUST,** estate, trust, partnership, limited liability company, association, joint venture, government; governmental subdivision, agency, or instrumentality; public corporation, or any other legal or commercial entity.

Article – Family Law

9.5–101.

(m) "Person" means an individual, corporation, business trust, **STATUTORY TRUST,** estate, trust, partnership, limited liability company, association, joint venture, government, public corporation, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

10–301.

(o) "Person" means an individual, corporation, business trust, **STATUTORY TRUST,** estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, instrumentality, public corporation, or any other legal or commercial entity.

Article – Financial Institutions

5–401.

(b) "Affiliate" means any association, corporation, business trust, **STATUTORY TRUST,** or other similar organization that:

(1) Is not a bank service corporation and is controlled by a banking institution through:

(i) Direct or indirect ownership or control of more than 50 percent of the voting rights;

(ii) Control of the election of a majority of the management;

(iii) Direct or indirect ownership or control of more than 50 percent of the voting rights exercised at the last election of the management;

(iv) Directors of the banking institution constituting a majority of the management of the organization; or

(v) Any direct or indirect control by stockholders of the banking institution, if the stockholders own or control:

1. More than 50 percent of the voting rights in the banking institution; or

2. More than 50 percent of the voting rights exercised at the last election of directors of the banking institution; or

(2) Controls a banking institution through:

(i) Direct or indirect ownership or control of more than 50 percent of the voting rights;

(ii) Control of the election of a majority of the directors of the banking institution;

(iii) Direct or indirect ownership or control of more than 50 percent of the voting rights exercised at the last election of the directors; or

(iv) The holding of substantially all of the capital stock of the banking institution by trustees for stockholders of the organization.

(d) "Management" means the directors, trustees, or other persons exercising similar functions of an association, corporation, business trust, **STATUTORY TRUST,** or other similar organization.

8–101.

(b) "Affiliate" means any corporation, business trust, **STATUTORY TRUST,** association, partnership, sole proprietorship, or other similar organization or person of which an association or any officer, director, or controlling person of an association, directly or indirectly:

(1) Owns or controls either a majority of the voting shares or controls in any manner the election of a majority of its directors, trustees, or other persons exercising similar functions; or

(2) Otherwise controls the management of that organization.

11–101.

(a) (4) "Person" includes an individual, corporation, business trust, **STATUTORY TRUST,** estate, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

11–201.

(e) "Person" includes an individual, corporation, business trust, **STATUTORY TRUST,** estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

11–401.

(h) "Person" includes an individual, corporation, business trust, **STATUTORY TRUST,** estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

11–501.

(p) "Person" means a natural person, corporation, limited liability company, partnership, business trust, **STATUTORY TRUST,** or association.

Article – Insurance

5–608.

(a) (3) "Institution" includes a corporation, joint stock association, **[**and**]** business trust**, AND STATUTORY TRUST**.

Article – Real Property

2–122.

(a) (3) "Trust" does not include:

(i) A real estate investment trust as defined in § 8–101 of the Corporations and Associations Article;

(ii) A **[**business**]** **STATUTORY** trust as defined in **[**§ 12–101(c)**] § 12–101** of the Corporations and Associations Article; or

(iii) A trust, formed under the law of another state or a foreign country, that authorizes a trust to take, hold, and dispose of title to property in the name of the trust.

7–109.

(a) (2) "Affiliate" means any association, corporation, business trust, **STATUTORY TRUST,** or other similar organization that controls, is controlled by, or is under common control with, a financial institution, as defined in § 1–101 of the Financial Institutions Article.

10–501.

(h) "Person" includes an individual, corporation, business trust, **STATUTORY TRUST,** estate, partnership, association, 2 or more persons having a joint or common interest, or any other legal or commercial entity.

Article – Tax – General

10–102.1.

(a) (4) "Member" means:

(iv) a beneficiary of a business trust **OR STATUTORY TRUST**.

(7) "Pass–through entity" means:

(iv) a business trust **OR STATUTORY TRUST** that is not taxed as a corporation under this title.

Article – Tax – Property

11–101.

(a) On or before April 15 of each year, a person shall submit a report on personal property to the Department if:

(1) the person is a business trust, **STATUTORY TRUST,** domestic corporation, limited liability company, limited liability partnership, or limited partnership;

(2) the person is a foreign corporation, **FOREIGN STATUTORY TRUST,** foreign limited liability company, foreign limited liability partnership, or foreign limited partnership registered or qualified to do business in the State; or

(3) the person owns or during the preceding calendar year owned property that is subject to property tax.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 612

(Senate Bill 789)

AN ACT concerning

Labor and Employment – The Healthy Retail Employee Act

FOR the purpose of requiring certain retail employers to provide a certain nonworking or working shift break to certain employees under certain circumstances; authorizing certain employees to file a complaint with the Commissioner of Labor and Industry under certain circumstances; authorizing the Commissioner to investigate whether a certain provision of law has been violated under certain circumstances; requiring the Commissioner to attempt to resolve a certain issue informally or issue a certain order under certain circumstances; ~~authorizing~~ requiring the Commissioner to assess a certain civil penalty under certain circumstances; subjecting certain provisions of this Act to certain notice and hearing requirements; requiring the Commissioner to consider certain factors when determining whether a violation of this Act has occurred or the amount of a certain civil penalty; authorizing certain civil actions under certain circumstances; ~~authorizing certain remedies under certain circumstances; requiring a court to award~~ specifying that a certain employee may be entitled to a certain monetary amount and certain attorney's fees and costs under certain circumstances; providing for the application of this Act; defining certain terms; providing for a delayed effective date; and generally relating to shift breaks for employees.

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 3–103(d)
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

BY adding to
Article – Labor and Employment
Section 3–710
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

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

Article – Labor and Employment

3–103.

(d) (1) The Commissioner may investigate whether § 3–701 of this title has been violated on receipt of a written complaint of an applicant for employment.

(2) The Commissioner may investigate whether § 3–702 of this title has been violated on receipt of a written complaint of an applicant for employment or an employee.

(3) THE COMMISSIONER MAY INVESTIGATE WHETHER § 3–710 OF THIS TITLE HAS BEEN VIOLATED ON RECEIPT OF A WRITTEN COMPLAINT OF AN EMPLOYEE AS PROVIDED IN § 3–710(D)(1) OF THIS TITLE.

3–710.

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

(2) "EMPLOYER" MEANS A PERSON:

(I) ENGAGED IN A RETAIL ESTABLISHMENT BUSINESS IN THE STATE THAT HAS ~~AT LEAST~~ 50 OR MORE RETAIL EMPLOYEES FOR EACH WORKING DAY IN EACH OF 20 OR MORE CALENDAR WEEKS IN THE CURRENT OR PRECEDING CALENDAR YEAR; OR

(II) THAT OWNS ONE OR MORE RETAIL ESTABLISHMENT FRANCHISES WITH THE SAME TRADE NAME WITH ~~AT LEAST~~ 50 OR MORE RETAIL EMPLOYEES IN THE STATE FOR EACH WORKING DAY IN EACH OF 20 OR MORE CALENDAR WEEKS IN THE CURRENT OR PRECEDING CALENDAR YEAR.

(3) "FRANCHISE" HAS THE MEANING STATED IN § 14–201 OF THE BUSINESS REGULATION ARTICLE.

(4) (I) "RETAIL ESTABLISHMENT" ~~HAS THE MEANING STATED IN § 5–401 OF THE ECONOMIC DEVELOPMENT ARTICLE~~ MEANS A PLACE OF BUSINESS WITH THE PRIMARY PURPOSE OF SELLING GOODS TO A CONSUMER WHO IS PRESENT AT THE PLACE OF BUSINESS AT THE TIME OF SALE.

(II) "RETAIL ESTABLISHMENT" DOES NOT INCLUDE:

1. A WHOLESALER, AS DEFINED IN § 11–401(I) OF THE COMMERCIAL LAW ARTICLE; OR

2. A RESTAURANT.

(B) THIS SECTION DOES NOT APPLY TO AN EMPLOYEE:

(1) COVERED BY A COLLECTIVE BARGAINING AGREEMENT OR EMPLOYMENT POLICY THAT INCLUDES SHIFT BREAKS EQUAL TO OR GREATER THAN THOSE PROVIDED UNDER THIS SECTION;

(2) EXEMPT FROM OVERTIME PAY REQUIREMENTS UNDER THE FAIR LABOR STANDARDS ACT; ~~OR~~

(3) WHO WORKS FOR A UNIT OF THE STATE, A COUNTY, OR A MUNICIPALITY;

(4) WHO WORKS IN A CORPORATE OFFICE OR OTHER OFFICE LOCATION; OR

(5) WHO WORKS FOR AT LEAST 4 CONSECUTIVE HOURS FOR AN EMPLOYER AT A SINGLE LOCATION WITH 5 OR FEWER EMPLOYEES.

(C) (1) (I) EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION OR SUBPARAGRAPH (II) OF THIS PARAGRAPH, AN EMPLOYER MAY NOT EMPLOY AN EMPLOYEE AT A RETAIL ESTABLISHMENT FOR~~:~~

~~1.~~ 4 TO 6 CONSECUTIVE HOURS WITHOUT PROVIDING A NONWORKING SHIFT BREAK OF AT LEAST 15 MINUTES~~; OR~~.

(II) AN EMPLOYEE IS NOT ENTITLED TO A 15 MINUTE SHIFT BREAK UNDER THIS PARAGRAPH IF THE EMPLOYEE IS ENTITLED TO A 30 MINUTE SHIFT BREAK UNDER PARAGRAPH (2) OF THIS SUBSECTION.

~~2.~~ (2) AN EMPLOYER MAY NOT EMPLOY AN EMPLOYEE AT A RETAIL ESTABLISHMENT FOR MORE THAN 6 CONSECUTIVE HOURS WITHOUT PROVIDING A NONWORKING SHIFT BREAK OF AT LEAST 30 MINUTES.

(3) IF AN EMPLOYEE WORKS 8 CONSECUTIVE HOURS IN A SINGLE SHIFT, THE EMPLOYER SHALL PROVIDE AN ADDITIONAL NONWORKING SHIFT BREAK OF AT LEAST 15 MINUTES FOR EVERY ADDITIONAL 4 CONSECUTIVE HOURS THE EMPLOYER EMPLOYS THE EMPLOYEE IN THE SHIFT.

~~(II)~~ (4) IF AN EMPLOYEE'S WORK HOURS DO NOT EXCEED 6 CONSECUTIVE HOURS, THE PROVISIONS OF ~~SUBPARAGRAPH (I) OF THIS PARAGRAPH~~ PARAGRAPH (1) OF THIS SUBSECTION MAY BE WAIVED BY WRITTEN AGREEMENT BETWEEN THE EMPLOYER AND EMPLOYEE.

~~(2)~~ (5) ~~THE~~ A SHIFT BREAK REQUIRED UNDER ~~PARAGRAPH (1) OF~~ THIS SUBSECTION MAY BE CONSIDERED A WORKING SHIFT BREAK IF:

(I) 1. THE TYPE OF WORK PREVENTS AN EMPLOYEE FROM BEING RELIEVED OF WORK DURING THE NONWORKING SHIFT BREAK; OR

2. THE EMPLOYEE IS ALLOWED TO CONSUME A MEAL WHILE WORKING AND THE WORKING SHIFT BREAK IS COUNTED TOWARDS THE EMPLOYEE'S WORK HOURS; AND

(II) THE EMPLOYER AND EMPLOYEE MUTUALLY AGREE IN WRITING TO THE WORKING SHIFT BREAK ~~AND DOCUMENT THE AGREEMENT~~.

(D) (1) IF AN EMPLOYER VIOLATES SUBSECTION (C) OF THIS SECTION, AN EMPLOYEE OF THE EMPLOYER MAY FILE A COMPLAINT WITH THE COMMISSIONER.

(2) IF THE COMMISSIONER ~~DETERMINES THAT THE EMPLOYER HAS VIOLATED THIS SECTION~~ RECEIVES A COMPLAINT UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COMMISSIONER SHALL:

(I) TRY TO RESOLVE THE ISSUE INFORMALLY; OR

(II) DETERMINE WHETHER THE EMPLOYER HAS VIOLATED THIS SECTION.

(3) IF THE COMMISSIONER DETERMINES THAT THE EMPLOYER HAS VIOLATED THIS SECTION, THE COMMISSIONER SHALL:

(I) ISSUE AN ORDER COMPELLING COMPLIANCE WITH THIS SECTION ~~CONSISTENT WITH THE NOTICE AND HEARING REQUIREMENTS OF TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE~~; AND

(II) IN THE COMMISSIONER'S DISCRETION, ASSESS A CIVIL PENALTY OF:

1. UP TO $300 FOR EACH EMPLOYEE FOR WHOM THE EMPLOYER IS NOT IN COMPLIANCE WITH THIS SECTION; OR

2. UP TO $600 FOR EACH EMPLOYEE FOR WHOM THE EMPLOYER IS NOT IN COMPLIANCE WITH THIS SECTION IF THE VIOLATION OCCURRED WITHIN 3 YEARS AFTER AN EMPLOYEE FILED A PREVIOUS COMPLAINT THAT LED TO A DETERMINATION THAT A VIOLATION HAD OCCURRED.

(4) THE PROVISIONS OF PARAGRAPHS (2)(II) AND (3) OF THIS SUBSECTION ARE SUBJECT TO THE NOTICE AND HEARING REQUIREMENTS OF TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

(5) (I) IN DETERMINING WHETHER THERE IS A VIOLATION OF THIS SECTION, THE COMMISSIONER SHALL CONSIDER IF THERE WAS A THREAT TO PUBLIC HEALTH OR SAFETY AT THE TIME THE VIOLATION IS ALLEGED TO HAVE OCCURRED.

(II) IN DETERMINING THE AMOUNT OF ANY CIVIL PENALTY TO BE IMPOSED, THE COMMISSIONER SHALL CONSIDER THE:

1. SERIOUSNESS OF THE VIOLATION;

2. SIZE OF THE EMPLOYER'S BUSINESS;

3. EMPLOYER'S GOOD FAITH IN COMPLYING WITH THIS SECTION; AND

4. EMPLOYER'S HISTORY OF VIOLATIONS UNDER THIS SECTION.

~~(3)~~ (6) ~~(I)~~ IF THE EMPLOYER FAILS TO COMPLY WITH AN ORDER ISSUED FOR A ~~FIRST~~ VIOLATION UNDER PARAGRAPH ~~(2)(II)~~ (3) OF THIS SUBSECTION, THE COMMISSIONER MAY~~:~~

~~1.~~ BRING AN ACTION TO ENFORCE THE ORDER AND CIVIL PENALTY IN THE CIRCUIT COURT IN THE COUNTY WHERE THE EMPLOYER IS LOCATED~~; OR~~

~~2. ASSESS A CIVIL PENALTY OF UP TO $500 FOR EACH EMPLOYEE FOR WHOM THE EMPLOYER IS NOT IN COMPLIANCE WITH THIS SECTION.~~

~~(4) (I) IF THE EMPLOYER FAILS TO COMPLY WITH AN ORDER ISSUED FOR A SUBSEQUENT VIOLATION UNDER PARAGRAPH (2)(II) OF THIS SUBSECTION:~~

~~1. THE COMMISSIONER MAY:~~

~~A. BRING AN ACTION TO ENFORCE THE ORDER IN THE CIRCUIT COURT IN THE COUNTY WHERE THE EMPLOYER IS LOCATED; AND~~

~~B. ASSESS A CIVIL PENALTY OF UP TO $500 FOR EACH EMPLOYEE FOR WHOM THE EMPLOYER IS NOT IN COMPLIANCE WITH THIS SECTION; AND~~

~~2.~~ .

(7) IF THE EMPLOYER FAILS TO COMPLY WITH AN ORDER ISSUED FOR A SUBSEQUENT VIOLATION AGAINST THE SAME EMPLOYEE UNDER PARAGRAPH (3) OF THIS SUBSECTION WITHIN 3 YEARS AFTER THE EMPLOYEE FILED A COMPLAINT THAT IS DETERMINED TO BE A VIOLATION UNDER SUBSECTION (D) OF THIS SECTION, THE EMPLOYEE MAY BRING AN ACTION TO ENFORCE THE ORDER IN THE CIRCUIT COURT IN THE COUNTY WHERE THE EMPLOYER IS LOCATED.

~~(5) THE EMPLOYEE SHALL BE ENTITLED TO ANY REMEDIES AVAILABLE AT LAW OR IN EQUITY APPROPRIATE TO REMEDY ANY VIOLATION OF THIS SECTION, INCLUDING BACK PAY OR INJUNCTIVE RELIEF.~~

~~(6) THE COURT SHALL AWARD REASONABLE ATTORNEY'S FEES AND COSTS TO AN EMPLOYEE WHO PREVAILS IN AN ENFORCEMENT ACTION UNDER THIS SECTION.~~

(8) IF AN EMPLOYEE PREVAILS IN AN ACTION BROUGHT UNDER PARAGRAPH (7) OF THIS SUBSECTION, THE EMPLOYEE MAY BE ENTITLED TO:

(I) THREE TIMES THE VALUE OF THE EMPLOYEE'S HOURLY WAGE FOR EACH SHIFT BREAK VIOLATION OF THIS SECTION OCCURRING AFTER THE MOST RECENT VIOLATION AGAINST THE SAME EMPLOYEE; AND

(II) REASONABLE ATTORNEY'S FEES AND OTHER COSTS OF THE EMPLOYEE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October 1, 2010~~ March 1, 2011.

Approved by the Governor, May 20, 2010.

Chapter 613

(House Bill 1299)

AN ACT concerning

Labor and Employment – *The* Healthy Retail Employee Act

FOR the purpose of requiring certain retail employers to provide a certain nonworking or working shift break to certain employees under certain circumstances; authorizing certain employees to file a complaint with the Commissioner of Labor and Industry under certain circumstances; authorizing the Commissioner to investigate whether a certain provision of law has been violated under certain circumstances; requiring the Commissioner to attempt to resolve a certain issue informally or issue a certain order under certain circumstances; ~~authorizing~~ requiring the Commissioner to assess a certain civil penalty under certain circumstances; subjecting certain provisions of this Act to certain notice and hearing requirements; requiring the Commissioner to consider certain factors when determining whether a violation of this Act has occurred or the amount of a certain civil penalty; authorizing certain civil actions under certain circumstances; ~~authorizing certain remedies under certain circumstances; requiring a court to award~~ specifying that a certain employee may be entitled to a certain monetary amount and certain attorney's fees and costs under certain circumstances; providing for the application of this Act; defining certain terms; providing for a delayed effective date; and generally relating to shift breaks for employees.

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 3–103(d)
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

BY adding to
Article – Labor and Employment
Section 3–710
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

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

Article – Labor and Employment

3–103.

(d) (1) The Commissioner may investigate whether § 3–701 of this title has been violated on receipt of a written complaint of an applicant for employment.

(2) The Commissioner may investigate whether § 3–702 of this title has been violated on receipt of a written complaint of an applicant for employment or an employee.

(3) THE COMMISSIONER MAY INVESTIGATE WHETHER § 3–710 OF THIS TITLE HAS BEEN VIOLATED ON RECEIPT OF A WRITTEN COMPLAINT OF AN EMPLOYEE AS PROVIDED IN § 3–710(D)(1) OF THIS TITLE.

3–710.

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

(2) "EMPLOYER" MEANS A PERSON:

(I) ENGAGED IN A RETAIL ESTABLISHMENT BUSINESS IN THE STATE THAT HAS ~~AT LEAST~~ 50 OR MORE *RETAIL* EMPLOYEES FOR EACH WORKING DAY IN EACH OF 20 OR MORE CALENDAR WEEKS IN THE CURRENT OR PRECEDING CALENDAR YEAR; OR

(II) THAT OWNS ONE OR MORE RETAIL ESTABLISHMENT FRANCHISES WITH THE SAME TRADE NAME WITH ~~AT LEAST~~ 50 OR MORE RETAIL EMPLOYEES IN THE STATE FOR EACH WORKING DAY IN EACH OF 20 OR MORE CALENDAR WEEKS IN THE CURRENT OR PRECEDING CALENDAR YEAR.

(3) "FRANCHISE" HAS THE MEANING STATED IN § 14–201 OF THE BUSINESS REGULATION ARTICLE.

(4) (I) "RETAIL ESTABLISHMENT" ~~HAS THE MEANING STATED IN § 5–401 OF THE ECONOMIC DEVELOPMENT ARTICLE~~ MEANS A PLACE OF BUSINESS WITH THE PRIMARY PURPOSE OF SELLING GOODS TO A CONSUMER WHO IS PRESENT AT THE PLACE OF BUSINESS AT THE TIME OF SALE.

(II) "RETAIL ESTABLISHMENT" DOES NOT INCLUDE:

1. A WHOLESALER, AS DEFINED IN § 11–401(I) OF THE COMMERCIAL LAW ARTICLE; OR

2. A RESTAURANT.

(B) THIS SECTION DOES NOT APPLY TO AN EMPLOYEE:

(1) COVERED BY A COLLECTIVE BARGAINING AGREEMENT OR EMPLOYMENT POLICY THAT INCLUDES SHIFT BREAKS EQUAL TO OR GREATER THAN THOSE PROVIDED UNDER THIS SECTION;

(2) EXEMPT FROM OVERTIME PAY REQUIREMENTS UNDER THE FAIR LABOR STANDARDS ACT; ~~OR~~

(3) WHO WORKS FOR A UNIT OF THE STATE, A COUNTY, OR A MUNICIPALITY;

(4) WHO WORKS IN A CORPORATE OFFICE OR OTHER OFFICE LOCATION; OR

(5) WHO WORKS FOR AT LEAST 4 CONSECUTIVE HOURS FOR AN EMPLOYER AT A SINGLE LOCATION WITH 5 OR FEWER EMPLOYEES.

(C) (1) (I) EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION OR SUBPARAGRAPH (II) OF THIS PARAGRAPH, AN EMPLOYER MAY NOT EMPLOY AN EMPLOYEE AT A RETAIL ESTABLISHMENT FOR~~:~~

~~1.~~ 4 TO 6 CONSECUTIVE HOURS WITHOUT PROVIDING A NONWORKING SHIFT BREAK OF AT LEAST 15 MINUTES~~; OR~~.

(II) AN EMPLOYEE IS NOT ENTITLED TO A 15 MINUTE SHIFT BREAK UNDER THIS PARAGRAPH IF THE EMPLOYEE IS ENTITLED TO A 30 MINUTE SHIFT BREAK UNDER PARAGRAPH (2) OF THIS SUBSECTION.

~~2.~~ (2) AN EMPLOYER MAY NOT EMPLOY AN EMPLOYEE AT A RETAIL ESTABLISHMENT FOR MORE THAN 6 CONSECUTIVE HOURS WITHOUT PROVIDING A NONWORKING SHIFT BREAK OF AT LEAST 30 MINUTES.

(3) IF AN EMPLOYEE WORKS 8 CONSECUTIVE HOURS IN A SINGLE SHIFT, THE EMPLOYER SHALL PROVIDE AN ADDITIONAL NONWORKING SHIFT BREAK OF AT LEAST 15 MINUTES FOR EVERY ADDITIONAL 4 CONSECUTIVE HOURS THE EMPLOYER EMPLOYS THE EMPLOYEE IN THE SHIFT.

~~(II)~~ (4) IF AN EMPLOYEE'S WORK HOURS DO NOT EXCEED 6 CONSECUTIVE HOURS, THE PROVISIONS OF ~~SUBPARAGRAPH (I) OF THIS PARAGRAPH~~ PARAGRAPH (1) OF THIS SUBSECTION MAY BE WAIVED BY WRITTEN AGREEMENT BETWEEN THE EMPLOYER AND EMPLOYEE.

~~(2)~~ (5) ~~THE~~ A SHIFT BREAK REQUIRED UNDER ~~PARAGRAPH (1) OF~~ THIS SUBSECTION MAY BE CONSIDERED A WORKING SHIFT BREAK IF:

(I) 1. ~~A.~~ THE TYPE OF WORK PREVENTS AN EMPLOYEE FROM BEING RELIEVED OF WORK DURING THE NONWORKING SHIFT BREAK; OR

~~2.~~ ~~B.~~ *2.* THE EMPLOYEE IS ALLOWED TO CONSUME A MEAL WHILE WORKING AND THE WORKING SHIFT BREAK IS COUNTED TOWARDS THE EMPLOYEE'S WORK HOURS; AND

~~(II)~~ ~~2.~~ *(II)* THE EMPLOYER AND EMPLOYEE MUTUALLY AGREE IN WRITING TO THE WORKING SHIFT BREAK ~~AND DOCUMENT THE AGREEMENT~~.

(D) (1) IF AN EMPLOYER VIOLATES SUBSECTION (C) OF THIS SECTION, AN EMPLOYEE OF THE EMPLOYER MAY FILE A COMPLAINT WITH THE COMMISSIONER.

(2) IF THE COMMISSIONER ~~DETERMINES THAT THE EMPLOYER HAS VIOLATED THIS SECTION~~ RECEIVES A COMPLAINT UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COMMISSIONER SHALL:

(I) TRY TO RESOLVE THE ISSUE INFORMALLY; OR

(II) DETERMINE WHETHER THE EMPLOYER HAS VIOLATED THIS SECTION.

(3) IF THE COMMISSIONER DETERMINES THAT THE EMPLOYER HAS VIOLATED THIS SECTION, THE COMMISSIONER SHALL:

(I) ISSUE AN ORDER COMPELLING COMPLIANCE WITH THIS SECTION ~~CONSISTENT WITH THE NOTICE AND HEARING REQUIREMENTS OF TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE~~; AND

(II) IN THE COMMISSIONER'S DISCRETION, ASSESS A CIVIL PENALTY OF:

1. UP TO $300 FOR EACH EMPLOYEE FOR WHOM THE EMPLOYER IS NOT IN COMPLIANCE WITH THIS SECTION; OR

2. UP TO $600 FOR EACH EMPLOYEE FOR WHOM THE EMPLOYER IS NOT IN COMPLIANCE WITH THIS SECTION IF THE VIOLATION OCCURRED WITHIN 3 YEARS AFTER AN EMPLOYEE FILED A PREVIOUS COMPLAINT THAT LED TO A DETERMINATION THAT A VIOLATION HAD OCCURRED.

(4) THE PROVISIONS OF ~~PARAGRAPH~~ *PARAGRAPHS (2)(II) AND* (3) OF THIS SUBSECTION ARE SUBJECT TO THE NOTICE AND HEARING REQUIREMENTS OF TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

(5) (I) IN DETERMINING WHETHER THERE IS A VIOLATION OF THIS SECTION, THE COMMISSIONER SHALL CONSIDER IF THERE WAS A THREAT TO PUBLIC HEALTH OR SAFETY AT THE TIME THE VIOLATION IS ALLEGED TO HAVE OCCURRED.

(II) IN DETERMINING THE AMOUNT OF ANY CIVIL PENALTY TO BE IMPOSED, THE COMMISSIONER SHALL CONSIDER THE:

1. SERIOUSNESS OF THE VIOLATION;

2. SIZE OF THE EMPLOYER'S BUSINESS;

3. EMPLOYER'S GOOD FAITH IN COMPLYING WITH THIS SECTION; AND

4. EMPLOYER'S HISTORY OF VIOLATIONS UNDER THIS SECTION.

~~(3)~~ (6) IF THE EMPLOYER FAILS TO COMPLY WITH AN ORDER ISSUED FOR A ~~FIRST~~ VIOLATION UNDER PARAGRAPH ~~(2)(II)~~ (3) OF THIS SUBSECTION, THE COMMISSIONER MAY~~:~~

~~(I)~~ BRING AN ACTION TO ENFORCE THE ORDER AND CIVIL PENALTY IN THE CIRCUIT COURT IN THE COUNTY WHERE THE EMPLOYER IS LOCATED~~; AND~~

~~(II) ASSESS A CIVIL PENALTY OF UP TO $500 FOR EACH EMPLOYEE FOR WHOM THE EMPLOYER IS NOT IN COMPLIANCE WITH THIS SECTION.~~

~~(4) IF THE EMPLOYER FAILS TO COMPLY WITH AN ORDER ISSUED FOR A SUBSEQUENT VIOLATION UNDER PARAGRAPH (2)(II) OF THIS SUBSECTION:~~

~~(I) THE COMMISSIONER MAY:~~

~~1. BRING AN ACTION TO ENFORCE THE ORDER IN THE CIRCUIT COURT IN THE COUNTY WHERE THE EMPLOYER IS LOCATED; AND~~

~~2. ASSESS A CIVIL PENALTY OF UP TO $500 FOR EACH EMPLOYEE FOR WHOM THE EMPLOYER IS NOT IN COMPLIANCE WITH THIS SECTION; AND~~

~~(II)~~.

(7) IF THE EMPLOYER FAILS TO COMPLY WITH AN ORDER ISSUED FOR A SUBSEQUENT VIOLATION AGAINST THE SAME EMPLOYEE UNDER PARAGRAPH (3) OF THIS SUBSECTION WITHIN 3 YEARS AFTER THE EMPLOYEE FILED A COMPLAINT THAT IS DETERMINED TO BE A VIOLATION UNDER SUBSECTION (D) OF THIS SECTION, THE EMPLOYEE MAY BRING AN ACTION TO ENFORCE THE ORDER IN THE CIRCUIT COURT IN THE COUNTY WHERE THE EMPLOYER IS LOCATED.

~~(5) THE EMPLOYEE SHALL BE ENTITLED TO ANY REMEDIES AVAILABLE AT LAW OR IN EQUITY APPROPRIATE TO REMEDY ANY VIOLATION OF THIS SECTION, INCLUDING BACK PAY OR INJUNCTIVE RELIEF.~~

~~(6) THE COURT SHALL AWARD REASONABLE ATTORNEY'S FEES AND COSTS TO AN EMPLOYEE WHO PREVAILS IN AN ENFORCEMENT ACTION UNDER THIS SECTION.~~

(8) IF AN EMPLOYEE PREVAILS IN AN ACTION BROUGHT UNDER PARAGRAPH (7) OF THIS SUBSECTION, THE EMPLOYEE MAY BE ENTITLED TO:

(I) THREE TIMES THE VALUE OF THE EMPLOYEE'S HOURLY WAGE FOR EACH SHIFT BREAK VIOLATION OF THIS SECTION OCCURRING AFTER THE MOST RECENT VIOLATION AGAINST THE SAME EMPLOYEE; AND

(II) REASONABLE ATTORNEY'S FEES AND OTHER COSTS OF THE EMPLOYEE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October 1, 2010~~ March 1, 2011.

Approved by the Governor, May 20, 2010.

Chapter 614

(Senate Bill 793)

AN ACT concerning

State Retirement and Pension System – Investments – Qualified Information Technology, Green Technology, Medical Device Technology, or Bioscience Businesses – Reporting

FOR the purpose of ~~requiring the Board of Trustees of the State Retirement and Pension System to invest a certain amount of the assets of the several systems of the State Retirement and Pension System within a certain period of time in certain venture capital funds focused on certain types of businesses; requiring certain venture capital funds to invest a certain amount of the assets of the several systems in certain types of businesses;~~ requiring the Board of Trustees to submit certain reports containing certain information on or before a certain date; providing for the termination of this Act; defining a certain ~~terms~~ term; and generally relating to reporting requirements of the Board of Trustees ~~investing~~ for investments of the assets of the several systems in qualified information technology, green technology, medical device technology, or bioscience businesses.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 21–123
Annotated Code of Maryland
(2009 Replacement Volume and 2009 Supplement)

Preamble

WHEREAS, Maryland's existing initiatives to help bioscience companies are lagging in resources; and

WHEREAS, Maryland has no targeted public pension fund vehicle for addressing opportunities to invest in emerging bioscience companies; and

WHEREAS, This powerful combination of intellectual capital, federal research dollars, and a highly educated workforce has already positioned Maryland to be a leader in the industry; now, therefore,

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

Article – State Personnel and Pensions

21–123.

(a) Except for those assets that the law requires another entity or person to control, the State Retirement Agency, under the supervision of the Board of Trustees, shall manage all assets of the several systems.

(b) The Board of Trustees:

(1) is deemed the owner of all the assets of the several systems; but

(2) may delegate some or all incidents of ownership to the State Retirement Agency to administer the investment portfolios of the several systems.

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

~~(II)~~, "QUALIFIED INFORMATION TECHNOLOGY, GREEN TECHNOLOGY, MEDICAL DEVICE TECHNOLOGY, OR BIOSCIENCE BUSINESS" MEANS A BUSINESS THAT:

~~1.~~ (I) IS PRIMARILY ENGAGED IN:

~~A.~~ 1. MANUFACTURING, PROCESSING, OR ASSEMBLING INFORMATION TECHNOLOGY, GREEN TECHNOLOGY, MEDICAL DEVICE TECHNOLOGY, OR BIOSCIENCE PRODUCTS;

~~B.~~ 2. CONDUCTING INFORMATION TECHNOLOGICAL, GREEN TECHNOLOGICAL, MEDICAL DEVICE TECHNOLOGICAL, OR BIOSCIENCE RESEARCH AND DEVELOPMENT; OR

~~C.~~ 3. PROVIDING INFORMATION TECHNOLOGY, GREEN TECHNOLOGY, MEDICAL DEVICE TECHNOLOGY, OR BIOSCIENCE–RELATED SERVICES; AND

~~2.~~ (II) IS NOT PRIMARILY ENGAGED IN:

~~A.~~ 1. RETAIL SALES;

~~B.~~ 2. REAL ESTATE DEVELOPMENT;

~~C.~~ 3. THE BUSINESS OF INSURANCE, BANKING, OR LENDING; OR

~~D.~~ 4. THE PROVISION OF PROFESSIONAL SERVICES PROVIDED BY ACCOUNTANTS, ATTORNEYS, OR PHYSICIANS.

~~(III) "STATE–BASED COMPANY" MEANS A COMPANY THAT:~~

~~1. IS HEADQUARTERED IN THE STATE AND INTENDS TO REMAIN IN THE STATE AFTER RECEIPT OF THE INVESTMENT OR IS HEADQUARTERED IN ANOTHER STATE AND INTENDS TO RELOCATE ITS HEADQUARTERS TO THE STATE AFTER RECEIPT OF THE INVESTMENT;~~

~~2. HAS ITS PRINCIPAL BUSINESS OPERATIONS LOCATED IN THE STATE AND INTENDS TO MAINTAIN BUSINESS OPERATIONS IN THE STATE AFTER RECEIPT OF THE INVESTMENT OR HAS ITS PRINCIPAL BUSINESS OPERATIONS LOCATED IN ANOTHER STATE AND INTENDS TO RELOCATE BUSINESS OPERATIONS TO THE STATE WITHIN 90 DAYS AFTER RECEIPT OF THE INVESTMENT;~~

~~3. HAS AGREED TO USE THE QUALIFIED INVESTMENT PRIMARILY TO:~~

~~A. SUPPORT BUSINESS OPERATIONS IN THE STATE; OR~~

~~B. IN THE CASE OF A START-UP COMPANY, ESTABLISH AND SUPPORT BUSINESS OPERATIONS IN THE STATE; AND~~

~~4. EITHER:~~

~~A. EMPLOYS AT LEAST 80% OF ITS EMPLOYEES IN THE STATE; OR~~

~~B. PAYS AT LEAST 80% OF ITS PAYROLL TO EMPLOYEES IN THE STATE.~~

~~(2) EXCEPT AS PROVIDED IN PARAGRAPH (6) OF THIS SUBSECTION, BEGINNING ON OR AFTER JULY 1, 2010, AND ENDING ON OR BEFORE JUNE 30, 2015, THE BOARD OF TRUSTEES SHALL INVEST $50,000,000 IN VENTURE CAPITAL FUNDS FOCUSING ON QUALIFIED INFORMATION TECHNOLOGY, GREEN TECHNOLOGY, MEDICAL DEVICE TECHNOLOGY, OR BIOSCIENCE BUSINESSES.~~

~~(3) ANY INVESTMENT MADE BY THE BOARD OF TRUSTEES UNDER PARAGRAPH (2) OF THIS SUBSECTION IN VENTURE CAPITAL FUNDS FOCUSING ON A QUALIFIED INFORMATION TECHNOLOGY, GREEN TECHNOLOGY, MEDICAL DEVICE TECHNOLOGY, OR BIOSCIENCE BUSINESS MAY NOT EXCEED 10% OF THE TOTAL AMOUNT OF ALL FUNDING RECEIVED BY THAT VENTURE CAPITAL FUND.~~

~~(4)~~ (2) ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE BOARD OF TRUSTEES SHALL SUBMIT A REPORT, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, TO THE SENATE BUDGET AND TAXATION COMMITTEE, THE HOUSE APPROPRIATIONS COMMITTEE, AND THE JOINT COMMITTEE ON PENSIONS THAT PROVIDES:

(I) A LIST OF VENTURE CAPITAL FUNDS FOCUSING ON QUALIFIED INFORMATION TECHNOLOGY, GREEN TECHNOLOGY, MEDICAL DEVICE TECHNOLOGY, OR BIOSCIENCE BUSINESSES IN WHICH THE ~~BOARD OF TRUSTEES HAS~~ SEVERAL SYSTEMS HAVE INVESTED AND THE AMOUNT INVESTED IN EACH VENTURE CAPITAL FUND;

~~**(II) A LIST OF THE STATE–BASED COMPANIES IN WHICH THE VENTURE CAPITAL FUNDS HAVE INVESTED ASSETS OF THE SEVERAL SYSTEMS AND THE AMOUNT INVESTED IN EACH;**~~

~~**(III) THE INVESTMENT RETURNS ON EACH INVESTMENT MADE BY A VENTURE CAPITAL FUND FOCUSING ON QUALIFIED INFORMATION TECHNOLOGY, GREEN TECHNOLOGY, MEDICAL DEVICE TECHNOLOGY, OR BIOSCIENCE BUSINESS; AND**~~

~~**(IV) RECOMMENDATIONS BY THE BOARD OF TRUSTEES TO IMPROVE THE METHODOLOGY UNDER WHICH THE BOARD OF TRUSTEES IS REQUIRED TO INVEST IN VENTURE CAPITAL FUNDS FOCUSED ON QUALIFIED INFORMATION TECHNOLOGY, GREEN TECHNOLOGY, MEDICAL DEVICE TECHNOLOGY, OR BIOSCIENCE BUSINESSES.**~~

(II) A STATEMENT OF THE AGGREGATE AMOUNT OF ASSETS OF THE SEVERAL SYSTEMS INVESTED IN COMPANIES HEADQUARTERED IN THE STATE BY ALL VENTURE CAPITAL FUNDS IN WHICH THE SEVERAL SYSTEMS HAVE MADE AN INVESTMENT; AND

(III) A STATEMENT OF THE AGGREGATE AMOUNT OF ASSETS OF THE SEVERAL SYSTEMS INVESTED IN EACH OF THE QUALIFIED INFORMATION TECHNOLOGY, GREEN TECHNOLOGY, MEDICAL DEVICE TECHNOLOGY, OR BIOSCIENCE BUSINESSES BY ALL VENTURE CAPITAL FUNDS IN WHICH THE SEVERAL SYSTEMS HAVE MADE AN INVESTMENT.

[(c)**] (D)** (1) **[**The**]** ~~**EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, THE**~~ Board of Trustees may invest assets of the several systems subject to the conditions that it imposes.

(2) The Board of Trustees shall include the conditions that it adopts under **[**paragraph (1) of**]** this subsection in the investment policy manual required by § 21–116(c) of this subtitle.

[(d)**] (E)** (1) This subsection applies only to the execution of:

(i) ground rent redemption deeds;

(ii) releases or reassignments of mortgages; and

(iii) satisfactions or reassignments of notes conveying, releasing, or reassigning any interest owned by the State for the use of a fund of the several systems.

(2) An instrument must be executed by any two of:

(i) the State Treasurer;

(ii) the Executive Director of the State Retirement Agency;

(iii) the Chief Investment Officer of the State Retirement Agency; or

(iv) another employee of the State Retirement Agency as the Executive Director designates with the approval of the Board of Trustees.

[(e)**] (F)** (1) The Board of Trustees may commingle assets of the several systems, including the Postretirement Health Benefits Trust Fund, if the Board of Trustees keeps seven sets of records that show:

(i) the percentage of participation of each State system or group of State systems, including the Postretirement Health Benefits Trust Fund;

(ii) the percentage of income, gains, and losses applicable to each State system or group of State systems, including the Postretirement Health Benefits Trust Fund; and

(iii) the total contributions and disbursements applicable to each State system or group of State systems, including the Postretirement Health Benefits Trust Fund.

(2) The Board of Trustees shall keep records required by paragraph (1) of this subsection for each of the following:

(i) the group that consists of the Correctional Officers' Retirement System, the Employees' Pension System, the Employees' Retirement System, and the Legislative Pension Plan;

(ii) the Judges' Retirement System;

(iii) the Local Fire and Police System;

(iv) the Law Enforcement Officers' Pension System;

(v) the State Police Retirement System;

(vi) the group that consists of the Teachers' Pension System and the Teachers' Retirement System; and

(vii) the Postretirement Health Benefits Trust Fund.

[(f)**] (G)** (1) Notwithstanding any other law in force on or after July 1, 1988, unless the law makes specific reference to this subsection, and subject to paragraph (2) of this subsection, the Board of Trustees may keep all analyses, forecasts, negotiations, papers, records, recommendations, and reports closed to public inspection until:

(i) the release of the information would not adversely affect the negotiation for or market price of a security; and

(ii) completion of:

1. a proposed purchase or program of purchases leading to a cumulative position in a security;

2. the making, sale, or prepayment of a loan;

3. any proposed sale or program of sales leading to the elimination of a position in a security; or

4. the sale or purchase of real estate.

(2) (i) The sale or purchase of real estate shall be subject to the approval of a majority of the Comptroller, Treasurer, and Secretary of Budget and Management, in their capacity as members of the Board of Trustees.

(ii) On or before October 1 of each year, the Board of Trustees shall submit a report in accordance with § 2–1246 of the State Government Article to the Board of Public Works, the Senate Budget and Taxation Committee, the House Appropriations Committee, and the Joint Committee on Pensions that provides a list of all sales or purchases of directly held real estate approved by the Board of Trustees for the immediately preceding fiscal year.

[(g)**] (H)** Any direct owned real estate purchased as an investment by the State Retirement and Pension System shall be managed by an external investment manager selected by the Chief Investment Officer.

[(h)**] (I)** Title 4, Subtitle 3, Part III and § 10–305 of the State Finance and Procurement Article do not apply to the sale, acquisition, lease, transfer, exchange, or other disposition of any real or personal property acquired by the Board of Trustees in any transaction authorized under this title.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010. It shall remain effective for a period of 5 years and, at the end of June 30, 2015, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 20, 2010.

Chapter 615

(House Bill 702)

AN ACT concerning

Common Ownership Communities – Fidelity ~~Insurance or~~ Insurance – Fidelity Bond

FOR the purpose of defining a certain ~~term~~ type of insurance to include a certain type of bond; authorizing certain governing bodies of a cooperative housing corporation, a condominium, or a homeowners association to satisfy the requirement of purchasing fidelity insurance by purchasing a fidelity bond; requiring a copy of a certain fidelity insurance policy or fidelity bond to be included in the books and records kept and made available by or on behalf of certain common ownership communities; making technical changes; and generally relating to fidelity insurance and common ownership communities.

BY repealing and reenacting, with amendments,
Article – Corporations and Associations
Section 5–6B–18.6
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Real Property
Section 11–114.1 and 11B–111.6
Annotated Code of Maryland
(2003 Replacement Volume and 2009 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–18.6.

(a) **IN THIS SECTION, "FIDELITY INSURANCE" INCLUDES A FIDELITY BOND.**

(B) (1) The board of directors or other governing body of a cooperative housing corporation shall purchase fidelity insurance not later than the time of the first sale of a cooperative interest with respect to a unit to a person other than the developer and shall keep fidelity insurance in place for each year thereafter.

(2) The fidelity insurance required under paragraph (1) of this subsection shall provide for the indemnification of the cooperative housing corporation against loss resulting from acts or omissions arising from fraud, dishonesty, or criminal acts by:

(i) Any officer, director, managing agent, or other agent or employee charged with the operation or maintenance of the cooperative housing corporation who controls or disburses funds; and

(ii) Any management company employing a management agent or other employee charged with the operation or maintenance of the cooperative housing corporation who controls or disburses funds.

[(b)**] (C)** A copy of the fidelity insurance policy **OR FIDELITY BOND** shall be included in the books and records kept and made available by or on behalf of the cooperative housing corporation under § 5–6B–18.5 of this subtitle.

[(c)**] (D)** (1) The amount of the fidelity insurance required under subsection **[**(a)**] (B)** of this section shall equal at least the lesser of:

(i) 3 months' worth of gross common charges and the total amount held in all investment accounts at the time the fidelity insurance is issued; or

(ii) $3,000,000.

(2) The total liability of the insurance to all insured persons under the fidelity insurance may not exceed the sum of the fidelity insurance.

[(d)**] (E)** If a member believes that the board of directors or other governing body of a cooperative housing corporation has failed to comply with the requirements of this section, the aggrieved member may submit the dispute to the Division of Consumer Protection of the Office of the Attorney General under § 5–6B–12 of this subtitle.

Article – Real Property

11–114.1.

(a) **IN THIS SECTION, "FIDELITY INSURANCE" INCLUDES A FIDELITY BOND.**

(B) (1) The council of unit owners or other governing body of a condominium shall purchase fidelity insurance not later than the time of the first conveyance of a unit to a person other than the developer and shall keep fidelity insurance in place for each year thereafter.

(2) The fidelity insurance required under paragraph (1) of this subsection shall provide for the indemnification of the condominium against loss resulting from acts or omissions arising from fraud, dishonesty, or criminal acts by:

(i) Any officer, director, managing agent, or other agent or employee charged with the operation or maintenance of the condominium who controls or disburses funds; and

(ii) Any management company employing a management agent or other employee charged with the operation or maintenance of the condominium who controls or disburses funds.

[(b)**] (C)** A copy of the fidelity insurance policy **OR FIDELITY BOND** shall be included in the books and records kept and made available by the council of unit owners under § 11–116 of this title.

[(c)**] (D)** (1) The amount of the fidelity insurance required under subsection **[**(a)**] (B)** of this section shall equal at least the lesser of:

(i) 3 months' worth of gross annual assessments and the total amount held in all investment accounts at the time the fidelity insurance is issued; or

(ii) $3,000,000.

(2) The total liability of the insurance to all insured persons under the fidelity insurance may not exceed the sum of the fidelity insurance.

[(d)**] (E)** If a unit owner believes that the council of unit owners or other governing body of a condominium has failed to comply with the requirements of this section, the aggrieved unit owner may submit the dispute to the Division of Consumer Protection of the Office of the Attorney General under § 11–130 of this title.

11B–111.6.

(a) **IN THIS SECTION, "FIDELITY INSURANCE" INCLUDES A FIDELITY BOND.**

(B) (1) The board of directors or other governing body of a homeowners association shall purchase fidelity insurance not later than the time of the first conveyance of a lot to a person other than the declarant and shall keep fidelity insurance in place for each year thereafter.

(2) The fidelity insurance required under paragraph (1) of this subsection shall provide for the indemnification of the homeowners association against loss resulting from acts or omissions arising from fraud, dishonesty, or criminal acts by:

(i) Any officer, director, managing agent, or other agent or employee charged with the operation or maintenance of the homeowners association who controls or disburses funds; and

(ii) Any management company employing a management agent or other employee charged with the operation or maintenance of the homeowners association who controls or disburses funds.

[(b)**] (C)** A copy of the fidelity insurance policy **OR FIDELITY BOND** shall be included in the books and records kept and made available by or on behalf of the homeowners association under § 11B–112 of this title.

[(c)**] (D)** (1) The amount of the fidelity insurance required under subsection **[**(a)**] (B)** of this section shall equal at least the lesser of:

(i) 3 months' worth of gross annual homeowners association fees and the total amount held in all investment accounts at the time the fidelity insurance is issued; or

(ii) $3,000,000.

(2) The total liability of the insurance to all insured persons under the fidelity insurance may not exceed the sum of the fidelity insurance.

[(d)**] (E)** If a lot owner believes that the board of directors or other governing body of a homeowners association has failed to comply with the requirements of this section, the aggrieved lot owner may submit the dispute to the Division of Consumer Protection of the Office of the Attorney General under § 11B–115 of this title.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 616

(Senate Bill 800)

AN ACT concerning

Common Ownership Communities – Fidelity Insurance – Exemption

FOR the purpose of limiting the applicability of a certain requirement that the governing bodies of certain common ownership communities purchase fidelity insurance; exempting the governing body of a cooperative housing corporation, a condominium, or a homeowners association with ~~fewer than~~ a certain number or fewer of members, units, or lot owners and with less than a certain amount of common charges, assessments, or fees from the requirement of purchasing fidelity insurance; and generally relating to fidelity insurance and common ownership communities.

BY repealing and reenacting, with amendments,
Article – Corporations and Associations
Section 5–6B–18.6
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Real Property
Section 11–114.1 and 11B–111.6
Annotated Code of Maryland
(2003 Replacement Volume and 2009 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–18.6.

(a) **THIS SECTION DOES NOT APPLY TO A COOPERATIVE HOUSING CORPORATION:**

(1) THAT HAS ~~FEWER THAN~~ FOUR OR FEWER MEMBERS; AND

(2) FOR WHICH 3 MONTHS' WORTH OF GROSS COMMON CHARGES IS LESS THAN $2,500.

(B) (1) The board of directors or other governing body of a cooperative housing corporation shall purchase fidelity insurance not later than the time of the first sale of a cooperative interest with respect to a unit to a person other than the developer and shall keep fidelity insurance in place for each year thereafter.

(2) The fidelity insurance required under paragraph (1) of this subsection shall provide for the indemnification of the cooperative housing corporation against loss resulting from acts or omissions arising from fraud, dishonesty, or criminal acts by:

(i) Any officer, director, managing agent, or other agent or employee charged with the operation or maintenance of the cooperative housing corporation who controls or disburses funds; and

(ii) Any management company employing a management agent or other employee charged with the operation or maintenance of the cooperative housing corporation who controls or disburses funds.

[(b)**] (C)** A copy of the fidelity insurance policy shall be included in the books and records kept and made available by or on behalf of the cooperative housing corporation under § 5–6B–18.5 of this subtitle.

[(c)**] (D)** (1) The amount of the fidelity insurance required under subsection (a) of this section shall equal at least the lesser of:

(i) 3 months' worth of gross common charges and the total amount held in all investment accounts at the time the fidelity insurance is issued; or

(ii) $3,000,000.

(2) The total liability of the insurance to all insured persons under the fidelity insurance may not exceed the sum of the fidelity insurance.

[(d)**] (E)** If a member believes that the board of directors or other governing body of a cooperative housing corporation has failed to comply with the requirements of this section, the aggrieved member may submit the dispute to the Division of Consumer Protection of the Office of the Attorney General under § 5–6B–12 of this subtitle.

Article – Real Property

11–114.1.

(a) **THIS SECTION DOES NOT APPLY TO A CONDOMINIUM:**

(1) THAT HAS ~~FEWER THAN~~ FOUR <u>OR FEWER</u> UNITS; AND

(2) FOR WHICH 3 MONTHS' WORTH OF GROSS ANNUAL ASSESSMENTS IS LESS THAN $2,500.

(B) (1) The council of unit owners or other governing body of a condominium shall purchase fidelity insurance not later than the time of the first conveyance of a unit to a person other than the developer and shall keep fidelity insurance in place for each year thereafter.

(2) The fidelity insurance required under paragraph (1) of this subsection shall provide for the indemnification of the condominium against loss resulting from acts or omissions arising from fraud, dishonesty, or criminal acts by:

(i) Any officer, director, managing agent, or other agent or employee charged with the operation or maintenance of the condominium who controls or disburses funds; and

(ii) Any management company employing a management agent or other employee charged with the operation or maintenance of the condominium who controls or disburses funds.

[(b)**] (C)** A copy of the fidelity insurance policy shall be included in the books and records kept and made available by the council of unit owners under § 11–116 of this title.

[(c)**] (D)** (1) The amount of the fidelity insurance required under subsection (a) of this section shall equal at least the lesser of:

(i) 3 months' worth of gross annual assessments and the total amount held in all investment accounts at the time the fidelity insurance is issued; or

(ii) $3,000,000.

(2) The total liability of the insurance to all insured persons under the fidelity insurance may not exceed the sum of the fidelity insurance.

[(d)**] (E)** If a unit owner believes that the council of unit owners or other governing body of a condominium has failed to comply with the requirements of this section, the aggrieved unit owner may submit the dispute to the Division of Consumer Protection of the Office of the Attorney General under § 11–130 of this title.

11B–111.6.

(a) **THIS SECTION DOES NOT APPLY TO A HOMEOWNERS ASSOCIATION:**

(1) THAT HAS ~~FEWER THAN~~ FOUR <u>OR FEWER</u> LOT OWNERS; AND

(2) FOR WHICH 3 MONTHS' WORTH OF GROSS ANNUAL HOMEOWNERS ASSOCIATION FEES IS LESS THAN $2,500.

(B) (1) The board of directors or other governing body of a homeowners association shall purchase fidelity insurance not later than the time of the first conveyance of a lot to a person other than the declarant and shall keep fidelity insurance in place for each year thereafter.

(2) The fidelity insurance required under paragraph (1) of this subsection shall provide for the indemnification of the homeowners association against loss resulting from acts or omissions arising from fraud, dishonesty, or criminal acts by:

(i) Any officer, director, managing agent, or other agent or employee charged with the operation or maintenance of the homeowners association who controls or disburses funds; and

(ii) Any management company employing a management agent or other employee charged with the operation or maintenance of the homeowners association who controls or disburses funds.

[(b)**] (C)** A copy of the fidelity insurance policy shall be included in the books and records kept and made available by or on behalf of the homeowners association under § 11B–112 of this title.

[(c)**] (D)** (1) The amount of the fidelity insurance required under subsection (a) of this section shall equal at least the lesser of:

(i) 3 months' worth of gross annual homeowners association fees and the total amount held in all investment accounts at the time the fidelity insurance is issued; or

(ii) $3,000,000.

(2) The total liability of the insurance to all insured persons under the fidelity insurance may not exceed the sum of the fidelity insurance.

[(d)**] (E)** If a lot owner believes that the board of directors or other governing body of a homeowners association has failed to comply with the requirements of this section, the aggrieved lot owner may submit the dispute to the Division of Consumer Protection of the Office of the Attorney General under § 11B–115 of this title.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 617

(Senate Bill 828)

AN ACT concerning

Special Taxing Districts – Transportation Improvements – Exemption from County Tax Limitations

FOR the purpose of exempting certain taxes imposed only within a special taxing district for the purpose of financing the cost of transportation improvements from county tax limitations; authorizing a county to issue, by law, certain bonds for certain infrastructure improvements; authorizing a county to sell certain bonds secured by certain revenues; providing that certain bonds may not be secured by the full faith and credit or taxing authority of a county; providing for the construction of certain provisions of this Act; defining certain terms; and generally relating to special taxing districts and county tax limitations.

BY adding to
Article 24 – Political Subdivisions – Miscellaneous Provisions
Section 9–1302 and 9–1303
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

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

Article 24 – Political Subdivisions – Miscellaneous Provisions

9–1302.

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

(2) "COST" HAS THE MEANING STATED IN ~~§ 3–101(D)~~ § 9–1301 OF ~~THE TRANSPORTATION ARTICLE~~ THIS SUBTITLE.

(3) "COUNTY TAX LIMITATION" MEANS A PROVISION OF A COUNTY CHARTER THAT LIMITS:

(I) THE MAXIMUM PROPERTY TAX RATE THAT A COUNTY MAY IMPOSE; OR

(II) THE RATE OF GROWTH OF COUNTY PROPERTY TAX REVENUES.

(4) "HIGHWAY FACILITY" HAS THE MEANING STATED IN § 3–101(F) OF THE TRANSPORTATION ARTICLE.

(5) "SPECIAL TAXING DISTRICT" MEANS A DEFINED GEOGRAPHIC AREA DESIGNATED BY A COUNTY WITHIN WHICH AD VALOREM OR SPECIAL TAXES ARE IMPOSED FOR THE PURPOSE OF FINANCING THE COST OF INFRASTRUCTURE IMPROVEMENTS.

(6) "TRANSIT FACILITY" HAS THE MEANING STATED IN § 3–101(K) OF THE TRANSPORTATION ARTICLE.

(7) "~~TRANSPORTATION~~ STATE TRANSPORTATION IMPROVEMENTS" INCLUDES HIGHWAY FACILITIES, TRANSIT FACILITIES, AND RELATED INFRASTRUCTURE.

(8) "COUNTY TRANSPORTATION IMPROVEMENTS" INCLUDES:

(I) FOR COUNTY ROADS AND HIGHWAYS:

1. COUNTY 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, 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, DESIGNATED BUS LANES, SIDEWALKS, PEDESTRIAN PLAZAS, STREETSCAPING, AND RELATED INFRASTRUCTURE; AND

2. ANY OTHER PROPERTY ACQUIRED FOR THE CONSTRUCTION, OPERATION, OR USE OF THE HIGHWAY; AND

(II) FOR COUNTY TRANSIT FACILITIES, ANY ONE OR MORE OR COMBINATION OF TRACKS, RIGHTS–OF–WAY, BRIDGES, TUNNELS, SUBWAYS, ROLLING STOCK, STATIONS, TERMINALS, PORTS, PARKING AREAS, EQUIPMENT, FIXTURES, BUILDING STRUCTURES, OTHER REAL OR PERSONAL PROPERTY, AND SERVICES INCIDENTAL TO OR USEFUL OR DESIGNED FOR USE IN CONNECTION

WITH THE RENDERING OF TRANSIT SERVICE BY ANY MEANS, INCLUDING RAIL, BUS, MOTOR VEHICLE, OR OTHER MODE OF TRANSPORTATION BUT DOES NOT INCLUDE ANY RAILROAD FACILITY.

(B) A COUNTY TAX LIMITATION ~~DOES NOT~~ THAT WOULD OTHERWISE APPLY TO AD VALOREM OR SPECIAL TAXES IMPOSED ONLY WITHIN A SPECIAL TAXING DISTRICT DOES NOT APPLY FOR THE PURPOSE OF FINANCING THE COST OF STATE TRANSPORTATION IMPROVEMENTS AND COUNTY TRANSPORTATION IMPROVEMENTS.

9–1303.

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

(2) "BOND" MEANS A SPECIAL OBLIGATION BOND, NOTE, OR OTHER SIMILAR INSTRUMENT ISSUED BY A COUNTY UNDER THIS SECTION.

(3) "COSTS" MEANS ANY EXPENSE NECESSARY OR INCIDENT TO ACQUIRING, BUILDING, OR FINANCING ANY TRANSPORTATION IMPROVEMENT AS MAY BE PROVIDED BY THE LOCAL LAW AUTHORIZED UNDER SUBSECTION (B) OF THIS SECTION.

(4) (I) "SPECIAL TAX" MEANS AN AD VALOREM OR SPECIAL TAX, ASSESSMENT, FEE, OR CHARGE IMPOSED BY A COUNTY WITHIN A SPECIAL TAXING DISTRICT.

(II) "SPECIAL TAX" DOES NOT INCLUDE AN AD VALOREM OR SPECIAL TAX, ASSESSMENT, FEE, OR CHARGE LEVIED UNDER CHAPTER 20A OF THE MONTGOMERY COUNTY CODE.

(5) (I) "SPECIAL TAXING DISTRICT" MEANS A SPECIAL TAXING DISTRICT, SPECIAL ASSESSMENT DISTRICT, OR SIMILAR DEFINED GEOGRAPHICAL AREA WITHIN A COUNTY IN WHICH THE COUNTY IS AUTHORIZED TO IMPOSE A SPECIAL TAX.

(II) "SPECIAL TAXING DISTRICT" DOES NOT INCLUDE A DEVELOPMENT DISTRICT CREATED UNDER CHAPTER 20A OF THE MONTGOMERY COUNTY CODE.

(6) "TRANSPORTATION IMPROVEMENT" MEANS A STATE TRANSPORTATION IMPROVEMENT OR A COUNTY TRANSPORTATION IMPROVEMENT AS DEFINED IN § 9–1302 OF THIS SUBTITLE.

(B) IN ADDITION TO OTHER POWERS A COUNTY MAY HAVE, AND NOTWITHSTANDING THE PROVISIONS OF ANY OTHER PUBLIC LOCAL LAW, PUBLIC GENERAL LAW, OR THE COUNTY CHARTER OF A COUNTY THAT HAS ADOPTED HOME RULE POWERS UNDER ARTICLE XI–A OF THE MARYLAND CONSTITUTION, A COUNTY MAY ENACT A LAW TO PROVIDE FOR THE ISSUANCE OF BONDS TO FINANCE THE COSTS OF TRANSPORTATION IMPROVEMENTS FOR WHICH THE PRINCIPAL, INTEREST, AND ANY PREMIUM SHALL BE PAID FROM AND SECURED BY SPECIAL TAXES COLLECTED BY THE COUNTY IN A SPECIAL TAXING DISTRICT.

(C) (1) BONDS ISSUED UNDER THIS SECTION ARE SPECIAL OBLIGATIONS OF THE COUNTY AND DO NOT CONSTITUTE A GENERAL OBLIGATION DEBT OF THE COUNTY OR A PLEDGE OF THE COUNTY'S FULL FAITH AND CREDIT OR GENERAL TAXING POWER.

(2) BONDS ISSUED UNDER THIS SECTION MAY BE SOLD IN ANY MANNER, EITHER AT PUBLIC OR PRIVATE SALE AND ON TERMS AS THE COUNTY DEEMS BEST.

(3) BONDS ISSUED UNDER THIS SECTION ARE NOT SUBJECT TO ARTICLE 31, §§ 10 AND 11 OF THE CODE.

(4) BONDS ISSUED UNDER THIS SECTION, THEIR TRANSFER, THE INTEREST PAYABLE ON THEM, AND ANY INCOME DERIVED FROM THEM, INCLUDING ANY PROFIT REALIZED ON THEIR SALE OR EXCHANGE, SHALL BE EXEMPT AT ALL TIMES FROM EVERY KIND AND NATURE OF TAXATION BY THE STATE, A COUNTY, OR A MUNICIPAL CORPORATION.

(5) BONDS ISSUED UNDER THIS SECTION SHALL BE TREATED AS SECURITIES TO THE SAME EXTENT AS BONDS ISSUED UNDER § 9–1301 OF THIS SUBTITLE.

(D) IN ADDITION TO THE SPECIAL TAXES, BONDS ISSUED UNDER THIS SECTION MAY BE SECURED BY OTHER REVENUES GENERATED WITHIN THE SPECIAL TAXING DISTRICT.

(E) THE POWERS GRANTED UNDER THIS SECTION SHALL BE REGARDED AS SUPPLEMENTAL AND ADDITIONAL TO POWERS CONFERRED BY OTHER LAWS, AND MAY NOT BE REGARDED AS IN DEROGATION OF ANY POWERS NOW EXISTING, INCLUDING POWERS TO ISSUE SPECIAL OBLIGATION DEBT UNDER THIS ARTICLE, ARTICLE 25, ARTICLE 25A, OR ARTICLE 25B OF THE CODE.

(F) THIS SECTION, BEING NECESSARY FOR THE WELFARE OF THE STATE AND ITS RESIDENTS, SHALL BE LIBERALLY CONSTRUED TO EFFECT ITS PURPOSES.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 618

(Senate Bill 829)

AN ACT concerning

Teachers' Retirement and Pension Systems – Reemployment of Retirees – Retired Higher Education Faculty

FOR the purpose of requiring that certain retirees of the Teachers' Retirement System or Teachers' Pension System ~~who, prior to retirement received their salary in a certain manner,~~ are subject to a certain earnings limitation calculated in a certain manner if they are reemployed by a certain employer; and generally relating to the reemployment of retired higher education faculty.

BY repealing and reenacting, without amendments,
Article – State Personnel and Pensions
Section 22–406(c)(1) and 23–407(c)(1)
Annotated Code of Maryland
(2009 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 22–406(c)(2) and 23–407(c)(2)
Annotated Code of Maryland
(2009 Replacement Volume and 2009 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

22–406.

(c) (1) Except as provided in § 22–407 of this subtitle, the Board of Trustees shall reduce the allowance of an individual who accepts employment as provided under subsection (b) of this section if:

(i) 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 vested allowance;

(ii) 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 or vested allowance was also a unit of State government; or

(iii) the individual becomes reemployed within 12 months of receiving an early service retirement allowance under § 22–402 of this subtitle.

(2) **(I)** **[**The**]** **EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE** reduction required under paragraph (1) of this subsection shall equal:

[(i)**]** **1.** 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; or

[(ii)**]** **2.** for a retiree who retired under the Workforce Reduction Act (Chapter 353 of the Acts of 1996), the amount by which the sum of the retiree's annual compensation and the retiree's annual basic allowance at the time of retirement, including the incentive provided by the Workforce Reduction Act, exceeds the average final compensation used to compute the basic allowance.

(II) 1. THIS SUBPARAGRAPH APPLIES TO A RETIREE OF THE TEACHERS' RETIREMENT SYSTEM WHO AS FACULTY RECEIVED A 10–MONTH SALARY AND RETIRED DIRECTLY FROM:

A. THE UNIVERSITY SYSTEM OF MARYLAND;

B. MORGAN STATE UNIVERSITY;

C. ST. MARY'S COLLEGE; OR

D. A COMMUNITY COLLEGE ESTABLISHED OR OPERATING UNDER TITLE 16 OF THE EDUCATION ARTICLE.

2. THE REDUCTION REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL EQUAL THE AMOUNT BY WHICH THE SUM OF THE RETIREE'S INITIAL ANNUAL BASIC ALLOWANCE AND THE RETIREE'S ANNUAL COMPENSATION, AS CALCULATED IN SUBSUBPARAGRAPH 3 OF THIS SUBPARAGRAPH, EXCEEDS THE AVERAGE ~~ANNUAL EARNABLE~~ FINAL COMPENSATION OF THE RETIREE ~~DURING THE 3 CONSECUTIVE YEARS THAT PROVIDES THE HIGHEST AVERAGE EARNABLE COMPENSATION~~ USED TO COMPUTE THE BASIC ALLOWANCE.

3. THE CALCULATION OF THE RETIREE'S ANNUAL ~~EARNABLE COMPENSATION FOR EACH OF THE 3 CONSECUTIVE YEARS IN SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, SHALL BE BASED ON ANY EARNINGS THE RETIREE RECEIVED DURING THE ENTIRE CALENDAR YEAR FROM THE EMPLOYER FROM WHICH THE RETIREE RETIRED~~ COMPENSATION IN SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH DOES NOT INCLUDE ANY OF THE FOLLOWING EARNINGS THE RETIREE RECEIVED DURING THE PREVIOUS CALENDAR YEAR FROM THE EMPLOYER WITH WHOM THE RETIREE IS REEMPLOYED:

A. BONUSES;

B. OVERTIME;

C. SUMMER SCHOOL SALARIES;

D. ADULT EDUCATION SALARY;

E. ADDITIONAL TEMPORARY PAYMENTS FROM SPECIAL RESEARCH PROJECTS;

F. HONORARIUMS; AND

G. VEHICLE STIPENDS.

23–407.

(c) (1) Except as provided in § 23–408 of this subtitle, the Board of Trustees shall reduce the allowance of an individual who accepts employment as provided under subsection (b) of this section if:

(i) 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 vested allowance;

(ii) 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 or vested allowance was also a unit of State government; or

(iii) the individual becomes reemployed within 12 months of receiving an early service retirement allowance or an early vested allowance computed under § 23–402 of this subtitle.

(2) **(I)** **[**The**]** **EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE** reduction required under paragraph (1) of this subsection shall equal:

[(i)**]** **1.** 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; or

[(ii)**]** **2.** for a retiree who retired under the Workforce Reduction Act (Chapter 353 of the Acts of 1996), the amount by which the sum of the retiree's annual compensation and the retiree's annual basic allowance at the time of retirement, including the incentive provided by the Workforce Reduction Act, exceeds the average final compensation used to compute the basic allowance.

(II) 1. THIS SUBPARAGRAPH APPLIES TO A RETIREE OF THE TEACHERS' PENSION SYSTEM WHO AS FACULTY RECEIVING A 10–MONTH SALARY, RETIRED DIRECTLY FROM:

A. THE UNIVERSITY SYSTEM OF MARYLAND;

B. MORGAN STATE UNIVERSITY;

C. ST. MARY'S COLLEGE; OR

D. A COMMUNITY COLLEGE ESTABLISHED OR OPERATING UNDER TITLE 16 OF THE EDUCATION ARTICLE.

2. THE REDUCTION REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL EQUAL THE AMOUNT BY WHICH THE SUM OF THE RETIREE'S INITIAL ANNUAL BASIC ALLOWANCE AND THE RETIREE'S ANNUAL COMPENSATION, AS CALCULATED IN SUBSUBPARAGRAPH 3 OF THIS SUBPARAGRAPH, EXCEEDS THE AVERAGE ~~ANNUAL EARNABLE~~ FINAL COMPENSATION OF THE RETIREE ~~DURING THE 3 CONSECUTIVE YEARS THAT~~

~~PROVIDES THE HIGHEST AVERAGE EARNABLE COMPENSATION~~ USED TO COMPUTE THE BASIC ALLOWANCE.

3. THE CALCULATION OF THE RETIREE'S ANNUAL ~~EARNABLE COMPENSATION FOR EACH OF THE 3 CONSECUTIVE YEARS IN SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, SHALL BE BASED ON ANY EARNINGS THE RETIREE RECEIVED DURING THE ENTIRE CALENDAR YEAR FROM THE EMPLOYER FROM WHICH THE RETIREE RETIRED~~ COMPENSATION IN SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH DOES NOT INCLUDE ANY OF THE FOLLOWING EARNINGS THE RETIREE RECEIVED DURING THE PREVIOUS CALENDAR YEAR FROM THE EMPLOYER WITH WHOM THE RETIREE IS REEMPLOYED:

A. BONUSES;

B. OVERTIME;

C. SUMMER SCHOOL SALARIES;

D. ADULT EDUCATION SALARY;

E. ADDITIONAL TEMPORARY PAYMENTS FROM SPECIAL RESEARCH PROJECTS;

F. HONORARIUMS; AND

G. VEHICLE STIPENDS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 619

(Senate Bill 849)

AN ACT concerning

Procurement – Minority Business Enterprise ~~Directory~~ Program – ~~List of Contracts~~ ~~Directory and~~ Report

FOR the purpose of requiring ~~the certification agency designated to certify a minority business enterprise to include in a certain directory~~ *a certain report to include* certain information on all procurement contracts awarded by the State to minority business enterprises; requiring a certain report to include certain information about certified minority business enterprises that participated as prime contractors or subcontractors on certain procurement contracts; and generally relating to certified minority business enterprises and State procurement contracts.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section ~~14–304(a) and~~ 14–305
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – State Finance and Procurement

~~14–304.~~

~~(a) (1) The certification agency shall develop and maintain a directory of all certified minority business enterprises.~~

~~(2) The directory shall be accessible to the public through the Internet.~~

~~(3) For each minority business enterprise included in the directory, the certification agency shall include the following information:~~

~~(i) all contract information available to the certification agency for the minority business enterprise;~~

~~(ii) the certification number and minority status of the minority business enterprise;~~

~~**(III) A LIST OF ALL PROCUREMENT CONTRACTS AWARDED BY THE STATE TO THE MINORITY BUSINESS ENTERPRISE, INCLUDING A DESCRIPTION OF THE CONTRACT AND THE AMOUNT OF THE AWARD;**~~

~~**[**(iii)**] (IV)** contact information for up to three professional references for the minority business enterprise; and~~

~~**[**(iv)**] (V)** any other information the certification agency considers necessary or appropriate to encourage participation in the procurement process by minority business enterprises.~~

~~(4) The certification agency shall:~~

~~(i) update the directory at least monthly;~~

~~(ii) identify as recently certified in the directory each minority business enterprise that has obtained certification during the calendar year; and~~

~~(iii) include in the directory a list of all minority business enterprises that have become ineligible to participate in the Minority Business Enterprise Program because:~~

~~1. one or more of its owners has a personal net worth that exceeds the amount specified in § 14–301(i)(3) of this subtitle; or~~

~~2. the minority business enterprise no longer meets the standards developed under § 14–303(b)(12) of this subtitle.~~

14–305.

(a) (1) Within 90 days after the end of the fiscal year, each unit shall report to the Governor's Office of Minority Affairs, the certification agency, and, subject to § 2–1246 of the State Government Article, the Joint Committee on Fair Practices.

(2) A report under this subsection shall for the preceding fiscal year:

(i) state the total number and value of procurement contracts between the unit and certified minority business enterprises, by specific category of minority business enterprise, including whether the minority business enterprise participated as a prime contractor or as a subcontractor;

(ii) indicate the percentage that those procurement contracts represent, by specific category of minority business enterprise, of the total number and value of procurement contracts; **[**and**]**

(III) STATE THE TOTAL NUMBER AND THE NAMES OF CERTIFIED MINORITY BUSINESS ENTERPRISES THAT PARTICIPATED AS PRIME CONTRACTORS OR AS SUBCONTRACTORS ON PROCUREMENT CONTRACTS AWARDED BY A UNIT;

(IV) FOR EACH MINORITY BUSINESS INCLUDED IN THE REPORT UNDER ITEM (III) OF THIS PARAGRAPH, LIST ALL PROCUREMENT CONTRACTS AWARDED BY A UNIT TO THE MINORITY BUSINESS ENTERPRISE, INCLUDING A DESCRIPTION OF THE CONTRACT; **AND**

[(iii)**]** ~~(IV)~~ ***(V)*** contain other such information as required by the Governor's Office of Minority Affairs and the certification agency and approved by the Board.

(3) A report under this subsection shall be in a form prescribed by the Governor's Office of Minority Affairs and the certification agency and approved by the Board.

(b) (1) On or before December 31 of each year, the Governor's Office of Minority Affairs shall submit to the Board of Public Works and, subject to § 2–1246 of the State Government Article, to the Legislative Policy Committee a report summarizing the information the Office receives under subsection (a) of this section.

(2) This report may be prepared in conjunction with the annual report required under § 9–306 of the State Government Article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 620

(Senate Bill 867)

AN ACT concerning

Domestic Violence – Protective Order – Extension

FOR the purpose of authorizing a ~~court~~ judge to extend the term of a protective order for a certain period of time under certain circumstances; requiring the ~~court~~ judge to provide certain notice and a hearing before extending the term of a protective order; requiring the ~~court~~ judge to consider certain factors in determining the period of extension of a protective order; and generally relating to an extension of a protective order.

BY repealing and reenacting, without amendments,
Article – Family Law
Section 4–506(i) and (j)
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Family Law
Section 4–507

Annotated Code of Maryland
(2006 Replacement Volume and 2009 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.

(i) (1) Except as provided in 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 1 year.

(2) 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.

(j) (1) Notwithstanding any other provision of this section, the court shall issue a new final protective order against an individual if:

(i) the individual was previously a respondent under this subtitle against whom a final protective order was issued;

(ii) the individual was convicted and served a term of imprisonment of at least 5 years under § 2–205, § 2–206, § 3–202, § 3–303, § 3–304, § 3–305, § 3–306, § 3–309, § 3–310, § 3–311, or § 3–312 of the Criminal Law Article for the act of abuse that led to the issuance of the final protective order; and

(iii) the victim of the abuse who was the person eligible for relief in the original final protective order requests the issuance of a new final protective order.

(2) In a final protective order issued under this subsection, the court may grant only the relief that was granted in the original protective order under subsection (d)(1) or (2) of this section.

(3) Unless terminated at the request of the victim, a final protective order issued under this subsection shall be permanent.

4–507.

(a) (1) A protective order may be modified or rescinded during the term of the protective order after:

(i) giving notice to all affected persons eligible for relief and the respondent; and

(ii) a hearing.

(2) For good cause shown, a judge may extend the term of the protective order for 6 months beyond the period specified in § 4–506(i) of this subtitle, after:

(i) giving notice to all affected persons eligible for relief and the respondent; and

(ii) a hearing.

(3) (I) ~~IF A JUDGE FINDS BY CLEAR AND CONVINCING EVIDENCE THAT THE RESPONDENT HAS COMMITTED A SUBSEQUENT ACT OF ABUSE AGAINST A PERSON ELIGIBLE FOR RELIEF DURING THE TERM OF A PROTECTIVE ORDER~~ IF, DURING THE TERM OF A PROTECTIVE ORDER, A JUDGE FINDS BY CLEAR AND CONVINCING EVIDENCE THAT THE RESPONDENT NAMED IN THE PROTECTIVE ORDER HAS COMMITTED A SUBSEQUENT ACT OF ABUSE AGAINST A PERSON ELIGIBLE FOR RELIEF NAMED IN THE PROTECTIVE ORDER, THE JUDGE MAY EXTEND THE TERM OF THE PROTECTIVE ORDER FOR A PERIOD NOT TO EXCEED ~~5~~ 2 YEARS ~~BEYOND THE PERIOD SPECIFIED IN § 4–506(I) OF THIS SUBTITLE~~ FROM THE DATE THE EXTENSION IS GRANTED, AFTER:

1. GIVING NOTICE TO ALL AFFECTED PERSONS ELIGIBLE FOR RELIEF AND THE RESPONDENT; AND

2. A HEARING.

(II) IN DETERMINING THE PERIOD OF EXTENSION OF A PROTECTIVE ORDER UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE JUDGE SHALL CONSIDER THE FOLLOWING FACTORS:

1. THE NATURE AND SEVERITY OF THE SUBSEQUENT ACT OF ABUSE;

2. THE HISTORY AND SEVERITY OF ABUSE IN THE RELATIONSHIP BETWEEN THE RESPONDENT AND ANY PERSON ELIGIBLE FOR RELIEF NAMED IN THE PROTECTIVE ORDER;

3. THE PENDENCY AND TYPE OF CRIMINAL CHARGES AGAINST THE RESPONDENT; AND

4. THE NATURE AND EXTENT OF THE INJURY OR RISK OF INJURY CAUSED BY THE RESPONDENT.

(b) (1) If a District Court judge grants or denies relief under a petition filed under this subtitle, a respondent, any person eligible for relief, or a petitioner may appeal to the circuit court for the county where the District Court is located.

(2) An appeal taken under this subsection to the circuit court shall be heard de novo in the circuit court.

(3) If an appeal is filed under this subsection, the District Court judgment shall remain in effect until superseded by a judgment of the circuit court. Unless the circuit court orders otherwise, modification or enforcement of the District Court order shall be by the District Court.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 621

(House Bill 534)

AN ACT concerning

Domestic Violence – Protective Order – Extension

FOR the purpose of authorizing a ~~court~~ judge to extend the term of a protective order for a certain period of time under certain circumstances; requiring the ~~court~~ judge to provide certain notice and a hearing before extending the term of a protective order; requiring the ~~court~~ judge to consider certain factors in determining the period of extension of a protective order; and generally relating to an extension of a protective order.

BY repealing and reenacting, without amendments,
Article – Family Law
Section 4–506(i) and (j)
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Family Law
Section 4–507
Annotated Code of Maryland
(2006 Replacement Volume and 2009 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.

(i) (1) Except as provided in 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 1 year.

(2) 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.

(j) (1) Notwithstanding any other provision of this section, the court shall issue a new final protective order against an individual if:

(i) the individual was previously a respondent under this subtitle against whom a final protective order was issued;

(ii) the individual was convicted and served a term of imprisonment of at least 5 years under § 2–205, § 2–206, § 3–202, § 3–303, § 3–304, § 3–305, § 3–306, § 3–309, § 3–310, § 3–311, or § 3–312 of the Criminal Law Article for the act of abuse that led to the issuance of the final protective order; and

(iii) the victim of the abuse who was the person eligible for relief in the original final protective order requests the issuance of a new final protective order.

(2) In a final protective order issued under this subsection, the court may grant only the relief that was granted in the original protective order under subsection (d)(1) or (2) of this section.

(3) Unless terminated at the request of the victim, a final protective order issued under this subsection shall be permanent.

4–507.

(a) (1) A protective order may be modified or rescinded during the term of the protective order after:

(i) giving notice to all affected persons eligible for relief and the respondent; and

(ii) a hearing.

(2) For good cause shown, a judge may extend the term of the protective order for 6 months beyond the period specified in § 4–506(i) of this subtitle, after:

(i) giving notice to all affected persons eligible for relief and the respondent; and

(ii) a hearing.

(3) (I) ~~IF A JUDGE FINDS BY CLEAR AND CONVINCING EVIDENCE THAT THE RESPONDENT HAS COMMITTED A SUBSEQUENT ACT OF ABUSE AGAINST A PERSON ELIGIBLE FOR RELIEF DURING THE TERM OF A PROTECTIVE ORDER~~ IF, DURING THE TERM OF A PROTECTIVE ORDER, A JUDGE FINDS BY CLEAR AND CONVINCING EVIDENCE THAT THE RESPONDENT NAMED IN THE PROTECTIVE ORDER HAS COMMITTED A SUBSEQUENT ACT OF ABUSE AGAINST A PERSON ELIGIBLE FOR RELIEF NAMED IN THE PROTECTIVE ORDER, THE JUDGE MAY EXTEND THE TERM OF THE PROTECTIVE ORDER FOR A PERIOD NOT TO EXCEED ~~5~~ 2 YEARS ~~BEYOND THE PERIOD SPECIFIED IN § 4–506(I) OF THIS SUBTITLE~~ FROM THE DATE THE EXTENSION IS GRANTED, AFTER:

1. GIVING NOTICE TO ALL AFFECTED PERSONS ELIGIBLE FOR RELIEF AND THE RESPONDENT; AND

2. A HEARING.

(II) IN DETERMINING THE PERIOD OF EXTENSION OF A PROTECTIVE ORDER UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE JUDGE SHALL CONSIDER THE FOLLOWING FACTORS:

1. THE NATURE AND SEVERITY OF THE SUBSEQUENT ACT OF ABUSE;

2. THE HISTORY AND SEVERITY OF ABUSE IN THE RELATIONSHIP BETWEEN THE RESPONDENT AND ANY PERSON ELIGIBLE FOR RELIEF NAMED IN THE PROTECTIVE ORDER;

3. THE PENDENCY AND TYPE OF CRIMINAL CHARGES AGAINST THE RESPONDENT; AND

4. THE NATURE AND EXTENT OF THE INJURY OR RISK OF INJURY CAUSED BY THE RESPONDENT.

(b) (1) If a District Court judge grants or denies relief under a petition filed under this subtitle, a respondent, any person eligible for relief, or a petitioner may appeal to the circuit court for the county where the District Court is located.

(2) An appeal taken under this subsection to the circuit court shall be heard de novo in the circuit court.

(3) If an appeal is filed under this subsection, the District Court judgment shall remain in effect until superseded by a judgment of the circuit court. Unless the circuit court orders otherwise, modification or enforcement of the District Court order shall be by the District Court.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 622

(Senate Bill 878)

AN ACT concerning

Reverse Mortgage Homeowners Protection Act

FOR the purpose of ~~authorizing a borrower under a reverse mortgage loan to prepay the loan at any time without penalty; authorizing certain interest rates and interest that is contingent on certain factors in connection with a reverse mortgage loan; authorizing certain costs and fees in connection with a reverse mortgage loan; prohibiting a reduction in the amount or number of periodic advances paid to a borrower under a reverse mortgage loan under certain circumstances; establishing a certain penalty for failing to make certain advances and cure a default under certain circumstances; providing for the circumstances under which a reverse mortgage loan may become due and payable; specifying when the statute of limitations begins to run in certain actions; requiring that an instrument granting a security interest in certain real property securing a reverse mortgage loan contain a certain statement~~ providing that certain provisions of this Act do not require a lender that offers to make a reverse mortgage loan to offer a reverse mortgage loan with certain payment plans or to a certain borrower; requiring certain lenders and arrangers of financing to conform to the requirements of certain federal laws and guidelines under certain circumstances; providing that certain reverse mortgage loans are not subject to certain federal laws or guidelines; providing that certain lenders or arrangers of loans are not subject to certain regulatory approval requirements under certain circumstances; prohibiting certain persons from requiring a borrower to purchase an annuity, a long–term care policy, or other financial or insurance product as a condition to obtaining a reverse mortgage loan; ~~prohibiting certain persons from engaging in, or being affiliated with or employing a person who engages in, the sale of certain financial or insurance products;~~ establishing a certain exception; prohibiting certain persons from referring a borrower to any person for the purchase of certain financial or insurance products until after the occurrence of certain events; providing that certain provisions of this Act do not prohibit certain persons from offering to a borrower, or referring a borrower to a person for the purchase of certain financial or insurance products; ~~providing that a person who complies with certain federal laws is deemed to be in compliance with certain provisions of this Act; requiring a lender to provide a borrower with a certain notice, checklist, and list of counseling agencies at the time the borrower completes a certain application~~ requiring a lender or an arranger of financing to provide a certain borrower with a certain checklist at a certain time; requiring a certain housing counseling agency to provide a borrower with a certain checklist under certain circumstances; ~~prohibiting a certain housing counseling agency from receiving compensation from certain persons; requiring a lender to provide a borrower with a certain summary of the principal terms and conditions of a reverse mortgage loan before closing the loan; prohibiting a lender from making a reverse mortgage loan or assessing any fees unless the lender receives certain documentation; requiring the lender to provide copies of certain documentation to the borrower and to retain the documentation for a certain period;~~ providing for certain penalties for certain violations of this Act by certain lenders or

arrangers of financing; providing that certain lenders or arrangers of financing that violate certain provisions of this Act engage in an unfair or deceptive trade practice within the meaning of the Maryland Consumer Protection Act and are subject to certain enforcement and penalty provisions; providing that a violation of certain provisions of this Act does not constitute a violation of certain other provisions of law; providing for the application of this Act; defining certain terms; and generally relating to reverse mortgage loans.

BY adding to
Article – Commercial Law
Section 12–1201~~, 12–1202, 12–1205 through 12–1210, 12–1213 through 12–1216, 12–1219 through 12–1221, 12–1224, and 12–1225~~ through 12–1208 to be under the new subtitle "Subtitle 12. Reverse Mortgage Loans Act"
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

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

Article – Commercial Law

SUBTITLE 12. REVERSE MORTGAGE LOANS ACT.

~~**PART I. DEFINITIONS; GENERAL PROVISIONS.**~~

12–1201.

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

(B) "ARRANGER OF FINANCING" MEANS A PERSON THAT:

(1) FOR A FEE OR OTHER VALUABLE CONSIDERATION, WHETHER RECEIVED DIRECTLY OR INDIRECTLY, AIDS OR ASSISTS A BORROWER IN OBTAINING A REVERSE MORTGAGE LOAN; AND

(2) IS NOT NAMED AS THE LENDER IN THE REVERSE MORTGAGE LOAN AGREEMENT.

~~**(B)**~~ **(C) "BORROWER" MEANS AN INDIVIDUAL WHO MAKES A LOAN APPLICATION FOR OR RECEIVES A REVERSE MORTGAGE LOAN.**

~~**(C)**~~ **(D) "COUNSELING AGENCY" MEANS AN ENTITY APPROVED BY THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT TO PROVIDE COUNSELING REGARDING REVERSE MORTGAGE LOANS.**

(E) "DWELLING" HAS THE MEANING STATED IN § 11–501 OF THE FINANCIAL INSTITUTIONS ARTICLE.

~~(D)~~ (F) "LENDER" MEANS A PERSON WHO MAKES A REVERSE MORTGAGE LOAN.

~~(E)~~ (G) "PERSON" INCLUDES AN INDIVIDUAL, CORPORATION, BUSINESS TRUST, ESTATE, TRUST, PARTNERSHIP, ASSOCIATION, TWO OR MORE PERSONS HAVING A JOINT OR COMMON INTEREST, OR ANY OTHER LEGAL OR COMMERCIAL ENTITY.

~~(F) "RESIDENTIAL REAL PROPERTY" MEANS OWNER–OCCUPIED REAL PROPERTY HAVING A DWELLING ON IT DESIGNATED PRINCIPALLY AS A RESIDENCE WITH ACCOMMODATIONS FOR NOT MORE THAN FOUR FAMILIES.~~

~~(G)~~ (H) "REVERSE MORTGAGE LOAN" MEANS A NONRECOURSE LOAN THAT:

(1) IS SECURED BY ~~RESIDENTIAL REAL PROPERTY~~ THE BORROWER'S PRINCIPAL DWELLING;

(2) PROVIDES THE BORROWER WITH PURCHASE MONEY PROCEEDS, A LUMP SUM PAYMENT, PERIODIC CASH ADVANCES, ~~OR~~ A LINE OF CREDIT, OR ANY COMBINATION OF THOSE PAYMENT PLANS BASED ON THE EQUITY IN OR VALUE OF THE ~~RESIDENTIAL REAL PROPERTY~~ BORROWER'S PRINCIPAL DWELLING; AND

(3) REQUIRES NO PAYMENT OF PRINCIPAL OR INTEREST UNTIL THE FULL LOAN BECOMES DUE AND PAYABLE.

12–1202.

(A) THE PROVISIONS OF THIS SUBTITLE:

(1) APPLY TO ~~ALL~~ A REVERSE MORTGAGE ~~LOANS~~ LOAN SECURED BY ~~RESIDENTIAL REAL PROPERTY~~ A BORROWER'S PRINCIPAL DWELLING IN THE STATE; AND

(2) ARE IN ADDITION TO ANY OTHER APPLICABLE PROVISIONS OF LAW.

(B) IF A PROVISION OF THIS SUBTITLE CONFLICTS WITH ANY PROVISION OF THIS TITLE, THE PROVISION OF THIS SUBTITLE APPLIES.

12–1203. ~~RESERVED.~~

THIS SUBTITLE DOES NOT REQUIRE A LENDER THAT OFFERS TO MAKE A REVERSE MORTGAGE LOAN TO OFFER A REVERSE MORTGAGE LOAN:

(1) WITH ANY ONE OR MORE PARTICULAR PAYMENT PLANS; OR

(2) TO A PROSPECTIVE BORROWER WHO HOLDS TITLE TO A DWELLING IN OTHER THAN FEE SIMPLE INTEREST.

12–1204. ~~RESERVED.~~

~~PART II. REVERSE MORTGAGE LOAN PROVISIONS.~~

~~12–1205.~~

~~(A) IN THIS SECTION, "PENALTY" DOES NOT INCLUDE FEES, PAYMENTS, OR OTHER CHARGES THAT WOULD HAVE BEEN DUE IF THE REVERSE MORTGAGE LOAN BECAME DUE AND PAYABLE.~~

~~(B) A BORROWER MAY PREPAY A REVERSE MORTGAGE LOAN, IN WHOLE OR IN PART, AT ANY TIME WITHOUT PENALTY~~

(A) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, A LENDER THAT OFFERS OR MAKES A REVERSE MORTGAGE LOAN SECURED BY A DWELLING IN THE STATE SHALL CONFORM TO THE REQUIREMENTS OF 12 U.S.C. § 1715Z–20, AND ANY REGULATIONS AND GUIDANCE ADOPTED UNDER 12 U.S.C. § 1715Z–20, REGARDLESS OF WHETHER THE REVERSE MORTGAGE LOAN IS INSURED UNDER 12 U.S.C. § 1715Z–20.

(B) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, AN ARRANGER OF FINANCING THAT AIDS OR ASSISTS, OR OFFERS TO AID OR ASSIST, A BORROWER IN OBTAINING A REVERSE MORTGAGE LOAN SECURED BY A DWELLING IN THE STATE SHALL CONFORM TO THE REQUIREMENTS OF 12 U.S.C. § 1715Z–20, AND ANY REGULATIONS AND GUIDANCE ADOPTED UNDER 12 U.S.C. § 1715Z–20, REGARDLESS OF WHETHER THE REVERSE MORTGAGE LOAN IS INSURED UNDER 12 U.S.C. § 1715Z–20.

~~12–1206.~~ 12–1205.

(A) A REVERSE MORTGAGE LOAN THAT IS NOT INSURED UNDER 12 U.S.C. § 1715Z–20 IS NOT SUBJECT TO THE PROVISIONS IN 12 U.S.C. § 1715Z–20, OR IN ANY REGULATIONS OR GUIDANCE ADOPTED UNDER 12 U.S.C. § 1715Z–20, THAT:

(1) LIMIT ORIGINATION FEES TO $6,000 AS ADJUSTED UNDER 12 U.S.C. § 1715Z–20(R);

(2) IMPOSE MAXIMUM CLAIM AMOUNTS OR OTHER LOAN LIMIT RESTRICTIONS; OR

(3) REQUIRE GOVERNMENT INSURANCE FOR THE LOAN.

(B) A LENDER OR AN ARRANGER OF FINANCING IS NOT SUBJECT TO THE FEDERAL REGULATORY APPROVAL REQUIREMENTS OF 24 C.F.R., PART 202 WHEN MAKING OR ARRANGING A REVERSE MORTGAGE LOAN THAT IS NOT INSURED UNDER 12 U.S.C. § 1715Z–20.

~~(A) A REVERSE MORTGAGE LOAN MAY PROVIDE FOR:~~

~~(1) A FIXED INTEREST RATE;~~

~~(2) AN ADJUSTABLE INTEREST RATE; OR~~

~~(3) A COMBINATION OF FIXED AND ADJUSTABLE INTEREST RATES.~~

~~(B) A REVERSE MORTGAGE LOAN MAY PROVIDE FOR INTEREST THAT IS CONTINGENT ON:~~

~~(1) THE VALUE OF THE RESIDENTIAL REAL PROPERTY AT THE TIME THE REVERSE MORTGAGE LOAN IS EXECUTED OR MATURES; OR~~

~~(2) CHANGES IN THE VALUE OF THE RESIDENTIAL REAL PROPERTY BETWEEN LOAN CLOSING AND MATURITY.~~

~~12–1207.~~

~~(A) A REVERSE MORTGAGE LOAN MAY INCLUDE ONLY THOSE COSTS AND FEES CHARGED BY THE LENDER, THE LENDER'S DESIGNEE, THE LOAN ORIGINATOR, OR THE LOAN SERVICER.~~

~~(B) THIS SECTION APPLIES TO ALL COSTS AND FEES CHARGED IN CONNECTION WITH A REVERSE MORTGAGE LOAN, INCLUDING COSTS AND FEES CHARGED ON EXECUTION OF THE LOAN, ON A PERIODIC BASIS, OR ON MATURITY OF THE LOAN.~~

~~12–1208.~~

~~(A) IF A REVERSE MORTGAGE LOAN PROVIDES FOR PERIODIC ADVANCES TO THE BORROWER, THE ADVANCES MAY NOT BE REDUCED IN AMOUNT OR NUMBER BASED ON AN ADJUSTMENT IN THE INTEREST RATE.~~

~~(B) IF A LENDER FAILS TO MAKE ADVANCES AS REQUIRED BY THE TERMS OF THE REVERSE MORTGAGE LOAN, AND FAILS TO CURE A DEFAULT AFTER NOTICE OF THE DEFAULT AS SPECIFIED IN THE REVERSE MORTGAGE LOAN DOCUMENTS, THE LENDER SHALL FORFEIT TO THE BORROWER AN AMOUNT EQUAL TO THREE TIMES THE AMOUNT WRONGFULLY WITHHELD PLUS INTEREST AT THE LEGAL RATE OF INTEREST.~~

~~12–1209.~~

~~(A) A REVERSE MORTGAGE LOAN MAY BECOME DUE AND PAYABLE ONLY AFTER:~~

~~(1) THE RESIDENTIAL REAL PROPERTY SECURING THE REVERSE MORTGAGE LOAN IS SOLD OR TITLE TO THE RESIDENTIAL REAL PROPERTY IS OTHERWISE TRANSFERRED;~~

~~(2) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, ALL BORROWERS CEASE OCCUPYING THE RESIDENTIAL REAL PROPERTY SECURING THE LOAN;~~

~~(3) A FIXED MATURITY DATE AGREED TO BY THE LENDER AND THE BORROWER; OR~~

~~(4) THE OCCURRENCE OF AN EVENT SPECIFIED IN THE REVERSE MORTGAGE LOAN DOCUMENTS THAT JEOPARDIZES THE LENDER'S SECURED INTEREST IN THE RESIDENTIAL REAL PROPERTY SECURING THE LOAN.~~

~~(B) FOR PURPOSES OF SUBSECTION (A)(2) OF THIS SECTION, A BORROWER DOES NOT CEASE TO OCCUPY THE RESIDENTIAL REAL PROPERTY SECURING THE LOAN IF THE BORROWER:~~

~~(1) IS TEMPORARILY ABSENT FROM THE RESIDENTIAL REAL PROPERTY FOR NO MORE THAN 60 CONSECUTIVE DAYS; OR~~

~~(2) (I) IS ABSENT FROM THE RESIDENTIAL REAL PROPERTY FOR MORE THAN 60 CONSECUTIVE DAYS BUT LESS THAN 1 YEAR; AND~~

~~(II) HAS TAKEN ACTION TO SECURE AND PROTECT THE RESIDENTIAL REAL PROPERTY IN A MANNER THAT IS SATISFACTORY TO THE LENDER, AS SPECIFIED IN THE REVERSE MORTGAGE LOAN DOCUMENTS.~~

~~(C) IN AN ACTION TO RECOVER FUNDS THAT ARE DUE AND PAYABLE UNDER A REVERSE MORTGAGE LOAN, THE STATUTE OF LIMITATIONS RUNS FROM THE DATE THE REVERSE MORTGAGE LOAN BECOMES DUE AND PAYABLE, AS PROVIDED IN THE REVERSE MORTGAGE LOAN DOCUMENTS.~~

~~12–1210.~~

~~A MORTGAGE, DEED OF TRUST, OR OTHER INSTRUMENT THAT GRANTS A SECURITY INTEREST IN RESIDENTIAL REAL PROPERTY TO SECURE A REVERSE MORTGAGE LOAN SHALL CONTAIN THE FOLLOWING STATEMENT IN 12 POINT BOLDFACE TYPE ON THE FIRST PAGE OF THE INSTRUMENT:~~

~~"THIS INSTRUMENT SECURES A REVERSE MORTGAGE LOAN.".~~

~~12–1211. RESERVED.~~

~~12–1212. RESERVED.~~

~~PART III. SALES OF FINANCIAL AND INSURANCE PRODUCTS.~~

~~12–1213.~~

~~IN THIS PART, "LENDER" INCLUDES A PERSON WHO PARTICIPATES IN THE ORIGINATION OF A REVERSE MORTGAGE LOAN.~~

~~12–1214.~~ 12–1206.

(A) (1) ~~A~~ EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A LENDER OR AN ARRANGER OF FINANCING MAY NOT REQUIRE A BORROWER TO PURCHASE AN ANNUITY, A LONG–TERM CARE POLICY, OR OTHER FINANCIAL OR INSURANCE PRODUCT AS A CONDITION TO OBTAINING A REVERSE MORTGAGE LOAN.

(2) A LENDER OR AN ARRANGER OF FINANCING MAY REQUIRE A BORROWER TO PURCHASE TITLE INSURANCE, HAZARD, FLOOD, OR OTHER PERIL INSURANCE, AND ANY OTHER FINANCIAL OR INSURANCE PRODUCT THAT IS REQUIRED FOR REVERSE MORTGAGE LOANS INSURED UNDER 12 U.S.C. § 1715Z–20.

~~12–1215.~~

~~(A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A LENDER MAY NOT ENGAGE IN, BE AFFILIATED WITH A PERSON WHO ENGAGES IN, OR EMPLOY A PERSON WHO ENGAGES IN THE SELLING OF ANNUITIES, INVESTMENTS, LONG–TERM CARE INSURANCE, OR ANY OTHER FINANCIAL OR INSURANCE PRODUCT.~~

~~(2) A LENDER MAY ENGAGE IN THE ACTIVITIES SPECIFIED IN PARAGRAPH (1) OF THIS SUBSECTION IF THE LENDER MAINTAINS SUFFICIENT PROCEDURAL SAFEGUARDS TO ENSURE THAT INDIVIDUALS INVOLVED IN THE ORIGINATION OF A REVERSE MORTGAGE LOAN HAVE NO INVOLVEMENT WITH, OR INCENTIVE TO PROVIDE A BORROWER WITH, ANY OTHER FINANCIAL OR INSURANCE PRODUCT.~~

(B) A LENDER OR AN ARRANGER OF FINANCING MAY NOT REFER A BORROWER TO ANY PERSON FOR THE PURCHASE OF AN ANNUITY OR ANY OTHER FINANCIAL OR INSURANCE PRODUCT BEFORE THE LATER OF:

(1) THE CLOSING OF THE REVERSE MORTGAGE LOAN; OR

(2) THE EXPIRATION OF THE BORROWER'S RIGHT TO RESCIND THE REVERSE MORTGAGE LOAN AGREEMENT.

(C) THIS SECTION DOES NOT PROHIBIT A LENDER OR AN ARRANGER OF FINANCING FROM OFFERING TO A BORROWER, OR REFERRING A BORROWER TO A PERSON FOR THE PURCHASE OF:

(1) TITLE INSURANCE;

(2) HAZARD, FLOOD, OR OTHER PERIL INSURANCE; OR

(3) ~~SIMILAR~~ OTHER PRODUCTS THAT ARE CUSTOMARY UNDER A REVERSE MORTGAGE LOAN.

~~12–1216.~~

~~A LENDER THAT COMPLIES WITH 12 U.S.C. § 1715Z–20(N)(1) AND (O), INCLUDING ANY REGULATIONS AND GUIDANCE PROMULGATED UNDER THOSE PROVISIONS, SHALL BE DEEMED TO BE IN COMPLIANCE WITH THIS PART III OF THIS SUBTITLE, REGARDLESS OF WHETHER THE REVERSE MORTGAGE LOAN IS INSURED UNDER 12 U.S.C. § 1715Z–20.~~

~~12–1217. RESERVED.~~

~~12–1218. RESERVED.~~

~~PART IV. REQUIRED DISCLOSURES AND COUNSELING.~~

~~12–1219.~~

~~(A) AT THE TIME A BORROWER COMPLETES AN APPLICATION FOR A REVERSE MORTGAGE LOAN, THE LENDER SHALL PROVIDE THE BORROWER WITH:~~

~~(1) THE NOTICE REQUIRED UNDER SUBSECTION (B) OF THIS SECTION;~~

~~(2) THE CHECKLIST REQUIRED UNDER SUBSECTION (C) OF THIS SECTION; AND~~

~~(3) A LIST OF AT LEAST FIVE COUNSELING AGENCIES.~~

~~(B) A LENDER SHALL PROVIDE A BORROWER WITH THE FOLLOWING NOTICE, IN 16 POINT TYPE OR LARGER:~~

~~"IMPORTANT NOTICE TO~~
~~REVERSE MORTGAGE LOAN APPLICANT~~

~~A REVERSE MORTGAGE LOAN IS A COMPLEX FINANCIAL TRANSACTION. IF YOU DECIDE TO OBTAIN A REVERSE MORTGAGE LOAN, YOU WILL SIGN BINDING LEGAL DOCUMENTS THAT WILL HAVE IMPORTANT LEGAL AND FINANCIAL IMPLICATIONS FOR YOU AND YOUR ESTATE. IT IS THEREFORE IMPORTANT TO UNDERSTAND THE TERMS OF THE REVERSE MORTGAGE LOAN AND ITS EFFECT. BEFORE ENTERING INTO THIS TRANSACTION, YOU ARE ENCOURAGED TO CONSULT WITH AN INDEPENDENT LOAN COUNSELOR. A LIST OF APPROVED COUNSELING AGENCIES WILL BE PROVIDED TO YOU BY THE LENDER.~~

~~SENIOR CITIZEN ADVOCACY GROUPS ADVISE AGAINST USING THE PROCEEDS OF A REVERSE MORTGAGE LOAN TO PURCHASE AN ANNUITY OR RELATED FINANCIAL OR INSURANCE PRODUCTS. IF YOU ARE CONSIDERING USING YOUR PROCEEDS FOR THIS PURPOSE, YOU SHOULD DISCUSS THE FINANCIAL IMPLICATIONS OF DOING SO WITH A COUNSELOR AND YOUR FAMILY MEMBERS.".~~

12–1207.

~~(C)~~ (A) ~~A~~ ON RECEIVING AN APPLICATION FOR A REVERSE MORTGAGE LOAN, A LENDER OR AN ARRANGER OF FINANCING SHALL PROVIDE

A PROSPECTIVE BORROWER WITH A WRITTEN CHECKLIST, WRITTEN IN 12 POINT TYPE OR LARGER, ADVISING THE BORROWER TO DISCUSS THE FOLLOWING ISSUES WITH A COUNSELING AGENCY COUNSELOR:

(1) HOW UNEXPECTED MEDICAL OR OTHER EVENTS THAT CAUSE THE BORROWER TO MOVE OUT OF THE BORROWER'S HOME EARLIER THAN ANTICIPATED WILL IMPACT THE TOTAL ANNUAL COST OF THE REVERSE MORTGAGE LOAN;

(2) THE EXTENT TO WHICH THE BORROWER'S FINANCIAL NEEDS WOULD BE BETTER MET BY OPTIONS OTHER THAN A REVERSE MORTGAGE LOAN, INCLUDING LESS COSTLY HOME EQUITY LINES OF CREDIT, PROPERTY TAX DEFERRAL PROGRAMS, OR GOVERNMENTAL AID PROGRAMS;

(3) WHETHER THE BORROWER INTENDS TO USE THE PROCEEDS OF THE REVERSE MORTGAGE LOAN TO PURCHASE AN ANNUITY OR OTHER FINANCIAL OR INSURANCE PRODUCT AND THE CONSEQUENCES OF DOING SO;

(4) THE EFFECT OF REPAYMENT OF THE REVERSE MORTGAGE LOAN ON OTHER RESIDENTS OF THE HOME SECURING THE REVERSE MORTGAGE LOAN AFTER ALL BORROWERS HAVE DIED OR PERMANENTLY LEFT THE HOME;

(5) THE BORROWER'S ABILITY TO FINANCE ROUTINE OR CATASTROPHIC HOME REPAIRS, ESPECIALLY IF MAINTENANCE IS A FACTOR THAT MAY DETERMINE WHEN THE REVERSE MORTGAGE LOAN BECOMES PAYABLE;

(6) THE IMPACT THAT THE REVERSE MORTGAGE LOAN MAY HAVE ON THE BORROWER'S TAX OBLIGATIONS AND ELIGIBILITY FOR GOVERNMENT ASSISTANCE PROGRAMS, AND THE EFFECT THAT LOSING EQUITY IN THE HOME SECURING THE REVERSE MORTGAGE LOAN WILL HAVE ON THE BORROWER'S ESTATE AND HEIRS; AND

(7) THE ABILITY OF THE BORROWER TO FINANCE ALTERNATIVE LIVING ACCOMMODATIONS, SUCH AS ASSISTED LIVING OR LONG–TERM CARE, AFTER THE BORROWER'S EQUITY IS DEPLETED.

~~(D)~~ (B) IF AN INDIVIDUAL OBTAINS COUNSELING ON REVERSE MORTGAGE LOANS FROM A COUNSELING AGENCY BEFORE APPLYING FOR A REVERSE MORTGAGE LOAN, THE COUNSELING AGENCY SHALL PROVIDE THE INDIVIDUAL WITH THE WRITTEN CHECKLIST REQUIRED UNDER SUBSECTION ~~(C)~~ (A) OF THIS SECTION.

~~(E) (1) A COUNSELING AGENCY MAY NOT RECEIVE COMPENSATION, EITHER DIRECTLY OR INDIRECTLY, FROM:~~

~~(I) THE LENDER;~~

~~(II) THE ORIGINATOR OR SERVICER OF THE REVERSE MORTGAGE LOAN; OR~~

~~(III) A PERSON WHO SELLS ANNUITIES, INVESTMENTS, LONG–TERM CARE INSURANCE, OR ANY OTHER FINANCIAL OR INSURANCE PRODUCT.~~

~~(2) THIS SUBSECTION DOES NOT PROHIBIT A COUNSELING AGENCY FROM RECEIVING A CHARITABLE OR PHILANTHROPIC CONTRIBUTION THAT IS UNRELATED TO THE OFFERING OR SELLING OF A REVERSE MORTGAGE LOAN.~~

~~12–1220.~~

~~(A) BEFORE CLOSING A REVERSE MORTGAGE LOAN, THE LENDER SHALL PROVIDE THE BORROWER WITH A WRITTEN SUMMARY OF THE PRINCIPAL TERMS AND CONDITIONS OF THE REVERSE MORTGAGE LOAN.~~

~~(B) THE WRITTEN SUMMARY REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL:~~

~~(1) BE PREPARED AS A SEPARATE DOCUMENT;~~

~~(2) BE WRITTEN IN PLAIN LANGUAGE; AND~~

~~(3) INCLUDE:~~

~~(I) THE INTEREST RATE AND WHETHER THE INTEREST RATE IS FIXED OR ADJUSTABLE;~~

~~(II) IF THE INTEREST RATE IS ADJUSTABLE:~~

~~1. THE FREQUENCY OF THE RATE CHANGE AND THE MAXIMUM AMOUNT BY WHICH THE RATE CAN CHANGE IN ANY PERIOD; AND~~

~~2. THE INDEX TO WHICH ANY CHANGES IN THE INTEREST RATE ARE TIED;~~

~~(III) THE TERM OF THE REVERSE MORTGAGE LOAN;~~

~~(IV) THE SCHEDULE OF PAYMENTS PAID OUT DURING THE TERM OF THE REVERSE MORTGAGE LOAN;~~

~~(V) ALL FEES THAT APPLY TO THE REVERSE MORTGAGE LOAN, INCLUDING FEES THAT MAY ACCRUE AFTER IT BECOMES DUE AND PAYABLE; AND~~

~~(VI) THE CONDITIONS UNDER WHICH THE REVERSE MORTGAGE LOAN BECOMES DUE AND PAYABLE.~~

~~12–1221.~~

~~(A) A LENDER MAY NOT MAKE A REVERSE MORTGAGE LOAN OR ASSESS ANY FEES ON A BORROWER UNLESS THE LENDER RECEIVES:~~

~~(1) WRITTEN CERTIFICATION, SIGNED BY THE BORROWER, THAT THE BORROWER HAS:~~

~~(I) RECEIVED COUNSELING FROM A COUNSELING AGENCY; OR~~

~~(II) DECLINED TO RECEIVE COUNSELING; AND~~

~~(2) THE WRITTEN CHECKLIST REQUIRED UNDER § 12–1219(C) OF THIS SUBTITLE, SIGNED BY:~~

~~(I) THE BORROWER; AND~~

~~(II) IF THE BORROWER RECEIVED COUNSELING IN PERSON, THE COUNSELOR.~~

~~(B) IF THE CERTIFICATION REQUIRED UNDER SUBSECTION (A)(1) OF THIS SECTION CERTIFIES THAT THE BORROWER RECEIVED COUNSELING, THE CERTIFICATION SHALL:~~

~~(1) INCLUDE:~~

~~(I) THE DATE ON WHICH THE COUNSELING WAS PROVIDED; AND~~

~~(II) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE COUNSELOR; AND~~

~~(2) BE SIGNED BY THE COUNSELOR.~~

~~(C) THE LENDER SHALL:~~

~~(1) PROVIDE THE BORROWER WITH COPIES OF THE CERTIFICATION AND CHECKLIST; AND~~

~~(2) MAINTAIN THE CERTIFICATION AND CHECKLIST FOR THE TERM OF THE REVERSE MORTGAGE LOAN.~~

~~12–1222. RESERVED.~~

~~12–1223. RESERVED.~~

~~PART V. PENALTIES.~~

~~12–1224.~~

~~(A) EXCEPT FOR A BONA FIDE ERROR OF COMPUTATION, IF A LENDER VIOLATES ANY PROVISION OF THIS SUBTITLE, THE LENDER MAY COLLECT ONLY THE PRINCIPAL AMOUNT OF THE REVERSE MORTGAGE LOAN AND MAY NOT COLLECT ANY INTEREST, COSTS, FEES, OR OTHER CHARGES WITH RESPECT TO THE REVERSE MORTGAGE LOAN.~~

~~(B) IN ADDITION TO THE PENALTY UNDER SUBSECTION (A) OF THIS SECTION, A LENDER WHO KNOWINGLY VIOLATES ANY PROVISION OF THIS SUBTITLE SHALL FORFEIT TO THE BORROWER THREE TIMES THE AMOUNT OF INTEREST AND CHARGES COLLECTED IN EXCESS OF THAT AUTHORIZED BY LAW.~~

~~12–1225.~~

~~A PERSON WHO WILLFULLY 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.~~

12–1208.

(A) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION:

(1) A LENDER OR ARRANGER OF FINANCING FOR A REVERSE MORTGAGE LOAN INSURED UNDER 12 U.S.C. § 1715Z–20 THAT VIOLATES THIS SUBTITLE IS SUBJECT TO THE PENALTIES PROVIDED IN 12 U.S.C. § 1715Z–20, AND IN ANY REGULATIONS AND GUIDANCE ADOPTED UNDER 12 U.S.C. § 1715Z–20; AND

(2) A LENDER OR ARRANGER OF FINANCING FOR A REVERSE MORTGAGE LOAN NOT INSURED UNDER 12 U.S.C. § 1715Z–20 THAT VIOLATES THIS SUBTITLE:

(I) ENGAGES IN AN UNFAIR OR DECEPTIVE TRADE PRACTICE WITHIN THE MEANING OF TITLE 13 OF THIS ARTICLE; AND

(II) IS SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS CONTAINED IN TITLE 13 OF THIS ARTICLE, EXCEPT § 13–411.

(B) A VIOLATION OF THIS SUBTITLE DOES NOT CONSTITUTE A VIOLATION OF ANY OTHER SUBTITLE OF THIS TITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed prospectively to apply only to reverse mortgage loans applied for on or after the effective date of this Act.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 623

(House Bill 799)

AN ACT concerning

Reverse Mortgage Homeowners Protection Act

FOR the purpose of ~~authorizing a borrower under a reverse mortgage loan to prepay the loan at any time without penalty; authorizing certain interest rates and interest that is contingent on certain factors in connection with a reverse mortgage loan; authorizing certain costs and fees in connection with a reverse mortgage loan; prohibiting a reduction in the amount or number of periodic advances paid to a borrower under a reverse mortgage loan under certain circumstances; establishing a certain penalty for failing to make certain advances and cure a default under certain circumstances; providing for the circumstances under which a reverse mortgage loan may become due and payable; specifying when the statute of limitations begins to run in certain actions; requiring that an instrument granting a security interest in certain real property securing a reverse mortgage loan contain a certain statement~~ providing that certain provisions of this Act do not require a lender that offers

to make a reverse mortgage loan to offer a reverse mortgage loan with certain payment plans or to a certain borrower; requiring certain lenders and arrangers of financing to conform to the requirements of certain federal laws and guidelines under certain circumstances; providing that certain reverse mortgage loans are not subject to certain federal laws or guidelines; providing that certain lenders or arrangers of loans are not subject to certain regulatory approval requirements under certain circumstances; prohibiting certain persons from requiring a borrower to purchase an annuity, a long–term care policy, or other financial or insurance product as a condition to obtaining a reverse mortgage loan; ~~prohibiting certain persons from engaging in, or being affiliated with or employing a person who engages in, the sale of certain financial or insurance products;~~ establishing a certain exception; prohibiting certain persons from referring a borrower to any person for the purchase of certain financial or insurance products until after the occurrence of certain events; providing that certain provisions of this Act do not prohibit certain persons from offering to a borrower, or referring a borrower to a person for the purchase of certain financial or insurance products; ~~providing that a person who complies with certain federal laws is deemed to be in compliance with certain provisions of this Act; requiring a lender to provide a borrower with a certain notice, checklist, and list of counseling agencies at the time the borrower completes a certain application~~ requiring a lender or an arranger of financing to provide a certain borrower with a certain checklist at a certain time; requiring a certain housing counseling agency to provide a borrower with a certain checklist under certain circumstances; ~~prohibiting a certain housing counseling agency from receiving compensation from certain persons; requiring a lender to provide a borrower with a certain summary of the principal terms and conditions of a reverse mortgage loan before closing the loan; prohibiting a lender from making a reverse mortgage loan or assessing any fees unless the lender receives certain documentation; requiring the lender to provide copies of certain documentation to the borrower and to retain the documentation for a certain period;~~ providing for certain penalties for certain violations of this Act by certain lenders or arrangers of financing; providing that certain lenders or arrangers of financing that violate certain provisions of this Act engage in an unfair or deceptive trade practice within the meaning of the Maryland Consumer Protection Act and are subject to certain enforcement and penalty provisions; providing that a violation of certain provisions of this Act does not constitute a violation of certain other provisions of law; providing for the application of this Act; defining certain terms; and generally relating to reverse mortgage loans.

BY adding to

Article – Commercial Law

Section 12–1201 through ~~12–1225~~ 12–1208 to be under the new subtitle "Subtitle 12. Reverse Mortgage Loans Act"

Annotated Code of Maryland

(2005 Replacement Volume and 2009 Supplement)

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

Article – Commercial Law

SUBTITLE 12. REVERSE MORTGAGE LOANS ACT.

~~**PART I. DEFINITIONS; GENERAL PROVISIONS.**~~

12–1201.

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

(B) "ARRANGER OF FINANCING" MEANS A PERSON THAT:

(1) FOR A FEE OR OTHER VALUABLE CONSIDERATION, WHETHER RECEIVED DIRECTLY OR INDIRECTLY, AIDS OR ASSISTS A BORROWER IN OBTAINING A REVERSE MORTGAGE LOAN; AND

(2) IS NOT NAMED AS THE LENDER IN THE REVERSE MORTGAGE LOAN AGREEMENT.

~~**(B)**~~ **(C) "BORROWER" MEANS AN INDIVIDUAL WHO MAKES A LOAN APPLICATION FOR OR RECEIVES A REVERSE MORTGAGE LOAN.**

~~**(C)**~~ **(D) "COUNSELING AGENCY" MEANS AN ENTITY APPROVED BY THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT TO PROVIDE COUNSELING REGARDING REVERSE MORTGAGE LOANS.**

(E) "DWELLING" HAS THE MEANING STATED IN § 11–501 OF THE FINANCIAL INSTITUTIONS ARTICLE.

~~**(D)**~~ **(F) "LENDER" MEANS A PERSON WHO MAKES A REVERSE MORTGAGE LOAN.**

~~**(E)**~~ **(G) "PERSON" INCLUDES AN INDIVIDUAL, CORPORATION, BUSINESS TRUST, ESTATE, TRUST, PARTNERSHIP, ASSOCIATION, TWO OR MORE PERSONS HAVING A JOINT OR COMMON INTEREST, OR ANY OTHER LEGAL OR COMMERCIAL ENTITY.**

~~**(F) "RESIDENTIAL REAL PROPERTY" MEANS OWNER–OCCUPIED REAL PROPERTY HAVING A DWELLING ON IT DESIGNATED PRINCIPALLY AS A RESIDENCE WITH ACCOMMODATIONS FOR NOT MORE THAN FOUR FAMILIES.**~~

~~(G)~~ (H) "REVERSE MORTGAGE LOAN" MEANS A NONRECOURSE LOAN THAT:

(1) IS SECURED BY ~~RESIDENTIAL REAL PROPERTY~~ THE BORROWER'S PRINCIPAL DWELLING;

(2) PROVIDES THE BORROWER WITH PURCHASE MONEY PROCEEDS, A LUMP SUM PAYMENT, PERIODIC CASH ADVANCES, ~~OR~~ A LINE OF CREDIT, OR ANY COMBINATION OF THOSE PAYMENT PLANS BASED ON THE EQUITY IN OR VALUE OF THE ~~RESIDENTIAL REAL PROPERTY~~ BORROWER'S PRINCIPAL DWELLING; AND

(3) REQUIRES NO PAYMENT OF PRINCIPAL OR INTEREST UNTIL THE FULL LOAN BECOMES DUE AND PAYABLE.

12–1202.

(A) THE PROVISIONS OF THIS SUBTITLE:

(1) APPLY TO ~~ALL~~ A REVERSE MORTGAGE ~~LOANS~~ LOAN SECURED BY ~~RESIDENTIAL REAL PROPERTY~~ A BORROWER'S PRINCIPAL DWELLING IN THE STATE; AND

(2) ARE IN ADDITION TO ANY OTHER APPLICABLE PROVISIONS OF LAW.

(B) IF A PROVISION OF THIS SUBTITLE CONFLICTS WITH ANY PROVISION OF THIS TITLE, THE PROVISION OF THIS SUBTITLE APPLIES.

12–1203. ~~RESERVED.~~

THIS SUBTITLE DOES NOT REQUIRE A LENDER THAT OFFERS TO MAKE A REVERSE MORTGAGE LOAN TO OFFER A REVERSE MORTGAGE LOAN:

(1) WITH ANY ONE OR MORE PARTICULAR PAYMENT PLANS; OR

(2) TO A PROSPECTIVE BORROWER WHO HOLDS TITLE TO A DWELLING IN OTHER THAN FEE SIMPLE INTEREST.

12–1204. ~~RESERVED.~~

~~PART II. REVERSE MORTGAGE LOAN PROVISIONS.~~

~~12–1205.~~

~~(A) IN THIS SECTION, "PENALTY" DOES NOT INCLUDE FEES, PAYMENTS, OR OTHER CHARGES THAT WOULD HAVE BEEN DUE IF THE REVERSE MORTGAGE LOAN BECAME DUE AND PAYABLE.~~

~~(B) A BORROWER MAY PREPAY A REVERSE MORTGAGE LOAN, IN WHOLE OR IN PART, AT ANY TIME WITHOUT PENALTY~~

(A) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, A LENDER THAT OFFERS OR MAKES A REVERSE MORTGAGE LOAN SECURED BY A DWELLING IN THE STATE SHALL CONFORM TO THE REQUIREMENTS OF 12 U.S.C. § 1715Z–20, AND ANY REGULATIONS AND GUIDANCE ADOPTED UNDER 12 U.S.C. § 1715Z–20, REGARDLESS OF WHETHER THE REVERSE MORTGAGE LOAN IS INSURED UNDER 12 U.S.C. § 1715Z–20.

(B) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, AN ARRANGER OF FINANCING THAT AIDS OR ASSISTS, OR OFFERS TO AID OR ASSIST, A BORROWER IN OBTAINING A REVERSE MORTGAGE LOAN SECURED BY A DWELLING IN THE STATE SHALL CONFORM TO THE REQUIREMENTS OF 12 U.S.C. § 1715Z–20, AND ANY REGULATIONS AND GUIDANCE ADOPTED UNDER 12 U.S.C. § 1715Z–20, REGARDLESS OF WHETHER THE REVERSE MORTGAGE LOAN IS INSURED UNDER 12 U.S.C. § 1715Z–20.

~~12–1206.~~

12–1205.

(A) A REVERSE MORTGAGE LOAN THAT IS NOT INSURED UNDER 12 U.S.C. § 1715Z–20 IS NOT SUBJECT TO THE ~~ORIGINATION FEE, MAXIMUM CLAIM AMOUNT OR OTHER LOAN LIMIT RESTRICTIONS, OR MORTGAGE INSURING~~ PROVISIONS IN 12 U.S.C. § 1715Z–20, OR IN ANY REGULATIONS OR GUIDANCE ADOPTED UNDER 12 U.S.C. § 1715Z–20, *THAT:*

(1) LIMIT ORIGINATION FEES TO $6,000 AS ADJUSTED UNDER 12 U.S.C. § 1715Z–20(R);

(2) IMPOSE MAXIMUM CLAIM AMOUNTS OR OTHER LOAN LIMIT RESTRICTIONS; OR

(3) REQUIRE GOVERNMENT INSURANCE FOR THE LOAN.

(B) A LENDER OR AN ARRANGER OF FINANCING IS NOT SUBJECT TO THE FEDERAL REGULATORY APPROVAL REQUIREMENTS OF 24 C.F.R., PART 202

WHEN MAKING OR ARRANGING A REVERSE MORTGAGE LOAN THAT IS NOT INSURED UNDER 12 U.S.C. § 1715Z–20.

~~(A) A REVERSE MORTGAGE LOAN MAY PROVIDE FOR:~~

~~(1) A FIXED INTEREST RATE;~~

~~(2) AN ADJUSTABLE INTEREST RATE; OR~~

~~(3) A COMBINATION OF FIXED AND ADJUSTABLE INTEREST RATES.~~

~~(B) A REVERSE MORTGAGE LOAN MAY PROVIDE FOR INTEREST THAT IS CONTINGENT ON:~~

~~(1) THE VALUE OF THE RESIDENTIAL REAL PROPERTY AT THE TIME THE REVERSE MORTGAGE LOAN IS EXECUTED OR MATURES; OR~~

~~(2) CHANGES IN THE VALUE OF THE RESIDENTIAL REAL PROPERTY BETWEEN LOAN CLOSING AND MATURITY.~~

~~12–1207.~~

~~(A) A REVERSE MORTGAGE LOAN MAY INCLUDE ONLY THOSE COSTS AND FEES CHARGED BY THE LENDER, THE LENDER'S DESIGNEE, THE LOAN ORIGINATOR, OR THE LOAN SERVICER.~~

~~(B) THIS SECTION APPLIES TO ALL COSTS AND FEES CHARGED IN CONNECTION WITH A REVERSE MORTGAGE LOAN, INCLUDING COSTS AND FEES CHARGED ON EXECUTION OF THE LOAN, ON A PERIODIC BASIS, OR ON MATURITY OF THE LOAN.~~

~~12–1208.~~

~~(A) IF A REVERSE MORTGAGE LOAN PROVIDES FOR PERIODIC ADVANCES TO THE BORROWER, THE ADVANCES MAY NOT BE REDUCED IN AMOUNT OR NUMBER BASED ON AN ADJUSTMENT IN THE INTEREST RATE.~~

~~(B) IF A LENDER FAILS TO MAKE ADVANCES AS REQUIRED BY THE TERMS OF THE REVERSE MORTGAGE LOAN, AND FAILS TO CURE A DEFAULT AFTER NOTICE OF THE DEFAULT AS SPECIFIED IN THE REVERSE MORTGAGE LOAN DOCUMENTS, THE LENDER SHALL FORFEIT TO THE BORROWER AN AMOUNT EQUAL TO THREE TIMES THE AMOUNT WRONGFULLY WITHHELD PLUS INTEREST AT THE LEGAL RATE OF INTEREST.~~

~~12–1209.~~

~~(A) A REVERSE MORTGAGE LOAN MAY BECOME DUE AND PAYABLE ONLY AFTER:~~

~~(1) THE RESIDENTIAL REAL PROPERTY SECURING THE REVERSE MORTGAGE LOAN IS SOLD OR TITLE TO THE RESIDENTIAL REAL PROPERTY IS OTHERWISE TRANSFERRED;~~

~~(2) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, ALL BORROWERS CEASE OCCUPYING THE RESIDENTIAL REAL PROPERTY SECURING THE LOAN;~~

~~(3) A FIXED MATURITY DATE AGREED TO BY THE LENDER AND THE BORROWER; OR~~

~~(4) THE OCCURRENCE OF AN EVENT SPECIFIED IN THE REVERSE MORTGAGE LOAN DOCUMENTS THAT JEOPARDIZES THE LENDER'S SECURED INTEREST IN THE RESIDENTIAL REAL PROPERTY SECURING THE LOAN.~~

~~(B) FOR PURPOSES OF SUBSECTION (A)(2) OF THIS SECTION, A BORROWER DOES NOT CEASE TO OCCUPY THE RESIDENTIAL REAL PROPERTY SECURING THE LOAN IF THE BORROWER:~~

~~(1) IS TEMPORARILY ABSENT FROM THE RESIDENTIAL REAL PROPERTY FOR NO MORE THAN 60 CONSECUTIVE DAYS; OR~~

~~(2) (I) IS ABSENT FROM THE RESIDENTIAL REAL PROPERTY FOR MORE THAN 60 CONSECUTIVE DAYS BUT LESS THAN 1 YEAR; AND~~

~~(II) HAS TAKEN ACTION TO SECURE AND PROTECT THE RESIDENTIAL REAL PROPERTY IN A MANNER THAT IS SATISFACTORY TO THE LENDER, AS SPECIFIED IN THE REVERSE MORTGAGE LOAN DOCUMENTS.~~

~~(C) IN AN ACTION TO RECOVER FUNDS THAT ARE DUE AND PAYABLE UNDER A REVERSE MORTGAGE LOAN, THE STATUTE OF LIMITATIONS RUNS FROM THE DATE THE REVERSE MORTGAGE LOAN BECOMES DUE AND PAYABLE, AS PROVIDED IN THE REVERSE MORTGAGE LOAN DOCUMENTS.~~

~~12–1210.~~

~~A MORTGAGE, DEED OF TRUST, OR OTHER INSTRUMENT THAT GRANTS A SECURITY INTEREST IN RESIDENTIAL REAL PROPERTY TO SECURE A REVERSE~~

~~MORTGAGE LOAN SHALL CONTAIN THE FOLLOWING STATEMENT IN 12 POINT BOLDFACE TYPE ON THE FIRST PAGE OF THE INSTRUMENT:~~

~~"THIS INSTRUMENT SECURES A REVERSE MORTGAGE LOAN.".~~

~~12–1211. RESERVED.~~

~~12–1212. RESERVED.~~

~~PART III. SALES OF FINANCIAL AND INSURANCE PRODUCTS.~~

~~12–1213.~~

~~IN THIS PART, "LENDER" INCLUDES A PERSON WHO PARTICIPATES IN THE ORIGINATION OF A REVERSE MORTGAGE LOAN.~~

~~12–1214.~~ 12–1206.

(A) (1) ~~A~~ EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A LENDER OR AN ARRANGER OF FINANCING MAY NOT REQUIRE A BORROWER TO PURCHASE AN ANNUITY, A LONG–TERM CARE POLICY, OR OTHER FINANCIAL OR INSURANCE PRODUCT AS A CONDITION TO OBTAINING A REVERSE MORTGAGE LOAN.

(2) A LENDER OR AN ARRANGER OF FINANCING MAY REQUIRE A BORROWER TO PURCHASE TITLE INSURANCE, HAZARD, FLOOD, OR OTHER PERIL INSURANCE, AND ANY OTHER FINANCIAL OR INSURANCE PRODUCT THAT IS REQUIRED FOR REVERSE MORTGAGE LOANS INSURED UNDER 12 U.S.C. § 1715Z–20.

~~12–1215.~~

~~(A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A LENDER MAY NOT ENGAGE IN, BE AFFILIATED WITH A PERSON WHO ENGAGES IN, OR EMPLOY A PERSON WHO ENGAGES IN THE SELLING OF ANNUITIES, INVESTMENTS, LONG–TERM CARE INSURANCE, OR ANY OTHER FINANCIAL OR INSURANCE PRODUCT.~~

~~(2) A LENDER MAY ENGAGE IN THE ACTIVITIES SPECIFIED IN PARAGRAPH (1) OF THIS SUBSECTION IF THE LENDER MAINTAINS SUFFICIENT PROCEDURAL SAFEGUARDS TO ENSURE THAT INDIVIDUALS INVOLVED IN THE ORIGINATION OF A REVERSE MORTGAGE LOAN HAVE NO INVOLVEMENT WITH, OR INCENTIVE TO PROVIDE A BORROWER WITH, ANY OTHER FINANCIAL OR INSURANCE PRODUCT.~~

(B) A LENDER OR AN ARRANGER OF FINANCING MAY NOT REFER A BORROWER TO ANY PERSON FOR THE PURCHASE OF AN ANNUITY OR ANY OTHER FINANCIAL OR INSURANCE PRODUCT BEFORE THE LATER OF:

(1) THE CLOSING OF THE REVERSE MORTGAGE LOAN; OR

(2) THE EXPIRATION OF THE BORROWER'S RIGHT TO RESCIND THE REVERSE MORTGAGE LOAN AGREEMENT.

(C) THIS SECTION DOES NOT PROHIBIT A LENDER OR AN ARRANGER OF FINANCING FROM OFFERING TO A BORROWER, OR REFERRING A BORROWER TO A PERSON FOR THE PURCHASE OF:

(1) TITLE INSURANCE;

(2) HAZARD, FLOOD, OR OTHER PERIL INSURANCE; OR

(3) ~~SIMILAR~~ OTHER PRODUCTS THAT ARE CUSTOMARY UNDER A REVERSE MORTGAGE LOAN.

~~**12–1216.**~~

~~**A LENDER THAT COMPLIES WITH 12 U.S.C. § 1715Z–20(N)(1) AND (O), INCLUDING ANY REGULATIONS AND GUIDANCE PROMULGATED UNDER THOSE PROVISIONS, SHALL BE DEEMED TO BE IN COMPLIANCE WITH THIS PART III OF THIS SUBTITLE, REGARDLESS OF WHETHER THE REVERSE MORTGAGE LOAN IS INSURED UNDER 12 U.S.C. § 1715Z–20.**~~

~~**12–1217. RESERVED.**~~

~~**12–1218. RESERVED.**~~

~~**PART IV. REQUIRED DISCLOSURES AND COUNSELING.**~~

~~**12–1219.**~~

~~**(A) AT THE TIME A BORROWER COMPLETES AN APPLICATION FOR A REVERSE MORTGAGE LOAN, THE LENDER SHALL PROVIDE THE BORROWER WITH:**~~

~~**(1) THE NOTICE REQUIRED UNDER SUBSECTION (B) OF THIS SECTION;**~~

~~(2) THE CHECKLIST REQUIRED UNDER SUBSECTION (C) OF THIS SECTION; AND~~

~~(3) A LIST OF AT LEAST FIVE COUNSELING AGENCIES.~~

~~(B) A LENDER SHALL PROVIDE A BORROWER WITH THE FOLLOWING NOTICE, IN 16 POINT TYPE OR LARGER:~~

~~"IMPORTANT NOTICE TO~~
~~REVERSE MORTGAGE LOAN APPLICANT~~

~~A REVERSE MORTGAGE LOAN IS A COMPLEX FINANCIAL TRANSACTION. IF YOU DECIDE TO OBTAIN A REVERSE MORTGAGE LOAN, YOU WILL SIGN BINDING LEGAL DOCUMENTS THAT WILL HAVE IMPORTANT LEGAL AND FINANCIAL IMPLICATIONS FOR YOU AND YOUR ESTATE. IT IS THEREFORE IMPORTANT TO UNDERSTAND THE TERMS OF THE REVERSE MORTGAGE LOAN AND ITS EFFECT. BEFORE ENTERING INTO THIS TRANSACTION, YOU ARE ENCOURAGED TO CONSULT WITH AN INDEPENDENT LOAN COUNSELOR. A LIST OF APPROVED COUNSELING AGENCIES WILL BE PROVIDED TO YOU BY THE LENDER.~~

~~SENIOR CITIZEN ADVOCACY GROUPS ADVISE AGAINST USING THE PROCEEDS OF A REVERSE MORTGAGE LOAN TO PURCHASE AN ANNUITY OR RELATED FINANCIAL OR INSURANCE PRODUCTS. IF YOU ARE CONSIDERING USING YOUR PROCEEDS FOR THIS PURPOSE, YOU SHOULD DISCUSS THE FINANCIAL IMPLICATIONS OF DOING SO WITH A COUNSELOR AND YOUR FAMILY MEMBERS.".~~

12–1207.

~~(C)~~ (A) ~~A~~ ON RECEIVING AN APPLICATION FOR A REVERSE MORTGAGE LOAN, A LENDER OR AN ARRANGER OF FINANCING SHALL PROVIDE A PROSPECTIVE BORROWER WITH A WRITTEN CHECKLIST, WRITTEN IN 12 POINT TYPE OR LARGER, ADVISING THE BORROWER TO DISCUSS THE FOLLOWING ISSUES WITH A COUNSELING AGENCY COUNSELOR:

(1) HOW UNEXPECTED MEDICAL OR OTHER EVENTS THAT CAUSE THE BORROWER TO MOVE OUT OF THE BORROWER'S HOME EARLIER THAN ANTICIPATED WILL IMPACT THE TOTAL ANNUAL COST OF THE REVERSE MORTGAGE LOAN;

(2) THE EXTENT TO WHICH THE BORROWER'S FINANCIAL NEEDS WOULD BE BETTER MET BY OPTIONS OTHER THAN A REVERSE MORTGAGE LOAN, INCLUDING LESS COSTLY HOME EQUITY LINES OF CREDIT, PROPERTY TAX DEFERRAL PROGRAMS, OR GOVERNMENTAL AID PROGRAMS;

(3) WHETHER THE BORROWER INTENDS TO USE THE PROCEEDS OF THE REVERSE MORTGAGE LOAN TO PURCHASE AN ANNUITY OR OTHER FINANCIAL OR INSURANCE PRODUCT AND THE CONSEQUENCES OF DOING SO;

(4) THE EFFECT OF REPAYMENT OF THE REVERSE MORTGAGE LOAN ON OTHER RESIDENTS OF THE HOME SECURING THE REVERSE MORTGAGE LOAN AFTER ALL BORROWERS HAVE DIED OR PERMANENTLY LEFT THE HOME;

(5) THE BORROWER'S ABILITY TO FINANCE ROUTINE OR CATASTROPHIC HOME REPAIRS, ESPECIALLY IF MAINTENANCE IS A FACTOR THAT MAY DETERMINE WHEN THE REVERSE MORTGAGE LOAN BECOMES PAYABLE;

(6) THE IMPACT THAT THE REVERSE MORTGAGE LOAN MAY HAVE ON THE BORROWER'S TAX OBLIGATIONS AND ELIGIBILITY FOR GOVERNMENT ASSISTANCE PROGRAMS, AND THE EFFECT THAT LOSING EQUITY IN THE HOME SECURING THE REVERSE MORTGAGE LOAN WILL HAVE ON THE BORROWER'S ESTATE AND HEIRS; AND

(7) THE ABILITY OF THE BORROWER TO FINANCE ALTERNATIVE LIVING ACCOMMODATIONS, SUCH AS ASSISTED LIVING OR LONG–TERM CARE, AFTER THE BORROWER'S EQUITY IS DEPLETED.

~~(D)~~ (B) IF AN INDIVIDUAL OBTAINS COUNSELING ON REVERSE MORTGAGE LOANS FROM A COUNSELING AGENCY BEFORE APPLYING FOR A REVERSE MORTGAGE LOAN, THE COUNSELING AGENCY SHALL PROVIDE THE INDIVIDUAL WITH THE WRITTEN CHECKLIST REQUIRED UNDER SUBSECTION ~~(C)~~ (A) OF THIS SECTION.

~~(E) (1) A COUNSELING AGENCY MAY NOT RECEIVE COMPENSATION, EITHER DIRECTLY OR INDIRECTLY, FROM:~~

~~(I) THE LENDER;~~

~~(II) THE ORIGINATOR OR SERVICER OF THE REVERSE MORTGAGE LOAN; OR~~

~~(III) A PERSON WHO SELLS ANNUITIES, INVESTMENTS, LONG–TERM CARE INSURANCE, OR ANY OTHER FINANCIAL OR INSURANCE PRODUCT.~~

~~(2) THIS SUBSECTION DOES NOT PROHIBIT A COUNSELING AGENCY FROM RECEIVING A CHARITABLE OR PHILANTHROPIC CONTRIBUTION~~

~~THAT IS UNRELATED TO THE OFFERING OR SELLING OF A REVERSE MORTGAGE LOAN.~~

~~12–1220.~~

~~(A) BEFORE CLOSING A REVERSE MORTGAGE LOAN, THE LENDER SHALL PROVIDE THE BORROWER WITH A WRITTEN SUMMARY OF THE PRINCIPAL TERMS AND CONDITIONS OF THE REVERSE MORTGAGE LOAN.~~

~~(B) THE WRITTEN SUMMARY REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL:~~

~~(1) BE PREPARED AS A SEPARATE DOCUMENT;~~

~~(2) BE WRITTEN IN PLAIN LANGUAGE; AND~~

~~(3) INCLUDE:~~

~~(I) THE INTEREST RATE AND WHETHER THE INTEREST RATE IS FIXED OR ADJUSTABLE;~~

~~(II) IF THE INTEREST RATE IS ADJUSTABLE:~~

~~1. THE FREQUENCY OF THE RATE CHANGE AND THE MAXIMUM AMOUNT BY WHICH THE RATE CAN CHANGE IN ANY PERIOD; AND~~

~~2. THE INDEX TO WHICH ANY CHANGES IN THE INTEREST RATE ARE TIED;~~

~~(III) THE TERM OF THE REVERSE MORTGAGE LOAN;~~

~~(IV) THE SCHEDULE OF PAYMENTS PAID OUT DURING THE TERM OF THE REVERSE MORTGAGE LOAN;~~

~~(V) ALL FEES THAT APPLY TO THE REVERSE MORTGAGE LOAN, INCLUDING FEES THAT MAY ACCRUE AFTER IT BECOMES DUE AND PAYABLE; AND~~

~~(VI) THE CONDITIONS UNDER WHICH THE REVERSE MORTGAGE LOAN BECOMES DUE AND PAYABLE.~~

~~12–1221.~~

~~(A) A LENDER MAY NOT MAKE A REVERSE MORTGAGE LOAN OR ASSESS ANY FEES ON A BORROWER UNLESS THE LENDER RECEIVES:~~

~~(1) WRITTEN CERTIFICATION, SIGNED BY THE BORROWER, THAT THE BORROWER HAS:~~

~~(I) RECEIVED COUNSELING FROM A COUNSELING AGENCY; OR~~

~~(II) DECLINED TO RECEIVE COUNSELING; AND~~

~~(2) THE WRITTEN CHECKLIST REQUIRED UNDER § 12–1219(C) OF THIS SUBTITLE, SIGNED BY:~~

~~(I) THE BORROWER; AND~~

~~(II) IF THE BORROWER RECEIVED COUNSELING IN PERSON, THE COUNSELOR.~~

~~(B) IF THE CERTIFICATION REQUIRED UNDER SUBSECTION (A)(1) OF THIS SECTION CERTIFIES THAT THE BORROWER RECEIVED COUNSELING, THE CERTIFICATION SHALL:~~

~~(1) INCLUDE:~~

~~(I) THE DATE ON WHICH THE COUNSELING WAS PROVIDED; AND~~

~~(II) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE COUNSELOR; AND~~

~~(2) BE SIGNED BY THE COUNSELOR.~~

~~(C) THE LENDER SHALL:~~

~~(1) PROVIDE THE BORROWER WITH COPIES OF THE CERTIFICATION AND CHECKLIST; AND~~

~~(2) MAINTAIN THE CERTIFICATION AND CHECKLIST FOR THE TERM OF THE REVERSE MORTGAGE LOAN.~~

~~12–1222. RESERVED.~~

~~12–1223. RESERVED.~~

~~PART V. PENALTIES.~~

~~12–1224.~~

~~(A) EXCEPT FOR A BONA FIDE ERROR OF COMPUTATION, IF A LENDER VIOLATES ANY PROVISION OF THIS SUBTITLE, THE LENDER MAY COLLECT ONLY THE PRINCIPAL AMOUNT OF THE REVERSE MORTGAGE LOAN AND MAY NOT COLLECT ANY INTEREST, COSTS, FEES, OR OTHER CHARGES WITH RESPECT TO THE REVERSE MORTGAGE LOAN.~~

~~(B) IN ADDITION TO THE PENALTY UNDER SUBSECTION (A) OF THIS SECTION, A LENDER WHO KNOWINGLY VIOLATES ANY PROVISION OF THIS SUBTITLE SHALL FORFEIT TO THE BORROWER THREE TIMES THE AMOUNT OF INTEREST AND CHARGES COLLECTED IN EXCESS OF THAT AUTHORIZED BY LAW.~~

~~12–1225.~~

~~A PERSON WHO WILLFULLY 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.~~

12–1208.

(A) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION:

(1) A LENDER OR ARRANGER OF FINANCING FOR A REVERSE MORTGAGE LOAN INSURED UNDER 12 U.S.C. § 1715Z–20 THAT VIOLATES THIS SUBTITLE IS SUBJECT TO THE PENALTIES PROVIDED IN 12 U.S.C. § 1715Z–20, AND IN ANY REGULATIONS AND GUIDANCE ADOPTED UNDER 12 U.S.C. § 1715Z–20; AND

(2) A LENDER OR ARRANGER OF FINANCING FOR A REVERSE MORTGAGE LOAN NOT INSURED UNDER 12 U.S.C. § 1715Z–20 THAT VIOLATES THIS SUBTITLE:

(I) ENGAGES IN AN UNFAIR OR DECEPTIVE TRADE PRACTICE WITHIN THE MEANING OF TITLE 13 OF THIS ARTICLE; AND

(II) IS SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS CONTAINED IN TITLE 13 OF THIS ARTICLE, EXCEPT § 13–411.

(B) A VIOLATION OF THIS SUBTITLE DOES NOT CONSTITUTE A VIOLATION OF ANY OTHER SUBTITLE OF THIS TITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed prospectively to apply only to reverse mortgage loans applied for on or after the effective date of this Act.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 624

(Senate Bill 882)

AN ACT concerning

Gaming – Video Lottery Terminals

FOR the purpose of altering a certain requirement that the State Lottery Commission conduct certain hearings; clarifying the authority of the Video Lottery Facility Location Commission to award video lottery operation licenses under this subtitle; altering a certain requirement to allow certain individuals or business entities to enter into certain agreements; clarifying the authority of the State Lottery Commission to issue certain licenses under this subtitle; authorizing the State Lottery Commission to waive a certain requirement for certain investors; altering the time period for certain licenses issued by the State Lottery Commission; altering certain eligibility criteria and disqualifying criteria used by the State Lottery Commission for a video lottery operation license; providing that certain video lottery terminal operations may begin in a temporary facility under certain circumstances; providing for when the term for a video lottery operation license begins; providing that the admissions and amusement tax does not apply to the operation of video lottery terminals; altering certain requirements for a video lottery facility in Allegany County; altering the distribution of certain proceeds *from a certain account* to a video lottery facility in Allegany County under certain circumstances; clarifying that the Video Lottery Facility Location Commission may reissue a video lottery operation license under certain circumstances; repealing the authority for the *State Racing* Commission to issue a certain racing license for a certain track in Allegany County; making certain provisions of this Act subject to a certain contingency; defining ~~a certain term~~ certain terms; altering certain definitions; making technical changes; and generally relating to the operation of video lottery terminals in the State.

BY repealing and reenacting, with amendments,
Article – State Government

Section 9–1A–01, 9–1A–02(d), 9–1A–04(a), 9–1A–05, 9–1A–07, 9–1A–08, 9–1A–11, 9–1A–13(a), 9–1A–16, 9–1A–20(b), 9–1A–26, 9–1A–27, 9–1A–33(a), and 9–1A–36
Annotated Code of Maryland
(2009 Replacement Volume)

BY repealing and reenacting, without amendments,
Article – State Government
Section 9–1A–02(a) and (b)
Annotated Code of Maryland
(2009 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Business Regulation
Section 11–510
Annotated Code of Maryland
(2004 Replacement Volume and 2009 Supplement)

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

Article – State Government

9–1A–01.

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

(b) "Applicant" means a person who applies for any license required under this subtitle.

(c) "Associated equipment" means hardware located on the licensee's premises that is connected to the video lottery system for the purpose of performing communication, validation, or other functions, but not including the communication facilities of a regulated utility or the video lottery terminals.

(d) "Average payout percentage" means the average percentage of money used by players to play a video lottery terminal that is returned to players of that video lottery terminal.

(E) "AWARD" MEANS THE ACT, BY THE VIDEO LOTTERY FACILITY LOCATION COMMISSION, OF APPROVING THE ISSUANCE OF A VIDEO LOTTERY OPERATION LICENSE BY THE STATE LOTTERY COMMISSION TO AN APPLICANT FOR THE OPERATION OF VIDEO LOTTERY TERMINALS AT A SPECIFIED LOCATION.

[(e)**] (F)** "Background investigation" means a security, criminal, and credit investigation of a person who applies for or who is granted a license under this subtitle.

[(f)**] (G)** "Career offender" means a person whose behavior is pursued in an occupational manner or context for the purpose of economic gain and who utilizes methods that are deemed by the Commission as criminal violations inimical to the interest of the State.

[(g)**] (H)** "Career offender cartel" means a group of persons who operate together as career offenders.

[(h)**] (I)** "Central monitor and control system" means a central system provided to and controlled by the Commission to which video lottery terminals communicate for purposes of:

(1) information retrieval;

(2) retrieval of the win and loss determination from video lottery terminals; and

(3) programs to activate and disable video lottery terminals.

[(i)**] (J)** "Central Repository" means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

[(j)**] (K)** "Commission" means the State Lottery Commission.

[(k)**] (L)** "Control" means the authority to direct the management and policies of an applicant or licensee.

[(l)**] (M)** "Costs" means, unless the context otherwise requires, the expenses incurred by the Commission in the administration of this subtitle, including:

(1) the costs of leasing or the capitalized cost of purchasing the video lottery terminals, central monitor and control system, and associated equipment and software;

(2) the costs to repair and maintain the video lottery terminals, central monitor and control system, and associated equipment and software to the extent these costs are not included in the costs of leasing or purchasing the video lottery terminals, central monitor and control system, and associated equipment and software;

(3) the costs of testing and examination of video lottery terminals and the central monitor and control system; and

(4) the costs of performing background investigations and other related activities.

[(m)**] (N)** "Family" means spouse, parents, grandparents, children, grandchildren, siblings, uncles, aunts, nephews, nieces, fathers–in–law, mothers–in–law, daughters–in–law, sons–in–law, brothers–in–law, and sisters–in–law, whether by whole blood or half blood, by marriage, adoption, or natural relationship.

(O) "INSTITUTIONAL INVESTOR" MEANS:

(1) A RETIREMENT FUND ADMINISTERED BY A PUBLIC AGENCY FOR THE EXCLUSIVE BENEFIT OF FEDERAL, STATE, OR LOCAL PUBLIC EMPLOYEES;

(2) AN INVESTMENT COMPANY REGISTERED UNDER THE INVESTMENT COMPANY ACT OF 1940;

(3) A COLLECTIVE INVESTMENT TRUST ORGANIZED BY BANKS UNDER PART 9 OF THE RULES OF THE COMPTROLLER OF THE CURRENCY;

(4) A CLOSED END INVESTMENT TRUST;

(5) A CHARTERED OR LICENSED LIFE INSURANCE COMPANY;

(6) A PROPERTY AND CASUALTY INSURANCE COMPANY;

(7) A BANKING OR OTHER CHARTERED OR LICENSED LENDING INSTITUTION;

(8) AN INVESTMENT ADVISOR REGISTERED UNDER THE INVESTMENT ADVISORS ACT OF 1940; OR

(9) ANY OTHER PERSON REGISTERED IN ANY FOREIGN JURISDICTION AND REGULATED IN ACCORDANCE WITH A STATUTE OF ANY FOREIGN JURISDICTION THAT THE COMMISSION DETERMINES TO BE SUBSTANTIALLY SIMILAR TO THAT REGULATED BY THE INVESTMENT COMPANY ACT OF 1940 OR THE INVESTMENT ADVISORS ACT OF 1940.

[(n)**] (P)** "License" means, unless the context otherwise requires, a license required under this subtitle.

[(o)**] (Q)** "Licensee" means an applicant who has been issued a license required under this subtitle.

[(p)**] (R)** "Manufacturer" means a person:

(1) that is engaged in the business of designing, building, constructing, assembling, manufacturing, or distributing a central monitor and control system, video lottery terminals, associated equipment or software, or the cabinet in which a video lottery terminal is housed;

(2) that produces a product that is intended for sale, lease, or other assignment to the Commission or a licensee; and

(3) that contracts with the Commission or a licensee for the sale, lease, or other assignment of a product described in paragraph (1) of this subsection.

[(q)**] (S)** "Own" means having a beneficial or proprietary interest of at least **[**10%**] 5%** in the property or business of an applicant or licensee.

[(r)**] (T)** "Player" means an individual who plays a video lottery terminal at a video lottery facility licensed by the Commission.

[(s)**] (U)** (1) "Proceeds" means the part of the amount of money bet through video lottery terminals that is not returned to successful players but is otherwise allocated under this subtitle.

(2) (i) Subject to subparagraph (ii) of this paragraph, "proceeds" does not include money given away by a video lottery operation licensee as free promotional play and used by players to bet in a video lottery terminal.

(ii) After the first fiscal year of operations, the exclusion specified in subparagraph (i) of this paragraph may not exceed a percentage established by the Commission by regulation of the proceeds received in the prior fiscal year by the video lottery operation licensee under § 9–1A–27(a)(2) of this subtitle.

[(t)**] (V)** "Progressive jackpot" means a prize that increases as one or more video lottery terminals are connected to a progressive jackpot system.

[(u)**] (W)** "Progressive jackpot system" means a system capable of linking one or more video lottery terminals in one or more licensed facilities and offering one or more common progressive jackpots.

[(v)**] (X)** "Video lottery" means gaming or betting conducted using a video lottery terminal.

[(w)**] (Y)** "Video lottery destination location" means a location that is eligible for or has been awarded in the manner provided by law a video lottery operation license.

[(x)**] (Z)** "Video lottery employee" means an employee of a person who holds a license.

[(y)**] (AA)** "Video lottery facility" means a facility at which players play video lottery terminals under this subtitle.

[(z)**] (BB)** "Video lottery operation license" means a license **AWARDED BY THE VIDEO LOTTERY FACILITY LOCATION COMMISSION AND** issued **BY THE STATE LOTTERY COMMISSION** to a person that allows players to operate video lottery terminals.

(CC) "VIDEO LOTTERY OPERATOR" MEANS A PERSON LICENSED TO OPERATE A VIDEO LOTTERY FACILITY UNDER THIS SUBTITLE.

[(aa)**] (DD)** (1) "Video lottery terminal" means any machine or other device that, on insertion of a bill, coin, token, voucher, ticket, coupon, or similar item, or on payment of any consideration:

(i) is available to play or simulate the play of any game of chance in which the results, including the options available to the player, are randomly determined by the machine or other device; and

(ii) by the element of chance, may deliver or entitle the player who operates the machine or device to receive cash, premiums, merchandise, tokens, or anything of value, whether the payout is made automatically from the device or in any other manner.

(2) "Video lottery terminal" includes a machine or device:

(i) that does not directly dispense money, tokens, or anything of value to winning players; and

(ii) described under paragraph (1) of this subsection that uses an electronic credit system making the deposit of bills, coins, or tokens unnecessary.

(3) "Video lottery terminal" does not include an authorized slot machine operated by an eligible organization under Title 12, Subtitle 3 of the Criminal Law Article.

9–1A–02.

(a) This subtitle is statewide and exclusive in its effect.

(b) (1) The Commission shall regulate the operation of video lottery terminals in accordance with this subtitle.

(2) The Maryland State Lottery Agency shall provide assistance to the Commission in the performance of the Commission's duties under this subtitle.

(d) Only a person with a video lottery operation license issued **[**by the Commission**]** **UNDER THIS SUBTITLE** may offer a video lottery terminal for public use in the State under this subtitle.

9–1A–04.

(a) The Commission shall:

(1) **[**hear and decide,**]** promptly and in reasonable order, **MAKE A DETERMINATION ON** license applications and causes affecting the granting**[**, suspension, revocation,**]** or renewal of licenses under this subtitle;

(2) ISSUE LICENSES IN ACCORDANCE WITH THIS SUBTITLE;

(3) AFTER A HEARING, PROMPTLY AND IN REASONABLE ORDER, MAKE A DETERMINATION ON THE SUSPENSION OR REVOCATION OF LICENSES UNDER THIS SUBTITLE;

[(2)**] (4)** after a hearing, suspend or revoke as applicable the license of a licensee who has a license suspended or revoked in another state;

[(3)**] (5)** conduct hearings concerning civil violations of this subtitle or regulations issued under this subtitle;

[(4)**] (6)** collect application, license, and other fees to cover the administrative costs of this subtitle related to licensing;

[(5)**] (7)** deposit application, license, and other fees to a bank account that the State Treasurer designates to the credit of the State Lottery Fund to cover the administrative costs of this subtitle related to licensing;

[(6)**] (8)** levy and collect civil penalties for civil violations of the provisions of this subtitle or regulations issued under this subtitle;

[(7)**] (9)** be present at a video lottery operation through its employees and agents at any time during the operation of any video lottery terminal for the purpose of certifying revenue from the video lottery terminals, receiving complaints from the public, and conducting any other investigation into the operation of the video

lottery terminals and the maintenance of the video lottery terminals and associated equipment and software as the Commission may deem necessary and proper; and

[(8)**] (10)** review and rule on any complaint by a licensee regarding any investigative procedures of the Commission that are unnecessarily disruptive of video lottery operations.

9–1A–05.

(a) The Video Lottery Facility Location Commission established under § 9–1A–36 of this subtitle may not:

(1) **[**issue**] AWARD** more than five video lottery operation licenses;

(2) award more than 15,000 video lottery terminals for operation at video lottery facilities in the State; and

(3) subject to the requirements of § 9–1A–36(h) and (i) of this subtitle, award more than 4,750 terminals for operation at any video lottery facility.

(b) An owner or operator of a video lottery destination location described under § 9–1A–01 of this subtitle may submit an application for a video lottery operation license.

(c) A **VIDEO LOTTERY OPERATION** license issued under this subtitle is not valid at a geographic location other than the geographic location **[**of the video lottery destination location at the time the license is issued**] AUTHORIZED IN THE LICENSE AWARDED BY THE VIDEO LOTTERY FACILITY LOCATION COMMISSION AND ISSUED BY THE STATE LOTTERY COMMISSION**.

(d) (1) In this subsection, "owner" includes any type of owner or beneficiary of a business entity, including an officer, director, principal employee, partner, investor, stockholder, or beneficial owner of the business entity and, notwithstanding any other provisions of this subtitle, including a person having any ownership interest regardless of the percentage of ownership interest.

(2) An individual or business entity may not own an interest in more than one video lottery facility.

(3) A member of the Senate of Maryland or the House of Delegates may not be an owner or an employee of any business entity that holds a video lottery operation license.

(4) NOTWITHSTANDING PARAGRAPHS (1) AND (2) OF THIS SUBSECTION, AN INDIVIDUAL OR BUSINESS ENTITY MAY ENTER INTO A MANAGEMENT AGREEMENT TO OPERATE A FACILITY *LOCATED IN ALLEGANY*

COUNTY **THAT IT DOES NOT OWN, SUBJECT TO THE APPROVAL OF THE VIDEO LOTTERY FACILITY LOCATION COMMISSION AND THE STATE LOTTERY COMMISSION.**

9–1A–07.

(a) **[**An**] EXCEPT AS PROVIDED IN § 9–1A–36 OF THIS SUBTITLE, AN** applicant for a license shall submit to the Commission an application:

(1) in the form that the Commission requires; and

(2) on or before the date set by the Commission.

(b) (1) This subsection does not apply to license fees for a video lottery operation license.

(2) The Commission shall by regulation establish a fee for a license under this subtitle.

(3) An applicant shall submit the fee with the application.

(c) (1) Applicants and licensees shall have the affirmative responsibility to establish by clear and convincing evidence the person's qualifications.

(2) Applicants and licensees shall provide information required by this subtitle and satisfy requests for information relating to qualifications in the form specified by the Commission **OR THE VIDEO LOTTERY FACILITY LOCATION COMMISSION, IF APPLICABLE**.

(3) Applicants and licensees shall consent to inspections, searches, and seizures authorized by this subtitle or regulations issued under this subtitle.

(4) (i) Applicants and licensees shall have the continuing duty to:

1. provide assistance or information required by the Commission; and

2. cooperate in an inquiry, investigation, or hearing conducted by the Commission.

(ii) On issuance of a formal request to answer or produce information, evidence, or testimony, if an applicant or licensee refuses to comply, the application or license of the person may be denied, suspended, or revoked by the Commission.

(5) (i) If the applicant is an individual, the applicant shall be photographed and fingerprinted for identification and investigation purposes.

(ii) If the applicant is not an individual, the Commission by regulation may establish the categories of individuals who shall be photographed and fingerprinted for identification and investigation purposes.

(6) (i) Applicants and licensees shall have a duty to inform the Commission of an act or omission that the person knows or should know constitutes a violation of this subtitle or the regulations issued under this subtitle.

(ii) Applicants and licensees may not discriminate against a person who in good faith informs the Commission of an act or omission that the person believes constitutes a violation of this subtitle or the regulations issued under this subtitle.

(7) Applicants and licensees shall produce information, documentation, and assurances to establish the following qualification criteria by clear and convincing evidence:

(i) the financial stability, integrity, and responsibility of the applicant or licensee;

(ii) the integrity of any financial backers, investors, mortgagees, bondholders, and holders of other evidences of indebtedness that bear a relation to the application;

(iii) the applicant's or licensee's good character, honesty, and integrity;

(iv) sufficient business ability and experience of the applicant or licensee; and

(v) that:

1. the applicant or licensee has entered into a labor peace agreement with each labor organization that is actively engaged in representing or attempting to represent video lottery and hospitality industry workers in the State;

2. the labor peace agreement is valid and enforceable under 29 U.S.C. § 185;

3. the labor peace agreement protects the State's revenues by prohibiting the labor organization and its members from engaging in picketing, work stoppages, boycotts, and any other economic interference with the operation of the video lottery facility within the first 5 years of the effective date of the video lottery operation license; and

4. the labor peace agreement applies to all operations at the video lottery facility that are conducted by a lessee or tenant or under a management agreement.

(d) On the filing of an application for any license required under this subtitle and any supplemental information required by the Commission, the Commission shall:

(1) refer the application to the Department of State Police or an approved vendor under § 9–1A–20 of this subtitle to conduct a background investigation on the qualifications of the applicant and any person who is required to be qualified under this subtitle as a condition of a license; and

(2) if the applicant is applying for a video lottery operation license, conduct a hearing on the qualifications of the applicant and any person who is required to be qualified under this subtitle as a condition of a license.

(e) (1) **[**After**]** **EXCEPT FOR A VIDEO LOTTERY OPERATION LICENSE, AFTER** receiving the results of the background investigation **[**and conducting any hearing required under this subtitle**]**, the Commission may either grant a license to an applicant whom the Commission determines to be qualified or deny the license to an applicant whom the Commission determines to be not qualified or disqualified.

(2) If an application for a license is denied, the Commission shall prepare and file an order denying the license with a statement of the reasons for the denial, including the specific findings of fact.

(f) **(1)** Except **FOR A VIDEO LOTTERY OPERATION LICENSE** as provided in § 9–1A–13 of this subtitle, if satisfied that an applicant is qualified to receive a license, and on tender of all required application, license, and other fees and taxes, and any bond required under § 9–1A–04(e) of this subtitle, the Commission shall issue a license for a term of **[**1 year**]** **3 YEARS**.

(2) THE COMMISSION MAY STAGGER THE TERMS OF LICENSES.

(g) (1) An individual may not knowingly give false information or make a material misstatement in an application required for any license under this subtitle or in any supplemental information required by the Commission.

(2) An individual who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding $5,000 or both.

9–1A–08.

(a) In addition to other information required by this subtitle, a business entity applying for a video lottery operation license shall provide the following information:

(1) the organization, financial structure, and nature of all businesses operated by the business entity;

(2) the names, personal employment, and, when applicable, criminal histories of the officers, directors, partners, and principal employees of the business entity;

(3) the names of all holding, intermediary, and subsidiary companies or other similar business entities of the business entity;

(4) the organization, financial structure, and nature of all businesses operated by the business entity's holding, intermediary, and subsidiary companies or other similar business entities;

(5) the rights and privileges acquired by the holders of different classes of authorized securities, partnership interests, or other similar ownership interests of the business entity and its holding, intermediary, and subsidiary companies or other similar business entities;

(6) the terms on which the securities, partnership interests, or other similar ownership interests have been or are to be offered;

(7) the terms and conditions of all outstanding loans, mortgages, trust deeds, pledges, or other indebtedness or security devices utilized by the business entity;

(8) the extent of the equity security holding in the business entity of the officers, directors, partners, and underwriters and their remuneration in the form of salary, wages, fees, or otherwise;

(9) the names of persons other than the directors and officers who occupy positions specified by the Commission or whose compensation exceeds an amount determined by the Commission;

(10) the names of persons who own or control the business entity;

(11) a description of all bonus and profit sharing arrangements;

(12) copies of management and service contracts; and

(13) a listing of stock options.

(b) If a business entity that applies for a video lottery operation license is a subsidiary or if a business entity holding a video lottery operation license is to become a subsidiary, each holding company and each intermediary company with respect to the business entity shall, as a condition of the subsidiary acquiring or retaining a video lottery operation license:

(1) qualify to do business in the State; or

(2) furnish the Commission with the information required under subsection (a) of this section and other information that the Commission **OR THE VIDEO LOTTERY FACILITY LOCATION COMMISSION** may require.

(c) **(1)** **[**An**]** **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, AN** individual applying for a video lottery operation license shall provide, to the extent applicable to an individual, the information required under subsection (a) of this section in the form required by the Commission.

(2) THE COMMISSION MAY WAIVE THE REQUIREMENT TO PROVIDE THE INFORMATION REQUIRED UNDER SUBSECTION (A) OF THIS SECTION FOR AN INSTITUTIONAL INVESTOR.

(d) The Commission shall **[**deny**]** **DISQUALIFY AN APPLICANT FOR** a video lottery operation license **[**to an applicant who is disqualified**]** on the basis of any of the following criteria:

(1) failure of the applicant to prove by clear and convincing evidence that the applicant and each person who owns or controls the application are qualified under the provisions of this subtitle;

(2) failure of the applicant or any person required to be qualified under this subtitle as a condition of a license to provide information, documentation, and assurances required by this subtitle or requested by the Commission;

(3) failure of the applicant or any person required to be qualified under this subtitle as a condition of a license to reveal any fact material to qualification;

(4) supplying, by the applicant or any person required to be qualified under this subtitle as a condition of a license, information that is untrue or misleading as to a material fact concerning the qualification criteria;

(5) conviction of the applicant or of any person required to be qualified under this subtitle as a condition of a license of an offense under the laws of the United States or any jurisdiction within the United States that is a criminal offense involving moral turpitude or a gambling offense;

(6) current prosecution of the applicant or a person who is required to be qualified under this subtitle as a condition of a license for an offense described under item (5) of this subsection, provided that, at the request of the applicant, the Commission may defer its decision on the application during the pendency of the charge;

(7) pursuit by the applicant or a person who is required to be qualified under this subtitle as a condition of a license of economic gain in an occupational manner or context that is in violation of the laws of the State, if the pursuit creates a reasonable belief that participation of the applicant in video lottery operations would be inimical to the policies of this subtitle;

(8) identification of the applicant or a person who is required to be qualified under this subtitle as a condition of a license as a career offender or a member of a career offender cartel or an associate of a career offender or career offender cartel in a manner that creates a reasonable belief that the association is of a nature as to be inimical to the policies of this subtitle;

(9) the committing of an act by the applicant or a person who is required to be qualified under this subtitle as a condition of a license that would constitute an offense described under item (5) of this subsection, even if the act has not been or may not be prosecuted under the criminal laws of the State; **AND**

(10) willful defiance by the applicant or a person who is required to be qualified under this subtitle as a condition of a license of a legislative investigatory body or other official investigatory body of the United States or a jurisdiction within the United States when the body is engaged in the investigation of crimes relating to gambling, official corruption, or organized crime activity**[**; and

(11) any other reason established in regulations of the Commission as a reason for denying a license**]**.

9–1A–11.

(a) Any video lottery operation licenses not issued **OR AWARDED** for a location authorized under this subtitle shall automatically revert to the State.

(b) (1) Except as provided in paragraph (2) of this subsection, a licensee shall commence operation of video lottery terminals in a permanent facility at the location for which the video lottery operation license has been **[**issued**]** **AWARDED** within 18 months after the license is **[**issued**]** **AWARDED**.

(2) (i) On a determination by the Commission that extenuating circumstances exist that are beyond the control of **[**a licensee**]** **AN AWARDEE** and have prevented the **[**licensee**]** **AWARDEE** from complying with the requirements of

paragraph (1) of this subsection, the Commission may allow the **[**licensee**]** **AWARDEE** an extension of 6 months to comply with the requirements.

(ii) The Commission may not grant more than two extensions to **[**a licensee**]** **AN AWARDEE** under this paragraph.

(3) If a video lottery operation **[**licensee**]** **AWARDEE** fails to comply with the requirements of this subsection, the license **[**issued**]** **AWARDED** to the **[**licensee**]** **AWARDEE** shall be revoked and shall automatically revert to the State.

(c) (1) Nothing in this subtitle may be construed to prohibit a video lottery operation licensee that is **[**awarded**]** **ISSUED** a license **[**at a racetrack location**]** from beginning video lottery terminal operations in a temporary facility that meets the minimum requirements established in regulations adopted by the State Lottery Commission.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, a video lottery operation licensee **[**at a racetrack location**]** shall be operational in a permanent facility no later than 30 months after the ~~issuance~~ ***AWARD*** of the video lottery operation license.

(D) FOR A LOCATION IN ALLEGANY COUNTY, VIDEO LOTTERY TERMINALS MAY BE TEMPORARILY LOCATED IN THE ROCKY GAP LODGE AND RESORT UNTIL A PERMANENT FACILITY IS CONSTRUCTED, SUBJECT TO THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION.

9–1A–13.

(a) The initial term of a video lottery operation license is 15 years **FROM THE DATE ON WHICH THE VIDEO LOTTERY FACILITY** ~~**BECOMES OPERATIONAL IN A TEMPORARY OR PERMANENT FACILITY**~~ ***IS ISSUED THE LICENSE BY THE COMMISSION***.

9–1A–16.

(a) For all licenses required under this subtitle other than a video lottery operation license, if an applicant or licensee holds a valid license in another state and the Commission determines that the licensing standards of the other state are comprehensive, thorough, and provide similar adequate safeguards to those provided in this subtitle, the Commission may:

(1) waive some or all of the requirements of this subtitle; and

(2) issue a license to a person having a similar license in another state.

(b) (1) Except as provided in subsection (c) of this section, on the request of an applicant, the Commission may grant an exemption or waiver of a licensing requirement or grounds for denial of a license if the Commission determines that the requirement or grounds for denial of a license as applied to the applicant are not necessary in order to protect the public interest or accomplish the policies established by this subtitle.

(2) On granting to an applicant an exemption or waiver of a licensing requirement or grounds for denial of a license, or at any time after a waiver or exemption has been granted, the Commission may:

(i) limit or place restrictions on the exemption or waiver as the Commission considers necessary in the public interest; and

(ii) require the person that is granted the exemption or waiver to cooperate with the Commission and to provide the Commission with any additional information required by the Commission as a condition of the waiver or exemption.

(c) The Commission may not waive any of the requirements of this subtitle **[**for issuance of**]** **RELATED TO** a video lottery operation license.

9–1A–20.

(b) The Department of State Police or an approved vendor shall:

(1) conduct a background investigation in a timely manner of:

(i) **AN APPLICANT FOR** a video lottery **[**terminal**]** operation **[**licensee**]** **LICENSE**;

(ii) a video lottery operator; and

(iii) any other applicant the Commission considers necessary; and

(2) cooperate with the Commission in obtaining and providing the necessary background investigation information.

9–1A–26.

(a) **(1)** **[**All**]** **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, ALL** proceeds from the operation of video lottery terminals shall be electronically transferred daily into the State Lottery Fund established under Subtitle 3 of this title and distributed as provided under § 9–1A–27 of this subtitle.

(2) THE REQUIREMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY ON A DAY WHEN STATE GOVERNMENT IS CLOSED.

(b) (1) The Commission shall account to the Comptroller for all of the revenue under this subtitle.

(2) The proceeds from video lottery terminals shall be under the control of the Comptroller and shall be distributed as provided under § 9–1A–27 of this subtitle.

(C) THE ADMISSIONS AND AMUSEMENT TAX MAY NOT BE IMPOSED ON ANY PROCEEDS FROM THE OPERATION OF VIDEO LOTTERY TERMINALS.

9–1A–27.

(a) On a properly approved transmittal prepared by the Commission, the Comptroller shall pay the following amounts from the proceeds of video lottery terminals at each video lottery facility:

(1) 2% to the State Lottery Agency for costs as defined in § 9–1A–01 of this subtitle;

(2) ~~to~~ **EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, TO** the video lottery operation licensee, the percentage stated in the accepted **[**bid**] APPLICATION** for the location, not to exceed 33%;

(3) 5.5% in local impact grants, in accordance with § 9–1A–31 of this subtitle;

(4) 7% to the Purse Dedication Account established under § 9–1A–28 of this subtitle, not to exceed a total of $100,000,000 to the Account annually;

(5) ***(I) EXCEPT AS PROVIDED IN ITEM (II) OF THIS ITEM,*** for the first 8 years of operations at a video lottery facility, 2.5% to the Racetrack Facility Renewal Account established under § 9–1A–29 of this subtitle, not to exceed a total of $40,000,000 to the Account annually;

(II) FOR THE FIRST 5 YEARS OF OPERATIONS AT A VIDEO LOTTERY FACILITY IN ALLEGANY COUNTY, 2.5% TO THE VIDEO LOTTERY OPERATION LICENSEE THAT SATISFIES THE REQUIREMENT UNDER SUBSECTION (B) OF THIS SECTION;

(6) 1.5% to the Small, Minority, and Women–Owned Businesses Account established under § 9–1A–35 of this subtitle; and

(7) the remainder to the Education Trust Fund established under § 9–1A–30 of this subtitle.

(B) ~~FOR A LOCATION~~ ***FOR THE FIRST 5 YEARS OF OPERATIONS AT A VIDEO LOTTERY FACILITY*** **IN ALLEGANY COUNTY, THE COMPTROLLER SHALL PAY TO THE VIDEO LOTTERY OPERATION LICENSEE, ON A PROPERLY APPROVED TRANSMITTAL PREPARED BY THE COMMISSION, THE** ~~PERCENTAGE~~ ***PERCENTAGES AUTHORIZED IN SUBSECTION (A)(2) AND (5)(II) OF THIS SECTION AS*** **STATED IN THE ACCEPTED APPLICATION FOR THE LOCATION:**

~~(1)~~ ~~(I)~~ ~~NOT TO EXCEED 35.5% FOR 5 YEARS~~**, IF THE APPLICANT** ***THAT IS AWARDED THE*** ~~FOR A~~ **VIDEO LOTTERY OPERATION LICENSE AGREES TO PURCHASE THE ROCKY GAP LODGE AND RESORT**~~; AND~~**.**

~~(II) NOT TO EXCEED 33% AFTER THE 5-YEAR PERIOD UNDER ITEM (I) OF THIS PARAGRAPH; OR~~

~~(2) NOT TO EXCEED 33% IF THE VIDEO LOTTERY OPERATION AWARDEE DOES NOT PURCHASE THE ROCKY GAP LODGE AND RESORT.~~

~~(b)~~ **(C)** (1) If the costs of the State Lottery Agency are less than the proceeds specified in subsection (a)(1) of this section, any amount not distributed to the State Lottery Agency shall be paid to the Education Trust Fund established under § 9–1A–30 of this subtitle.

(2) The costs of the Commission shall be as provided in the State budget.

9–1A–33.

(a) The Commission shall:

(1) establish an annual fee of $425, to be paid by each video lottery operation licensee, for each video lottery **[**position**]** **TERMINAL** operated by the licensee during the year, based on the maximum number of terminal positions in use during the year; and

(2) distribute the fees collected under item (1) of this subsection to the Problem Gambling Fund established in subsection (b) of this section.

9–1A–36.

(a) There is a Video Lottery Facility Location Commission.

(b) (1) The Video Lottery Facility Location Commission consists of seven members.

(2) (i) Three of the members shall be appointed by the Governor.

(ii) Two of the members shall be appointed by the President of the Senate but may not be members of the Senate of Maryland.

(iii) Two of the members shall be appointed by the Speaker of the House of Delegates but may not be members of the House.

(3) The membership of the Video Lottery Facility Location Commission appointed under this subsection should reflect the race, gender, and geographic diversity of the population of the State.

(4) One of the members appointed by the Governor shall be the chair of the Video Lottery Facility Location Commission.

(5) The Governor, in consultation with the President of the Senate and the Speaker of the House of Delegates, may remove a member of the Video Lottery Facility Location Commission for inefficiency, misconduct in office, or neglect of duty.

(c) A member of the Video Lottery Facility Location Commission:

(1) shall be at least 21 years of age;

(2) shall be a citizen of the United States;

(3) shall be a resident of the State;

(4) shall be knowledgeable and experienced in fiscal matters and shall have at least 10 years substantial experience:

(i) as an executive with fiduciary responsibilities in charge of a large organization or foundation;

(ii) in an academic field relating to finance or economics; or

(iii) as an economist, financial analyst, or accountant, or as a professional in a similar profession relating to fiscal matters or economics;

(5) may not have been convicted of or granted probation before judgment for a serious crime or a crime that involves gambling or moral turpitude;

(6) may not have an official relationship to a person that holds a license under this subtitle;

(7) may not have any direct or indirect financial interest, ownership, or management, including holding any stocks, bonds, or other similar financial

interests in any gaming activities, including horse racing, video lottery terminals, or lottery;

(8) may not receive or share in, directly or indirectly, the receipts or proceeds of any gaming activities, including horse racing or lottery;

(9) may not have a beneficial interest in any contract for the manufacture or sale of gaming devices, the conduct of any gaming activity, or the provision of any independent consulting services in connection with any gaming establishment or gaming activity;

(10) may not be an elected official of State or local government; and

(11) shall file a financial disclosure statement with the State Ethics Commission in accordance with Title 15, Subtitle 6 of this article.

(d) A member of the Video Lottery Facility Location Commission:

(1) may not receive compensation for serving on the Video Lottery Facility Location Commission; but

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

(e) (1) The Commission and the Department of Legislative Services shall provide staff to the Video Lottery Facility Location Commission.

(2) The Department of Legislative Services shall contract with an independent consultant that has at least 10 years substantial experience in consulting on matters relating to the gaming industry to assist and advise the Video Lottery Facility Location Commission in the review and analysis of **[**bids**]** **APPLICATIONS** submitted under this section.

(f) The Video Lottery Facility Location Commission may award not more than five video lottery operation licenses to qualified **[**bidders**]** **APPLICANTS**, through a competitive **[**bidding**]** process consistent with the process for competitive sealed proposals under Title 13 of the State Finance and Procurement Article.

(g) The Video Lottery Facility Location Commission may not award more than one video lottery facility operation license in a single county or Baltimore City.

(h) (1) In order to qualify for a video lottery operation license **[**for a video lottery destination location**]** under this section, a proposed video lottery facility shall be located in one of the following counties:

(i) a location in Anne Arundel County, within 2 miles of MD Route 295;

(ii) a location in Cecil County, within 2 miles of Interstate 95;

(iii) **EXCEPT AS PROVIDED IN § 9–1A–11(D) OF THIS SUBTITLE,** a location on State property associated with the Rocky Gap State Park in Allegany County that shall be in a **SEPARATE** building that **[**is physically separate from**]** **MAY BE ADJACENT OR CONNECTED TO** the Rocky Gap Lodge and Golf Resort;

(iv) a location in Worcester County, within 1 mile of the intersection of Route 50 and Route 589; or

(v) a location in Baltimore City that is:

1. located:

A. in a nonresidential area;

B. within one–half mile of Interstate 95;

C. within one–half mile of MD Route 295; and

D. on property that is owned by Baltimore City on the date on which the application for a video lottery operation license is submitted; and

2. not adjacent to or within one–quarter mile of property that is:

A. zoned for residential use; and

B. used for a residential dwelling on the date the application for a video lottery operation license is submitted.

(2) Nothing in **[**paragraph (1)(v)1D of this subsection**]** **THIS SUBTITLE** may be construed to preempt the exclusive authority of the Video Lottery Facility Location Commission to award video lottery operation licenses in accordance with this subtitle.

(3) (i) With respect to a video lottery operation license **[**issued for**]** **AWARDED TO** a location under paragraph (1)(iv) of this subsection, the holder of the video lottery operation license or any other person with a direct or indirect legal or financial interest in the Ocean Downs racetrack or video lottery facility may not:

1. build any type of hotel, motel, or other public lodging accommodation on or within 10 miles of the property owned by the holder of the license on which a video lottery facility is operated;

2. convert an existing facility on or within 10 miles of the property described in item 1 of this subparagraph into any type of hotel, motel, or other public lodging accommodation;

3. build or operate a conference center or convention center, amusement park, amusement rides, arcade, or miniature golf course on or within 10 miles of the property described in item 1 of this subparagraph; or

4. offer to patrons of the video lottery facility the playing of live music, floor shows, dancing, dancing exhibitions, performances, or any other form of live entertainment in or near the video lottery facility, provided that the holder of the video lottery operation license for the location under paragraph (1)(iv) of this subsection or another person with a direct or indirect legal or financial interest in the Ocean Downs racetrack or the video lottery facility may allow:

A. live fireworks displays to be conducted on the property; and

B. a single piano that is played by an individual.

(ii) The prohibitions under subparagraph (i) of this paragraph apply to any subsequent holder of a video lottery operation license **[**issued**]** **AWARDED** under paragraph (1)(iv) of this subsection.

(i) (1) Except as provided in paragraphs (2) and (3) of this subsection, the Video Lottery Facility Location Commission may not allocate more than the following number of video lottery terminals for:

(i) a location in Anne Arundel County – 4,750 video lottery terminals;

(ii) a location in Baltimore City – 3,750 video lottery terminals;

(iii) a location in Cecil County – 2,500 video lottery terminals;

(iv) a location in Rocky Gap State Park (Allegany County) – 1,500 video lottery terminals; and

(v) a location in Worcester County – 2,500 video lottery terminals.

(2) The Video Lottery Facility Location Commission may allocate video lottery terminals in a manner that is different from the allocation provided in

paragraph (1) of this subsection on a determination that the market factors and other factors evaluated under subsection (k) of this section warrant the different allocation, provided that no one location may be allocated more than 4,750 video lottery terminals.

(3) (i) Beginning with the termination date for the Video Lottery Facility Location Commission and every 3 years thereafter, if all of the video lottery terminals authorized under this subtitle are not allocated or have been allocated but are not in regular operation, the State Lottery Commission may allocate or reallocate video lottery terminals to video lottery operation licensees in a manner that ensures that the highest potential revenues are achieved.

(ii) In determining the highest potential revenues to be achieved by additional video lottery terminals at each potential location, the State Lottery Commission shall consider the market performance of the existing video lottery terminals at each location.

(j) (1) **[**A bid**] AN APPLICATION** submitted for a video lottery operation license **[**at a video lottery destination location**]** under this section **[**shall be submitted by February 1, 2009, and**]** shall include an initial license fee in the **[**bid**] APPLICATION** of at least $3,000,000 for each 500 video lottery terminals included in the **[**bid**] APPLICATION**.

(2) All initial license fees submitted under this subtitle shall accrue to the Education Trust Fund established under § 9–1A–30 of this subtitle.

(3) **[**A bid**] AN APPLICATION** submitted for a video lottery operation license under this section shall provide for at least $25,000,000 in direct investment by the applicant in construction and related costs for each 500 video lottery terminals contained in the proposed **[**bid**] APPLICATION** that shall be prorated based on the exact number of video lottery terminals contained in the **[**bid**] APPLICATION**.

(k) (1) In awarding a video lottery operation license, the Video Lottery Facility Location Commission shall evaluate the factors under this subsection in the manner specified.

(2) The decision by the Video Lottery Facility Location Commission to award a license shall be weighted by 70% based on business and market factors including:

(i) the highest potential benefit and highest prospective total revenues to be derived by the State;

(ii) the potential revenues from a proposed location based on a market analysis;

(iii) the extent to which the proposed location encourages Maryland gaming participants to remain in the State;

(iv) the extent to which the proposed location demonstrates that the facility will be a substantial regional and national tourist destination;

(v) the proposed facility capital construction plans and competitiveness of the proposed facility;

(vi) the amount of gross revenues to be allocated to the **VIDEO LOTTERY** operator over the term of the license;

(vii) the percent of ownership by entities meeting the definition of minority business enterprise under Title 14, Subtitle 3 of the State Finance and Procurement Article;

(viii) the extent to which the proposed location will preserve existing Maryland jobs and the number of net new jobs to be created; and

(ix) the contents of the licensee's plan to achieve minority business participation goals in accordance with the requirements described under § 9–1A–10(a)(1) and (2) of this subtitle.

(3) The decision by the Video Lottery Facility Location Commission to award a license shall be weighted by 15% based on economic development factors, including:

(i) the anticipated wages and benefits for new jobs to be created; and

(ii) any additional economic development planned in the area of the proposed facility.

(4) The decision by the Video Lottery Facility Location Commission to award a license shall be weighted by 15% based on location siting factors, including:

(i) the existing transportation infrastructure surrounding the proposed facility location;

(ii) the negative impact, if any, of a proposed facility location on the surrounding residential community; and

(iii) the need for additional public infrastructure expenditures at the proposed facility.

(l) The Video Lottery Facility Location Commission may not award a video lottery operation license to a person that is not qualified under this section or this subtitle.

(m) (1) The Video Lottery Facility Location Commission shall refer to the State Lottery Commission the name and all relevant information concerning a person that makes **[**a bid**]** **AN APPLICATION** under this section.

(2) On receipt of the information in paragraph (1) of this subsection, the State Lottery Commission shall **[**determine**]** **EVALUATE** whether **[**a bidder**]** **AN APPLICANT** is qualified to hold a video lottery operation license under this subtitle.

(3) On completion of its determination, the State Lottery Commission shall notify the Video Lottery Facility Location Commission of **[**the determination**]** **ITS EVALUATION** as to whether **[**a bidder**]** **AN APPLICANT** is qualified to hold a video lottery operation license under this subtitle.

(N) AFTER AN AWARD OF A VIDEO LOTTERY OPERATION LICENSE UNDER THIS SECTION, THE VIDEO LOTTERY FACILITY LOCATION COMMISSION SHALL NOTIFY THE STATE LOTTERY COMMISSION OF THE SUCCESSFUL APPLICANTS.

[(n)**]** **(O)** After **AN** award of a video lottery operation license under this section, the State Lottery Commission shall**:**

(1) ISSUE THE VIDEO LOTTERY OPERATION LICENSE; AND

(2) be responsible for all matters relating to regulation of the licensee.

[(o)**]** **(P)** An unsuccessful **[**bidder**]** **APPLICANT** for a video lottery operation license under this section may seek, under Title 15 of the State Finance and Procurement Article, review by the State Board of Contract Appeals of the awarding of the video lottery operation license by the Video Lottery Facility Location Commission.

[(p)**]** **(Q)** (1) Nothing in this subtitle may be construed to require the Video Lottery Facility Location Commission to **[**issue**]** **AWARD** all five video lottery operation licenses authorized under this subtitle.

(2) Notwithstanding any of the provisions of this subtitle, the Video Lottery Facility Location Commission may not award a video lottery operation license under this subtitle unless the Video Lottery Facility Location Commission determines and declares that **[**a bid**]** **AN APPLICANT** selected for award of the license is in the public interest and is consistent with the purposes of this subtitle.

[(q)**] (R)** The Video Lottery Facility Location Commission may **[**reissue**] AWARD** a video lottery operation license that is revoked or surrendered utilizing the criteria established in this subtitle.

[(r)**] (S)** (1) Except as provided in paragraph (2) of this subsection, the Video Lottery Facility Location Commission shall terminate on January 1, 2015.

(2) The Governor may reconstitute the Video Lottery Facility Location Commission, which shall include the appointment of new members based on the criteria established under subsections (b) and (c) of this section:

(i) one year prior to the expiration of a video lottery operation license; or

(ii) following the revocation or surrender of a video lottery operation license.

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

Article – Business Regulation

11–510.

(a) Except as provided in subsection (b) of this section, the Commission may not issue a license, or award racing days, for racing at a mile track.

(b) The Commission may issue a license and award racing days only to:

(1) the Maryland Jockey Club of Baltimore City, Inc.; **AND**

(2) the Laurel Racing Assoc., Inc.**[**; and

(3) one other racing association for racing at a track located in Allegany County that is owned and operated by the racing association.**]**

SECTION 3. AND BE IT FURTHER ENACTED, That, Section 2 of this Act shall take effect contingent on the purchase of the Rocky Gap Lodge and Resort, located in Allegany County, by a video lottery operation licensee, and if a video lottery operation license awardee does not agree to purchase the Rocky Gap Lodge and Resort, *Section 2 of* this Act shall be null and void without the necessity of further action by the General Assembly.

SECTION ~~2.~~ 4. AND BE IT FURTHER ENACTED, That, except as provided in Section 3 of this Act, this Act shall take effect June 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 625

(Senate Bill 885)

AN ACT concerning

Health – Administrative Service Provider Contracts – Contracting Provider Definition

FOR the purpose of excluding a medical laboratory, as defined by a certain provision of law, from the definition of "contracting provider" as it concerns provisions of law relating to health maintenance organizations and certain administrative service provider contracts; and generally relating to administrative service provider contracts.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 19–713.2(a)
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – Health – General

19–713.2.

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

(2) "Administrative service provider contract" means a contract or capitation agreement between a health maintenance organization and a contracting provider which includes requirements that:

(i) The contracting provider accept payments from a health maintenance organization for health care services to be provided to members of the health maintenance organization that the contracting provider arranges to be provided by external providers; and

(ii) The contracting provider administer payments pursuant to the contract with the health maintenance organization for the health care services to the external providers.

(3) **(I)** "Contracting provider" means a person who enters into an administrative service provider contract with a health maintenance organization.

(II) "CONTRACTING PROVIDER" DOES NOT INCLUDE A MEDICAL LABORATORY AS DEFINED IN § 17–201 OF THIS ARTICLE.

(4) "External provider" means a health care provider, including a physician or hospital, who is not:

(i) A contracting provider; or

(ii) An employee, shareholder, or partner of a contracting provider.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 626

(House Bill 261)

AN ACT concerning

Health – Administrative Service Provider Contracts – Contracting Provider Definition

FOR the purpose of excluding a medical laboratory, as defined by a certain provision of law, from the definition of "contracting provider" as it concerns provisions of law relating to health maintenance organizations and certain administrative service provider contracts; and generally relating to administrative service provider contracts.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 19–713.2(a)
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – Health – General

19–713.2.

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

(2) "Administrative service provider contract" means a contract or capitation agreement between a health maintenance organization and a contracting provider which includes requirements that:

(i) The contracting provider accept payments from a health maintenance organization for health care services to be provided to members of the health maintenance organization that the contracting provider arranges to be provided by external providers; and

(ii) The contracting provider administer payments pursuant to the contract with the health maintenance organization for the health care services to the external providers.

(3) **(I)** "Contracting provider" means a person who enters into an administrative service provider contract with a health maintenance organization.

(II) "CONTRACTING PROVIDER" DOES NOT INCLUDE A MEDICAL LABORATORY AS DEFINED IN § 17–201 OF THIS ARTICLE.

(4) "External provider" means a health care provider, including a physician or hospital, who is not:

(i) A contracting provider; or

(ii) An employee, shareholder, or partner of a contracting provider.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 627

(Senate Bill 886)

AN ACT concerning

Financial Institutions – Credit Unions and Depository Institutions – Authority to Conduct Savings Promotion Raffles

FOR the purpose of authorizing a credit union, subject to the approval of the Commissioner of Financial Regulation, to conduct a savings promotion raffle for the exclusive benefit of eligible members of the credit union; authorizing a depository institution to conduct a savings promotion raffle for the exclusive benefit of eligible customers of the depository institution; specifying the conditions under which a credit union and a depository institution may conduct a savings promotion raffle; exempting ~~a~~ certain savings promotion ~~raffle~~ raffles from certain provisions of law relating to the award of prizes by chance; authorizing the Commissioner to take certain actions relating to a savings promotion raffle; authorizing a certain credit union and a certain depository institution to conduct a savings promotion raffle notwithstanding any other provision of the Criminal Law Article; defining certain terms; making this Act subject to a certain contingency; requiring the Commissioner to monitor certain federal action and give certain notice to the Department of Legislative Services at a certain time; providing for the termination of this Act under certain circumstances; and generally relating to ~~credit unions and~~ savings promotion raffles.

BY repealing and reenacting, with amendments,
Article – Commercial Law
Section 13–305
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 12–106
Annotated Code of Maryland
(2002 Volume and 2009 Supplement)

BY adding to
Article – Financial Institutions
Section 1–211 and 6–716
Annotated Code of Maryland
(2003 Replacement Volume and 2009 Supplement)

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

Article – Commercial Law

13–305.

(a) This section does not apply to:

(1) Trading stamps, as defined by § 13–101 of the Business Regulation Article;

(2) State lottery tickets issued under the authority of Title 9, Subtitle 1 of the State Government Article;

(3) Retail promotions, not involving the offer of gifts and prizes, which offer savings on consumer goods or services including "one–cent sales", "two–for–the–price–of–one–sales", or manufacturer's "cents–off" coupons; **[**or**]**

(4) Games of skill competition not involving sales promotion efforts**; OR**

(5) A SAVINGS PROMOTION RAFFLE CONDUCTED BY A CREDIT UNION UNDER § 6–716 OF THE FINANCIAL INSTITUTIONS ARTICLE <u>OR BY A DEPOSITORY INSTITUTION UNDER § 1–211 OF THE FINANCIAL INSTITUTIONS ARTICLE</u>.

(b) A person may not notify any other person by any means, as part of an advertising scheme or plan, that the other person has won a prize, received an award, or has been selected or is eligible to receive anything of value if the other person is required to purchase goods or services, pay any money to participate in, or submit to a sales promotion effort.

(c) In addition to the exceptions provided in subsection (a) of this section, subsection (b) of this section does not prohibit the offer of prizes requiring the person to purchase other goods and services if the retail price of the prize offered does not exceed the greater of:

(1) $40; or

(2) The lesser of:

(i) 20% of the purchase price of the goods or services that must be purchased; or

(ii) $400.

(d) The exception provided in subsection (c) of this section does not apply to the offer of a prize requiring the person either to pay any money to participate in or to submit to a sales promotion effort, or to a prize promotion involving the award of prizes by chance.

(e) When a person offers prizes in a sales promotion effort relating to the sale, lease, or rental of real property not prohibited by this section, that person shall disclose to each offeree, in writing, clearly and conspicuously:

(1) That the purpose of the sales promotion effort is to solicit the purchase, lease, or rental of real property;

(2) The exact number of each prize offered in each category to be made available during the sales promotion;

(3) The manufacturer's suggested retail price or comparable retail price of each prize offered;

(4) (i) If calculable in advance, the odds against winning each prize; or

(ii) If not calculable in advance, a statement to that effect, or that the odds of winning will be determined by the number of entries;

(5) Whether all prizes offered will be awarded and when a determination of winners will be made; and

(6) If prizes with retail prices or monetary values in excess of $100 are offered, where and when a list of winners of those prizes can be obtained.

(f) Where provisions of law or regulations relating to the awarding of prizes in the sale, lease, or rental of real property exist, including § 11A–119 of the Real Property Article, the provisions of those laws or regulations shall apply if the provisions are more stringent than this section.

(g) If a person offers a contest, sweepstakes, or other sales promotion effort not prohibited by this section, involving the award of prizes by chance, that person shall disclose to each offeree in writing:

(1) The exact number of each prize offered in each category to be made available during the contest, sweepstakes, or sales promotion;

(2) The manufacturer's suggested retail price, or comparable retail price, of each prize offered;

(3) If calculable in advance, the odds against winning each prize and if not calculable in advance, a statement that the odds of winning will be determined by the number of entries;

(4) Whether all prizes offered will be awarded and when a determination of winners will be made;

(5) What, if any, conditions must be met in order to receive a prize;

(6) If prizes with retail prices or monetary values in excess of $100 are offered, where and when a list of winners of those prizes can be obtained; and

(7) That in order to receive the prize offered in the sales promotion you may not be required to:

(i) Purchase goods or services;

(ii) Pay any money; or

(iii) Where applicable, submit to a sales promotion effort.

(h) If a person offers a contest, sweepstakes, or other sales promotion effort not prohibited by this section, not involving the award of prizes by chance, that person shall disclose to each offeree in writing:

(1) The manufacturer's suggested retail price, or comparable retail price of each prize offered;

(2) What, if any, conditions must be met in order to receive a prize; and

(3) That in order to receive the prize offered in the sales promotion you may not be required to:

(i) Purchase goods or services, unless the retail price of the prize is within the limits set by subsection (c) of this section;

(ii) Pay any money; or

(iii) Where applicable, submit to a sales promotion effort.

(i) The disclosures shall appear on the first page of the prize notification document.

Article – Criminal Law

12–106.

(a) (1) Notwithstanding any other provision of this subtitle, Subtitle 2 of this title, or Title 13 of this article and except as otherwise provided in this subsection, a bona fide charitable organization in this State may conduct a raffle for the exclusive benefit of the charitable organization if the prize awarded is real property:

(i) to which the charitable organization holds title; or

(ii) for which the charitable organization has the ability to convey title.

(2) A charitable organization may not conduct more than two raffles of real property in a calendar year.

(3) The Secretary of State may adopt regulations governing a raffle of real property by a charitable organization under this subsection.

(b) (1) Notwithstanding any other provision of this article and except as otherwise provided in this subsection, a political committee or candidate for public office may conduct a raffle if the prizes awarded are money or merchandise.

(2) (i) The cost of a raffle ticket under this subsection may not exceed $5.

(ii) An individual may not purchase more than $50 worth of tickets.

(3) This subsection does not relieve a political committee or candidate from the reporting and record keeping requirements under the Election Law Article.

(C) (1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, A CREDIT UNION ORGANIZED UNDER TITLE 6 OF THE FINANCIAL INSTITUTIONS ARTICLE MAY CONDUCT A SAVINGS PROMOTION RAFFLE UNDER § 6–716 OF THE FINANCIAL INSTITUTIONS ARTICLE.

(2) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, A DEPOSITORY INSTITUTION, AS DEFINED IN § 1–211 OF THE FINANCIAL INSTITUTIONS ARTICLE, MAY CONDUCT A SAVINGS PROMOTION RAFFLE UNDER § 1–211 OF THE FINANCIAL INSTITUTIONS ARTICLE.

Article – Financial Institutions

1–211.

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

(2) "DEPOSITORY INSTITUTION" MEANS ANY STATE–CHARTERED OR FEDERALLY CHARTERED FINANCIAL INSTITUTION, OTHER–STATE BANK, OR FOREIGN BANK THAT:

(I) IS LOCATED IN THIS STATE OR MAINTAINS A BRANCH IN THIS STATE; AND

(II) IS AUTHORIZED TO MAINTAIN QUALIFYING DEPOSIT ACCOUNTS.

(3) "ELIGIBLE CUSTOMER" MEANS AN INDIVIDUAL CUSTOMER OF A DEPOSITORY INSTITUTION WHO:

(I) MAINTAINS A QUALIFYING DEPOSIT ACCOUNT AT A DEPOSITORY INSTITUTION PARTICIPATING IN A SAVINGS PROMOTION RAFFLE;

(II) IS AN ADULT; AND

(III) IS A RESIDENT OF THIS STATE.

(4) "QUALIFYING DEPOSIT ACCOUNT" MEANS A SAVINGS ACCOUNT, SAVINGS PROGRAM, OR OTHER TIME DEPOSIT OFFERED TO AN ELIGIBLE CUSTOMER FOR A SAVINGS PROMOTION RAFFLE.

(5) "SAVINGS PROMOTION RAFFLE" MEANS A PRIZE–LINKED SAVINGS PRODUCT OFFERED BY A PARTICIPATING DEPOSITORY INSTITUTION TO AN ELIGIBLE CUSTOMER.

(B) (1) A DEPOSITORY INSTITUTION MAY CONDUCT A SAVINGS PROMOTION RAFFLE FOR THE EXCLUSIVE BENEFIT OF ELIGIBLE CUSTOMERS IF:

(I) THE SOLE CONSIDERATION REQUIRED FOR A CHANCE TO WIN A SPECIFIED PRIZE IS THE DEPOSIT OF A MINIMUM SPECIFIED AMOUNT OF MONEY IN A QUALIFYING DEPOSIT ACCOUNT;

(II) EACH TICKET OR ENTRY IN THE SAVINGS PROMOTION RAFFLE HAS AN EQUAL CHANCE OF BEING DRAWN;

(III) THE DEPOSITORY INSTITUTION MAINTAINS BOOKS AND RECORDS RELATING TO THE SAVINGS PROMOTION RAFFLE; AND

(IV) THE SAVINGS PROMOTION RAFFLE WILL NOT:

1. HARM THE DEPOSITORY INSTITUTION'S ABILITY TO OPERATE IN A SAFE AND SOUND MANNER; OR

2. MISLEAD THE DEPOSITORY INSTITUTION'S CUSTOMERS.

(2) IN ADDITION TO THE REQUIREMENTS UNDER PARAGRAPH (1) OF THIS SUBSECTION, A SAVINGS PROMOTION RAFFLE CONDUCTED BY A BANKING INSTITUTION MUST BE APPROVED BY THE COMMISSIONER.

(C) EXCEPT AS PREEMPTED BY FEDERAL LAW, THE COMMISSIONER MAY:

(1) EXAMINE THE CONDUCT OF A SAVINGS PROMOTION RAFFLE; AND

(2) ISSUE A CEASE AND DESIST ORDER UNDER § 5–808 OF THIS ARTICLE FOR A VIOLATION OF THIS SECTION.

6–716.

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

(2) "ELIGIBLE CREDIT UNION MEMBER" MEANS AN INDIVIDUAL MEMBER OF A CREDIT UNION WHO:

(I) MAINTAINS A QUALIFYING SHARE CERTIFICATE ACCOUNT AT A CREDIT UNION PARTICIPATING IN A SAVINGS PROMOTION RAFFLE;

(II) IS A MEMBER IN GOOD STANDING;

(III) IS AN ADULT; AND

(IV) IS A RESIDENT OF THIS STATE.

(3) "QUALIFYING SHARE CERTIFICATE ACCOUNT" MEANS A SAVINGS ACCOUNT, SAVINGS PROGRAM, OR OTHER TIME DEPOSIT OFFERED TO AN ELIGIBLE CREDIT UNION MEMBER FOR A SAVINGS PROMOTION RAFFLE.

(4) "SAVINGS PROMOTION RAFFLE" MEANS A PRIZE–LINKED SAVINGS PRODUCT OFFERED BY A PARTICIPATING CREDIT UNION TO AN ELIGIBLE CREDIT UNION MEMBER.

(B) SUBJECT TO THE APPROVAL OF THE COMMISSIONER, A CREDIT UNION MAY CONDUCT A SAVINGS PROMOTION RAFFLE FOR THE EXCLUSIVE BENEFIT OF ELIGIBLE CREDIT UNION MEMBERS IF:

(1) THE SOLE CONSIDERATION REQUIRED FOR A CHANCE TO WIN A SPECIFIED PRIZE IS THE DEPOSIT OF A MINIMUM SPECIFIED AMOUNT OF MONEY IN A QUALIFYING SHARE CERTIFICATE ACCOUNT;

(2) EACH TICKET OR ENTRY IN THE SAVINGS PROMOTION RAFFLE HAS AN EQUAL CHANCE OF BEING DRAWN;

(3) THE CREDIT UNION MAINTAINS BOOKS AND RECORDS RELATING TO THE SAVINGS PROMOTION RAFFLE; AND

(4) THE SAVINGS PROMOTION RAFFLE WILL NOT:

(I) HARM THE CREDIT UNION'S ABILITY TO OPERATE IN A SAFE AND SOUND MANNER; OR

(II) MISLEAD THE CREDIT UNION'S MEMBERS.

(C) THE COMMISSIONER MAY:

(1) EXAMINE THE CONDUCT OF A SAVINGS PROMOTION RAFFLE; AND

(2) ISSUE A CEASE AND DESIST ORDER UNDER § 6–906 OF THIS TITLE FOR A VIOLATION OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010, contingent on depository institutions that are subject to regulation by the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, or the Federal Reserve Board being allowed to provide prize–linked savings products such as a savings promotion raffle authorized by this Act. The Commissioner of Financial Regulation shall monitor federal regulatory and legislative action relating to the authorization of depository institutions to provide prize–linked savings products such as savings promotion raffles, and shall notify the Department of Legislative Services within 30 days after learning that federal action has been taken to allow depository institutions to provide prize–linked products such as a savings promotion raffle authorized by this Act. If notice from the Commissioner is not received by the Department on or before October 1, 2014, this Act shall be null and void without the necessity of further action by the General Assembly.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That, subject to Section 2 of this Act, this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 628

(House Bill 990)

AN ACT concerning

Financial Institutions – Credit Unions *and Depository Institutions* – Authority to Conduct Savings Promotion Raffles

FOR the purpose of authorizing a credit union, subject to the approval of the Commissioner of Financial Regulation, to conduct a savings promotion raffle for the exclusive benefit of eligible members of the credit union; *authorizing a depository institution to conduct a savings promotion raffle for the exclusive benefit of eligible customers of the depository institution;* specifying the conditions under which a credit union *and a depository institution* may conduct a savings promotion raffle; exempting ~~a~~ *certain* savings promotion ~~raffle~~ *raffles* from certain provisions of law relating to the award of prizes by chance; authorizing the Commissioner to take certain actions relating to a savings promotion raffle; authorizing a certain credit union *and a certain depository institution* to conduct a savings promotion raffle notwithstanding any other provision of the Criminal Law Article; defining certain terms; *making this Act subject to a certain contingency; requiring the Commissioner to monitor certain federal action and give certain notice to the Department of Legislative Services at a certain time; providing for the termination of this Act under certain circumstances;* and generally relating to ~~credit unions and~~ savings promotion raffles.

BY repealing and reenacting, with amendments,
Article – Commercial Law
Section 13–305
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 12–106
Annotated Code of Maryland
(2002 Volume and 2009 Supplement)

BY adding to
Article – Financial Institutions
Section *1–211 and* 6–716
Annotated Code of Maryland
(2003 Replacement Volume and 2009 Supplement)

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

Article – Commercial Law

13–305.

(a) This section does not apply to:

(1) Trading stamps, as defined by § 13–101 of the Business Regulation Article;

(2) State lottery tickets issued under the authority of Title 9, Subtitle 1 of the State Government Article;

(3) Retail promotions, not involving the offer of gifts and prizes, which offer savings on consumer goods or services including "one–cent sales", "two–for–the–price–of–one–sales", or manufacturer's "cents–off" coupons; **[**or**]**

(4) Games of skill competition not involving sales promotion efforts**; OR**

(5) A SAVINGS PROMOTION RAFFLE CONDUCTED BY A CREDIT UNION UNDER § 6–716 OF THE FINANCIAL INSTITUTIONS ARTICLE *OR BY A DEPOSITORY INSTITUTION UNDER § 1–211 OF THE FINANCIAL INSTITUTIONS ARTICLE*.

(b) A person may not notify any other person by any means, as part of an advertising scheme or plan, that the other person has won a prize, received an award, or has been selected or is eligible to receive anything of value if the other person is required to purchase goods or services, pay any money to participate in, or submit to a sales promotion effort.

(c) In addition to the exceptions provided in subsection (a) of this section, subsection (b) of this section does not prohibit the offer of prizes requiring the person to purchase other goods and services if the retail price of the prize offered does not exceed the greater of:

(1) $40; or

(2) The lesser of:

(i) 20% of the purchase price of the goods or services that must be purchased; or

(ii) $400.

(d) The exception provided in subsection (c) of this section does not apply to the offer of a prize requiring the person either to pay any money to participate in or to submit to a sales promotion effort, or to a prize promotion involving the award of prizes by chance.

(e) When a person offers prizes in a sales promotion effort relating to the sale, lease, or rental of real property not prohibited by this section, that person shall disclose to each offeree, in writing, clearly and conspicuously:

(1) That the purpose of the sales promotion effort is to solicit the purchase, lease, or rental of real property;

(2) The exact number of each prize offered in each category to be made available during the sales promotion;

(3) The manufacturer's suggested retail price or comparable retail price of each prize offered;

(4) (i) If calculable in advance, the odds against winning each prize; or

(ii) If not calculable in advance, a statement to that effect, or that the odds of winning will be determined by the number of entries;

(5) Whether all prizes offered will be awarded and when a determination of winners will be made; and

(6) If prizes with retail prices or monetary values in excess of $100 are offered, where and when a list of winners of those prizes can be obtained.

(f) Where provisions of law or regulations relating to the awarding of prizes in the sale, lease, or rental of real property exist, including § 11A–119 of the Real Property Article, the provisions of those laws or regulations shall apply if the provisions are more stringent than this section.

(g) If a person offers a contest, sweepstakes, or other sales promotion effort not prohibited by this section, involving the award of prizes by chance, that person shall disclose to each offeree in writing:

(1) The exact number of each prize offered in each category to be made available during the contest, sweepstakes, or sales promotion;

(2) The manufacturer's suggested retail price, or comparable retail price, of each prize offered;

(3) If calculable in advance, the odds against winning each prize and if not calculable in advance, a statement that the odds of winning will be determined by the number of entries;

(4) Whether all prizes offered will be awarded and when a determination of winners will be made;

(5) What, if any, conditions must be met in order to receive a prize;

(6) If prizes with retail prices or monetary values in excess of $100 are offered, where and when a list of winners of those prizes can be obtained; and

(7) That in order to receive the prize offered in the sales promotion you may not be required to:

(i) Purchase goods or services;

(ii) Pay any money; or

(iii) Where applicable, submit to a sales promotion effort.

(h) If a person offers a contest, sweepstakes, or other sales promotion effort not prohibited by this section, not involving the award of prizes by chance, that person shall disclose to each offeree in writing:

(1) The manufacturer's suggested retail price, or comparable retail price of each prize offered;

(2) What, if any, conditions must be met in order to receive a prize; and

(3) That in order to receive the prize offered in the sales promotion you may not be required to:

(i) Purchase goods or services, unless the retail price of the prize is within the limits set by subsection (c) of this section;

(ii) Pay any money; or

(iii) Where applicable, submit to a sales promotion effort.

(i) The disclosures shall appear on the first page of the prize notification document.

Article – Criminal Law

12–106.

(a) (1) Notwithstanding any other provision of this subtitle, Subtitle 2 of this title, or Title 13 of this article and except as otherwise provided in this subsection, a bona fide charitable organization in this State may conduct a raffle for the exclusive benefit of the charitable organization if the prize awarded is real property:

(i) to which the charitable organization holds title; or

(ii) for which the charitable organization has the ability to convey title.

(2) A charitable organization may not conduct more than two raffles of real property in a calendar year.

(3) The Secretary of State may adopt regulations governing a raffle of real property by a charitable organization under this subsection.

(b) (1) Notwithstanding any other provision of this article and except as otherwise provided in this subsection, a political committee or candidate for public office may conduct a raffle if the prizes awarded are money or merchandise.

(2) (i) The cost of a raffle ticket under this subsection may not exceed $5.

(ii) An individual may not purchase more than $50 worth of tickets.

(3) This subsection does not relieve a political committee or candidate from the reporting and record keeping requirements under the Election Law Article.

(C) *(1)* NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, A CREDIT UNION ORGANIZED UNDER TITLE 6 OF THE FINANCIAL INSTITUTIONS ARTICLE MAY CONDUCT A SAVINGS PROMOTION RAFFLE UNDER § 6–716 OF THE FINANCIAL INSTITUTIONS ARTICLE.

(2) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, A DEPOSITORY INSTITUTION, AS DEFINED IN § 1–211 OF THE FINANCIAL INSTITUTIONS ARTICLE, MAY CONDUCT A SAVINGS PROMOTION RAFFLE UNDER § 1–211 OF THE FINANCIAL INSTITUTIONS ARTICLE.

Article – Financial Institutions

1–211.

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

(2) "DEPOSITORY INSTITUTION" MEANS ANY STATE–CHARTERED OR FEDERALLY CHARTERED FINANCIAL INSTITUTION, OTHER–STATE BANK, OR FOREIGN BANK THAT:

(I) IS LOCATED IN THIS STATE OR MAINTAINS A BRANCH IN THIS STATE; AND

(II) IS AUTHORIZED TO MAINTAIN QUALIFYING DEPOSIT ACCOUNTS.

(3) "ELIGIBLE CUSTOMER" MEANS AN INDIVIDUAL CUSTOMER OF A DEPOSITORY INSTITUTION WHO:

(I) MAINTAINS A QUALIFYING DEPOSIT ACCOUNT AT A DEPOSITORY INSTITUTION PARTICIPATING IN A SAVINGS PROMOTION RAFFLE;

(II) IS AN ADULT; AND

(III) IS A RESIDENT OF THIS STATE.

(4) "QUALIFYING DEPOSIT ACCOUNT" MEANS A SAVINGS ACCOUNT, SAVINGS PROGRAM, OR OTHER TIME DEPOSIT OFFERED TO AN ELIGIBLE CUSTOMER FOR A SAVINGS PROMOTION RAFFLE.

(5) "SAVINGS PROMOTION RAFFLE" MEANS A PRIZE–LINKED SAVINGS PRODUCT OFFERED BY A PARTICIPATING DEPOSITORY INSTITUTION TO AN ELIGIBLE CUSTOMER.

(B) (1) A DEPOSITORY INSTITUTION MAY CONDUCT A SAVINGS PROMOTION RAFFLE FOR THE EXCLUSIVE BENEFIT OF ELIGIBLE CUSTOMERS IF:

(I) THE SOLE CONSIDERATION REQUIRED FOR A CHANCE TO WIN A SPECIFIED PRIZE IS THE DEPOSIT OF A MINIMUM SPECIFIED AMOUNT OF MONEY IN A QUALIFYING DEPOSIT ACCOUNT;

(II) EACH TICKET OR ENTRY IN THE SAVINGS PROMOTION RAFFLE HAS AN EQUAL CHANCE OF BEING DRAWN;

(III) THE DEPOSITORY INSTITUTION MAINTAINS BOOKS AND RECORDS RELATING TO THE SAVINGS PROMOTION RAFFLE; AND

(IV) THE SAVINGS PROMOTION RAFFLE WILL NOT:

1. HARM THE DEPOSITORY INSTITUTION'S ABILITY TO OPERATE IN A SAFE AND SOUND MANNER; OR

2. MISLEAD THE DEPOSITORY INSTITUTION'S CUSTOMERS.

(2) IN ADDITION TO THE REQUIREMENTS UNDER PARAGRAPH (1) OF THIS SUBSECTION, A SAVINGS PROMOTION RAFFLE CONDUCTED BY A BANKING INSTITUTION MUST BE APPROVED BY THE COMMISSIONER.

(C) EXCEPT AS PREEMPTED BY FEDERAL LAW, THE COMMISSIONER MAY:

(1) EXAMINE THE CONDUCT OF A SAVINGS PROMOTION RAFFLE; AND

(2) ISSUE A CEASE AND DESIST ORDER UNDER § 5–808 OF THIS ARTICLE FOR A VIOLATION OF THIS SECTION.

6–716.

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

(2) "ELIGIBLE CREDIT UNION MEMBER" MEANS AN INDIVIDUAL MEMBER OF A CREDIT UNION WHO:

(I) MAINTAINS A QUALIFYING SHARE CERTIFICATE ACCOUNT AT A CREDIT UNION PARTICIPATING IN A SAVINGS PROMOTION RAFFLE;

(II) IS A MEMBER IN GOOD STANDING;

(III) IS AN ADULT; AND

(IV) IS A RESIDENT OF THIS STATE.

(3) "QUALIFYING SHARE CERTIFICATE ACCOUNT" MEANS A SAVINGS ACCOUNT, SAVINGS PROGRAM, OR OTHER TIME DEPOSIT OFFERED TO AN ELIGIBLE CREDIT UNION MEMBER FOR A SAVINGS PROMOTION RAFFLE.

(4) "SAVINGS PROMOTION RAFFLE" MEANS A PRIZE–LINKED SAVINGS PRODUCT OFFERED BY A PARTICIPATING CREDIT UNION TO AN ELIGIBLE CREDIT UNION MEMBER.

(B) SUBJECT TO THE APPROVAL OF THE COMMISSIONER, A CREDIT UNION MAY CONDUCT A SAVINGS PROMOTION RAFFLE FOR THE EXCLUSIVE BENEFIT OF ELIGIBLE CREDIT UNION MEMBERS IF:

(1) THE SOLE CONSIDERATION REQUIRED FOR A CHANCE TO WIN A SPECIFIED PRIZE IS THE DEPOSIT OF A MINIMUM SPECIFIED AMOUNT OF MONEY IN A QUALIFYING SHARE CERTIFICATE ACCOUNT;

(2) EACH TICKET OR ENTRY IN THE SAVINGS PROMOTION RAFFLE HAS AN EQUAL CHANCE OF BEING DRAWN;

(3) THE CREDIT UNION MAINTAINS BOOKS AND RECORDS RELATING TO THE SAVINGS PROMOTION RAFFLE; AND

(4) THE SAVINGS PROMOTION RAFFLE WILL NOT:

(I) HARM THE CREDIT UNION'S ABILITY TO OPERATE IN A SAFE AND SOUND MANNER; OR

(II) MISLEAD THE CREDIT UNION'S MEMBERS.

(C) THE COMMISSIONER MAY:

(1) EXAMINE THE CONDUCT OF A SAVINGS PROMOTION RAFFLE; AND

(2) ISSUE A CEASE AND DESIST ORDER UNDER § 6–906 OF THIS TITLE FOR A VIOLATION OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010, contingent on depository institutions that are subject to regulation by the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, or the Federal Reserve Board being allowed to provide prize–linked savings products such as a savings promotion raffle authorized by this Act. The Commissioner of Financial Regulation shall monitor federal regulatory and legislative action relating to the authorization of depository institutions to provide prize–linked savings products such as savings promotion raffles, and shall notify the Department of Legislative Services within 30 days after learning that federal action has been taken to allow depository institutions to provide prize–linked products such as a savings promotion raffle authorized by this Act. If notice from the Commissioner is not received by the Department on or before October 1, 2014, this Act shall be null and void without the necessity of further action by the General Assembly.

SECTION ~~2.~~ *3.* AND BE IT FURTHER ENACTED, That*, subject to Section 2 of this Act,* this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 629

(Senate Bill 892)

AN ACT concerning

Child Abuse and Neglect – Reports and Records – Disclosure to Division of Parole and Probation

FOR the purpose of requiring the disclosure of a report or record of child abuse or neglect to the Division of Parole and Probation in the Department of Public Safety and Correctional Services if the local department of social services has reason to believe that an individual who is living in or has a regular presence in a child's home is ~~a registrant on a sexual offender registry~~ registered on the offender registry based on the commission of an offense against a child; and generally relating to disclosure of reports and records of child abuse and neglect.

BY repealing and reenacting, with amendments,
Article – Human Services
Section 1–202
Annotated Code of Maryland
(2007 Volume and 2009 Supplement)

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

Article – Human Services

1–202.

(a) Except as otherwise provided in Title 5, Subtitles 7 and 12 of the Family Law Article, § 1–203 of this subtitle, and this section, a person may not disclose a report or record concerning child abuse or neglect.

(b) A report or record concerning child abuse or neglect shall be disclosed:

(1) under a court order;

(2) under an order of an administrative law judge, if:

(i) the request for disclosure concerns a case pending before the Office of Administrative Hearings; and

(ii) provisions are made to comply with other State or federal confidentiality laws and to protect the identity of the reporter or other person whose life or safety is likely to be endangered by the disclosure; **[**or**]**

(3) on a written request, to the Baltimore City Health Department:

(i) if the Baltimore City Health Department is providing treatment or care to a child who is the subject of a report of child abuse or neglect, for a purpose relevant to the provision of the treatment or care;

(ii) if the record or report concerns a child convicted of a crime or adjudicated delinquent for an act that caused a death or near fatality; or

(iii) if the record or report concerns a victim of a crime of violence, as defined in § 14–101 of the Criminal Law Article, who is a child residing in Baltimore City, for the purpose of developing appropriate programs and policies aimed at reducing violence against children in Baltimore City**; OR**

(4) TO THE DIVISION OF PAROLE AND PROBATION IN THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES IF, AS A RESULT OF A REPORT OR INVESTIGATION OF SUSPECTED CHILD ABUSE OR NEGLECT, THE LOCAL DEPARTMENT OF SOCIAL SERVICES HAS REASON TO BELIEVE THAT AN INDIVIDUAL WHO LIVES IN OR HAS A REGULAR PRESENCE IN A CHILD'S HOME IS ~~SUBJECT TO THE REGISTRATION REQUIREMENTS OF TITLE 11, SUBTITLE 7 OF THE CRIMINAL PROCEDURES ARTICLE~~ REGISTERED UNDER TITLE 11, SUBTITLE 7 OF THE CRIMINAL PROCEDURE ARTICLE BASED ON THE COMMISSION OF AN OFFENSE AGAINST A CHILD.

(c) A report or record concerning child abuse or neglect:

(1) may be disclosed on request to:

(i) personnel of the Social Services Administration or a local department of social services, law enforcement personnel, and members of multidisciplinary case consultation teams, including an addiction specialist as defined in Title 5, Subtitle 12 of the Family Law Article or § 5–314 of this article, who are investigating a report of known or suspected child abuse or neglect or providing services to or assessing a child or family that is the subject of the report;

(ii) local or State officials responsible for the administration of child protective services, or child care, foster care, or adoption licensing, approval, or regulations, as necessary to carry out their official functions;

(iii) the State Council on Child Abuse and Neglect or its designee, the State Citizens Review Board for Children or its designee, or a child fatality review team, as necessary to carry out their official functions;

(iv) a person who is the alleged abuser or neglector, if that person is responsible for the child's welfare and provisions are made for the protection

of the identity of the reporter or any other person whose life or safety is likely to be endangered by disclosing the information;

(v) a licensed practitioner who, or an agency, institution, or program that, is providing treatment or care to a child who is the subject of a report of child abuse or neglect for a purpose relevant to the treatment or care;

(vi) a parent or other person who has permanent or temporary care and custody of the child, if provisions are made for the protection of the identity of the reporter or any other person whose life or safety is likely to be endangered by disclosing the information;

(vii) 1. the appropriate public school superintendent or the principal or equivalent employee of a nonpublic school that holds a certificate of approval from the State or is registered with the State Department of Education to carry out appropriate personnel or administrative actions following a report of suspected child abuse involving a student committed by:

A. a public school employee in that school system;

B. an employee of that nonpublic school;

C. an independent contractor who supervises or works directly with students in that school system or that nonpublic school; or

D. an employee of an independent contractor, including a bus driver or bus assistant, who supervises or works directly with students in that school system or that nonpublic school; and

2. if the report concerns suspected child abuse involving a student committed by an employee, independent contractor, or employee of an independent contractor described in item 1 of this item and employed by a nonpublic school under the jurisdiction of the superintendent of schools for the Archdiocese of Baltimore, the Archdiocese of Washington, or the Catholic Diocese of Wilmington, the appropriate superintendent of schools;

(viii) the director of a licensed child care facility or licensed child placement agency to carry out appropriate personnel actions following a report of suspected child abuse or neglect alleged to have been committed by an employee of the facility or agency and involving a child who is currently or was previously under the care of that facility or agency;

(ix) the Juvenile Justice Monitoring Unit of the Office of the Attorney General established under Title 6, Subtitle 4 of the State Government Article; or

(x) subject to subsection (d) of this section, a licensed practitioner of a hospital or birthing center to make discharge decisions concerning a child, when the practitioner suspects that the child may be in danger after discharge based on the practitioner's observation of the behavior of the child's parents or immediate family members; and

(2) may be disclosed by the State Department of Education to the operator of a child care center that is required to be licensed or to hold a letter of compliance under Title 5, Subtitle 5, Part VII of the Family Law Article or to a family day care provider who is required to be registered under Title 5, Subtitle 5, Part V of the Family Law Article, to determine the suitability of an individual for employment in the child care center or family day care home.

(d) Only the following information concerning child abuse and neglect may be disclosed to a practitioner of a hospital or birthing center under subsection (c)(1)(x) of this section:

(1) whether there is a prior finding of indicated child abuse or neglect by either parent; and

(2) whether there is an open investigation of child abuse or neglect pending against either parent.

(e) (1) The Baltimore City Health Department shall be liable for the unauthorized release of a report or record under subsection (b) of this section.

(2) Within 180 days after the Baltimore City Health Department receives a report or record under subsection (b) of this section, the Baltimore City Health Department shall submit a report to the Department of Human Resources detailing the purposes for which the record was used.

(f) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 90 days or a fine not exceeding $500 or both.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 630

(House Bill 1330)

AN ACT concerning

Child Abuse and Neglect – Reports and Records – Disclosure to Division of Parole and Probation

FOR the purpose of requiring the disclosure of a report or record of child abuse or neglect to the Division of Parole and Probation in the Department of Public Safety and Correctional Services if the local department of social services has reason to believe ~~or learns~~ that an individual who is living in or has a regular presence in a child's home is ~~under the supervision of the Division of Parole and Probation~~ registered on the offender registry based on the commission of an offense against a child; and generally relating to disclosure of reports and records of child abuse and neglect.

BY repealing and reenacting, with amendments,
Article – Human Services
Section 1–202(b)
Annotated Code of Maryland
(2007 Volume and 2009 Supplement)

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

Article – Human Services

1–202.

(b) A report or record concerning child abuse or neglect shall be disclosed:

(1) under a court order;

(2) under an order of an administrative law judge, if:

(i) the request for disclosure concerns a case pending before the Office of Administrative Hearings; and

(ii) provisions are made to comply with other State or federal confidentiality laws and to protect the identity of the reporter or other person whose life or safety is likely to be endangered by the disclosure; **[**or**]**

(3) on a written request, to the Baltimore City Health Department:

(i) if the Baltimore City Health Department is providing treatment or care to a child who is the subject of a report of child abuse or neglect, for a purpose relevant to the provision of the treatment or care;

(ii) if the record or report concerns a child convicted of a crime or adjudicated delinquent for an act that caused a death or near fatality; or

(iii) if the record or report concerns a victim of a crime of violence, as defined in § 14–101 of the Criminal Law Article, who is a child residing in Baltimore City, for the purpose of developing appropriate programs and policies aimed at reducing violence against children in Baltimore City**; OR**

(4) TO THE DIVISION OF PAROLE AND PROBATION IN THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES IF, AS A RESULT OF A REPORT OR INVESTIGATION OF SUSPECTED CHILD ABUSE OR NEGLECT, THE LOCAL DEPARTMENT OF SOCIAL SERVICES HAS REASON TO BELIEVE ~~OR LEARNS~~ THAT AN INDIVIDUAL WHO LIVES IN OR HAS A REGULAR PRESENCE IN A CHILD'S HOME IS ~~UNDER THE SUPERVISION OF THE DIVISION OF PAROLE AND PROBATION~~ REGISTERED UNDER TITLE 11, SUBTITLE 7 OF THE CRIMINAL PROCEDURE ARTICLE BASED ON THE COMMISSION OF AN OFFENSE AGAINST A CHILD.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 631

(Senate Bill 897)

AN ACT concerning

Academic Facilities Bonding Authority

FOR the purpose of increasing the bonding authority for the University System of Maryland; approving certain projects for the acquisition, development, and improvement of certain academic facilities for the University System of Maryland; authorizing the issuance of bonds by the University System of Maryland for financing the projects; providing that certain bonds are not a debt or an obligation of the State or any of its subdivisions; and generally relating to the authority to issue academic facilities bonds.

BY repealing and reenacting, with amendments,
Article – Education
Section 19–102(c)(1)
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

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

Article – Education

19–102.

(c) (1) The aggregate principal amount of bonds outstanding and the present value of capital lease payments, less the amount of any reserve fund or sinking fund requirement established for the bonds or capital leases, may not exceed, as of the date of issue of the bonds, the following:

(i) **[**$1,050,000,000**] $1,200,000,000** for the University System of Maryland;

(ii) $88,000,000 for Morgan State University;

(iii) $60,000,000 for St. Mary's College of Maryland; and

(iv) $65,000,000 for Baltimore City Community College.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(1) In accordance with Section 19–102(d) of the Education Article, the following project is approved as a project for an academic facility, and the University System of Maryland may issue, sell, and deliver bonds in the total principal amount of $10,000,000 for the purposes of financing and refinancing the costs of this project:

(A) Towson University (Baltimore County)

(i) College of Liberal Arts Complex

(2) In accordance with Section 19–102(d) of the Education Article, such system–wide capital facilities renewal projects for the constituent institutions and centers of the University System of Maryland as are authorized by the Board are hereby approved as projects for academic facilities, and the University System of Maryland may issue, sell, and deliver bonds in the total principal amount of $17,000,000 for the purposes of financing and refinancing the costs of those facilities renewal projects.

(3) The bonds issued under the authority of this Act do not create or constitute any indebtedness or obligation of the State or of any political subdivision thereof except the University System of Maryland, and the bonds shall so state on their face. The bonds do not constitute a debt or obligation contracted by the General Assembly of Maryland or pledge the faith and credit of the State within the meaning of Article III, Section 34 of the Maryland Constitution.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 632

(Senate Bill 898)

AN ACT concerning

Credit Regulation – Installment Loans Secured by Motor Vehicle Lien – Balloon Payments

FOR the purpose of authorizing a credit grantor that makes a certain installment loan secured by a lien on a motor vehicle to a consumer borrower to require the consumer borrower to pay a balloon payment at maturity of the installment loan *if the loan exceeds a certain amount*; and generally relating to installment loans secured by a lien on a motor vehicle.

BY repealing and reenacting, with amendments,
Article – Commercial Law
Section 12–1003
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

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

Article – Commercial Law

12–1003.

(a) A credit grantor may charge and collect interest on a loan at any daily, weekly, monthly, annual, or other periodic percentage rate as the agreement, the note, or other evidence of the loan provides if the effective rate of simple interest is not in excess of 24 percent per year. The rate of interest chargeable on a loan must be expressed in the agreement as a simple interest rate or rates.

(b) (1) Interest may be calculated by way of simple interest or by any other method as the agreement, note, or other evidence of the loan provides. If the interest is precomputed, it may be calculated on the assumption that all scheduled payments will be made when due.

(2) For purposes of this section, a year may be any period of from 360 to 366 days, including or disregarding the effect of leap year, as the credit grantor may determine.

(c) (1) ***(I)*** ~~If~~ ***EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, IF*** an installment loan under this subtitle made to a consumer borrower is secured by collateral other than a lien on residential real property ~~**OR ON A MOTOR VEHICLE FOR WHICH THE INSTALLMENT LOAN AMOUNT EXCEEDS $30,000**~~, the credit grantor may not require a schedule of repayment under which a consumer borrower may be required to pay a balloon payment at maturity.

~~(2)~~ ***(II)*** If an installment loan under this subtitle made to a consumer borrower is secured by a secondary lien on residential real property, the credit grantor may require a schedule of repayment providing for a balloon payment at maturity. On request, the consumer borrower is permitted to postpone payment of the balloon payment once for a period not to exceed 6 months. The borrower must continue to make installment payments in the amount required prior to maturity during the extension period. The credit grantor may not impose any charges or fees as a result of allowing an extension period.

(2) A CREDIT GRANTOR MAY REQUIRE A SCHEDULE OF REPAYMENT UNDER WHICH A CONSUMER BORROWER MAY BE REQUIRED TO PAY A BALLOON PAYMENT AT MATURITY IF:

(I) THE AMOUNT OF THE INSTALLMENT LOAN EXCEEDS $30,000; AND

(II) THE INSTALLMENT LOAN IS SECURED BY A LIEN ON A MOTOR VEHICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 633

(House Bill 1076)

AN ACT concerning

Credit Regulation – Installment Loans Secured by Motor Vehicle Lien – Balloon Payments

FOR the purpose of authorizing a credit grantor that makes a certain installment loan secured by a lien on a motor vehicle to a consumer borrower to require the consumer borrower to pay a balloon payment at maturity of the installment loan <u>if the loan exceeds a certain amount</u>; and generally relating to installment loans secured by a lien on a motor vehicle.

BY repealing and reenacting, with amendments,
Article – Commercial Law
Section 12–1003
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

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

Article – Commercial Law

12–1003.

(a) A credit grantor may charge and collect interest on a loan at any daily, weekly, monthly, annual, or other periodic percentage rate as the agreement, the note, or other evidence of the loan provides if the effective rate of simple interest is not in excess of 24 percent per year. The rate of interest chargeable on a loan must be expressed in the agreement as a simple interest rate or rates.

(b) (1) Interest may be calculated by way of simple interest or by any other method as the agreement, note, or other evidence of the loan provides. If the interest is precomputed, it may be calculated on the assumption that all scheduled payments will be made when due.

(2) For purposes of this section, a year may be any period of from 360 to 366 days, including or disregarding the effect of leap year, as the credit grantor may determine.

(c) (1) ~~If~~ **<u>(I)</u>** **<u>EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, IF</u>** an installment loan under this subtitle made to a consumer borrower is secured by collateral other than a lien on residential real property ~~OR A MOTOR VEHICLE~~, the credit grantor may not require a schedule of repayment under which a consumer borrower may be required to pay a balloon payment at maturity.

~~(2)~~ **<u>(II)</u>** If an installment loan under this subtitle made to a consumer borrower is secured by a secondary lien on residential real property, the credit grantor may require a schedule of repayment providing for a balloon payment at maturity. On request, the consumer borrower is permitted to postpone payment of the balloon payment once for a period not to exceed 6 months. The borrower must continue to make installment payments in the amount required prior to maturity during the

extension period. The credit grantor may not impose any charges or fees as a result of allowing an extension period.

(2) A CREDIT GRANTOR MAY REQUIRE A SCHEDULE OF REPAYMENT UNDER WHICH A CONSUMER BORROWER MAY BE REQUIRED TO PAY A BALLOON PAYMENT AT MATURITY IF:

(I) THE AMOUNT OF THE INSTALLMENT LOAN EXCEEDS $30,000; AND

(II) THE INSTALLMENT LOAN IS SECURED BY A LIEN ON A MOTOR VEHICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 634

(Senate Bill 900)

AN ACT concerning

Title Insurers – Required Reserves, Capital Stock, and Surplus

FOR the purpose of requiring a title insurer domiciled in the State to have and maintain a certain paid–in capital stock with a fixed nominal or par value in a certain amount as of certain dates; requiring a title insurer domiciled in the State to have and maintain a minimum ~~capital stock~~ surplus in a certain amount as of certain dates; altering a certain percentage of certain premiums for certain title insurance that certain title insurers must originally assign to certain reserves; altering the dates as of which certain reserves shall be calculated in a certain manner; altering the portions and timing of release of certain excess reserves; prohibiting the release of certain unearned premium reserves under certain circumstances; requiring certain unearned premium reserves to be considered a certain reserve; and generally relating to title insurance and required reserves, capital stock, and surplus.

BY adding to
Article – Insurance
Section 4–104.1 and 4–105.1
Annotated Code of Maryland
(2003 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Insurance
Section 5–206
Annotated Code of Maryland
(2003 Replacement Volume and 2009 Supplement)

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

Article – Insurance

~~**4–105.1.**~~ **4–104.1.**

~~**(A)**~~ **NOTWITHSTANDING THE PROVISIONS OF § 4–104 OF THIS SUBTITLE, A TITLE INSURER DOMICILED IN THIS STATE SHALL HAVE AND MAINTAIN PAID–IN CAPITAL STOCK WITH A FIXED NOMINAL OR PAR VALUE IN THE AMOUNT OF:**

(1) $500,000 AS OF JULY 1, 2010;

(2) $625,000 AS OF JULY 1, 2011; AND

(3) $750,000 AS OF JULY 1, 2012, AND EACH JULY 1 THEREAFTER.

4–105.1.

~~**(B)**~~ **NOTWITHSTANDING THE PROVISIONS OF § 4–105 OF THIS SUBTITLE, A TITLE INSURER DOMICILED IN THIS STATE SHALL HAVE AND MAINTAIN MINIMUM ~~CAPITAL STOCK~~ SURPLUS IN THE AMOUNT OF:**

(1) $500,000 AS OF JULY 1, 2010;

(2) $625,000 AS OF JULY 1, 2011; AND

(3) $750,000 AS OF JULY 1, 2012, AND EACH JULY 1 THEREAFTER.

5–206.

(a) (1) In addition to adequate reserves required by § 5–103 of this title for outstanding losses, a title insurer shall maintain a statutory reserve or unearned premium reserve of at least an amount computed as follows:

(i) **[**10%**] 8%** of the total amount of the risk premiums written in the calendar year for title insurance contracts shall be as assigned originally to the reserves; and

(ii) during each of the 20 years that follow the year in which the contract is issued, the reserves applicable to the contract shall be reduced in accordance with the following formula:

1. 35% of the aggregate sum on July 1 of the year next succeeding the year of addition;

2. 15% of the aggregate sum on July 1 of each of the succeeding 2 years;

3. 10% of the aggregate sum on July 1 of the succeeding year;

4. 3% of the aggregate sum on July 1 of each of the succeeding 3 years;

5. 2% of the aggregate sum on July 1 of each of the succeeding 3 years; and

6. 1% of the aggregate sum on July 1 of each of the succeeding 10 years.

(2) (i) The title insurer shall calculate retroactive adjusted statutory reserve or unearned premium reserve on an aggregate basis on January 1, **[**2001**] 2010**.

(ii) The adjusted aggregate reserve shall be recalculated as if paragraph (1)(ii) of this subsection had been in effect during the 20 years preceding January 1, **[**2001**] 2010**.

(3) ~~The~~ **SUBJECT TO SUBSECTION (C) OF THIS SECTION, THE** aggregate sum of any excess reserves resulting from a recalculation under this subsection shall be released over a **[**6–year**] 3–YEAR** period in equal installments of **[**one–sixth per**] ONE–THIRD EACH** year, beginning with the **[**2001**] 2010** calendar year.

(b) (1) Each title insurer shall file with its annual statement required under § 4–116 of this article a certification by a member in good standing of the American Academy of Actuaries as to the adequacy of its reserves required under this section and § 5–103 of this title.

(2) The actuarial certification required of a title insurer must conform to the National Association of Insurance Commissioners' annual statement instructions for title insurers.

(C) (1) UNEARNED PREMIUM RESERVES MAY NOT BE RELEASED UNDER SUBSECTION ~~(A)(3)~~ (A) OF THIS SECTION TO THE EXTENT THAT THE RELEASE WOULD RESULT IN THE AGGREGATE RESERVE FALLING BELOW THE AMOUNT REQUIRED UNDER THIS SECTION AND § 5–103 OF THIS TITLE.

(2) ANY AMOUNT OF UNEARNED PREMIUM RESERVES THAT MAY NOT BE RELEASED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE CONSIDERED AN UNEARNED PREMIUM RESERVE AND MAY NOT BE CONSIDERED A SUPPLEMENTAL RESERVE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 635

(Senate Bill 911)

AN ACT concerning

Underground Facilities – Damage Prevention

FOR the purpose of repealing certain provisions of Maryland's underground facilities damage prevention laws; expanding the scope of the underground facilities damage prevention laws to apply to an owner or lessee of a private residence who performs an excavation or demolition on the land of the private residence; establishing the Maryland Underground Facilities Damage Prevention Authority; declaring the intent of the General Assembly that the Authority not be funded through State budget appropriations; providing for the appointment and terms of the members of the Authority; providing for the selection of a chair of the Authority in a certain manner; establishing quorum requirements for the Authority, and requiring the Authority to meet at a certain frequency; providing that a member of the Authority may not receive compensation and is not entitled to reimbursement for expenses; authorizing the Authority to perform certain acts; requiring the Authority to adopt a code of conduct for its members; authorizing the Authority to obtain funding for its operational expenses from certain sources; prohibiting the Authority from imposing a certain charge or assessment against a person for certain purposes under certain circumstances; authorizing the Authority to enforce the underground facilities damage

prevention laws by hearing complaints, assessing certain penalties, and reaching a settlement instead of certain penalties; authorizing the Authority to establish certain fees and use the services of a third party to collect certain civil penalties; requiring that a certain hearing before the Authority be conducted in a certain manner; authorizing a person aggrieved by a decision of the Authority to request judicial review of the decision in a certain manner; providing that a record of a hearing conducted by the Authority is not admissible in certain administrative or civil proceedings; requiring the Authority to submit a certain report to the Governor and General Assembly each year; establishing the Maryland Underground Facilities Damage Prevention Education and Outreach Fund as a special, nonlapsing fund to be used for certain purposes; providing for the use and administration of the Fund; requiring a person performing a certain emergency excavation or demolition immediately to notify a certain one–call system to inform certain ~~owners~~ owner–members of underground facilities of the excavation or demolition; providing that a person that abuses the emergency demolition procedures in this Act is subject to certain penalties; requiring an owner of underground facilities to be a member of a one–call system by registering with the one–call system; requiring certain owners to become members of a one–call system and to submit to the one–call system and keep current certain information; requiring a person that intends to perform an excavation or demolition in the State to initiate a certain ticket request with a certain one–call system; requiring the one–call system to promptly transmit a copy of a certain ticket to certain owner–members under certain circumstances; providing that a ticket is valid for a certain period; requiring a person that intends to perform an excavation or demolition to repeat a certain notice to the one–call system under certain circumstances; requiring an ~~owner~~ owner–member of underground facilities to mark the underground facilities in a certain manner under certain circumstances; requiring an ~~owner~~ owner–member to report certain information to an underground facilities information exchange system within a certain period after a certain event; requiring an ~~owner~~ owner–member to take certain actions if the ~~owner~~ owner–member, for certain reasons, is unable to mark the underground facilities within a certain period; authorizing an ~~owner~~ owner–member and person conducting an excavation or demolition to reach a working agreement regarding the schedule for marking an underground facility; providing that a person may begin excavation or demolition only after receiving a certain notice; providing that a person performing an excavation or demolition is responsible for the maintenance of underground facility markings and shall perform the excavation or demolition in a certain manner; requiring a certain person to provide certain notice of certain damage to, or disturbance of, an underground facility; requiring a person to take certain measures if the person knows or has reason to know of an unmarked underground facility in the area of an excavation or demolition; authorizing the Department of Transportation, the Department's administrations, and the Maryland Transportation Authority to collect certain fees; ~~repealing the authority of a political subdivision or municipal corporation to charge a marking or re–marking fee for the reimbursement of expenses incurred by the political subdivision or municipal~~

~~corporation in complying with the State's underground facilities damage prevention laws;~~ authorizing a designer to initiate a ticket request with a certain one–call system under certain circumstances; requiring an ~~owner~~ owner–member to respond to a ticket requested by a designer in a certain manner within a certain period after receiving a certain notice; providing that an ~~owner~~ owner–member or agent of an ~~owner~~ owner–member is not liable for inaccurate information provided to a designer in response to a ticket request; increasing certain civil penalties under the underground facilities damage prevention laws; authorizing the Authority to impose certain measures instead of or in addition to certain civil penalties; providing that certain civil penalties may be assessed only by the Authority; providing that a court may assess certain civil penalties and award certain attorney's fees under certain circumstances; providing that the Authority may not assess a certain penalty if a certain action has been brought in a certain venue; altering a provision regarding the disposition of civil penalties and requiring that civil penalties recovered under the underground facilities damage prevention laws be paid into the Fund; providing that employees and officials of the Authority are State personnel under the Maryland Tort Claims Act; ~~altering the definition of underground facility to include stormwater drains after a certain date; requiring an owner of stormwater drains to make a good faith effort to identify the location of the stormwater drains by a certain date; holding an owner harmless under this Act with respect to any stormwater drain the owner could not locate and identify after a good faith effort; providing for a delayed effective date for a certain provision of this Act;~~ defining certain terms and altering certain definitions; making stylistic changes; and generally relating to excavation or demolition near underground facilities and underground facilities damage prevention.

BY repealing
Article – Public Utility Companies
Section 12–107 through 12–110; and 12–201 through 12–203 and the subtitle "Subtitle 2. Excavation Near Underground Lines and Structures in Montgomery County"
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

BY renumbering
Article – Public Utility Companies
Section 12–104, 12–105, 12–106, 12–111, 12–112, and 12–113, respectively to be Section 12–120, 12–121, 12–122, 12–128, 12–134, and 12–135, respectively
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Public Utility Companies
Section 12–101 and 12–103 to be under the new part "Part I. Definitions; General Provisions"

Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,
Article – Public Utility Companies
Section 12–102
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

BY adding to
Article – Public Utility Companies
Section 12–106 through 12–114 to be under the new part "Part II. Maryland Underground Facilities Damage Prevention Authority"; 12–117 to be under the new part "Part III. Maryland Underground Facilities Damage Prevention Education and Outreach Fund"; 12–123 through 12–127; and 12–131 to be under the new part "Part V. Designer Requests"
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Public Utility Companies
Section 12–120, 12–121, ~~12–122, and 12–128~~ <u>and 12–122</u> to be under the new part "Part IV. Excavation and Demolition"; and 12–135
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)
(As enacted by Section 2 of this Act)

<u>BY repealing and reenacting, without amendments,</u>
<u>Article – Public Utility Companies</u>
<u>Section 12–128 to be under the new part "Part IV. Excavation and Demolition"</u>
<u>Annotated Code of Maryland</u>
<u>(2008 Replacement Volume and 2009 Supplement)</u>
<u>(As enacted by Section 2 of this Act)</u>

BY repealing and reenacting, without amendments,
Article – Public Utility Companies
Section 12–134 to be under the new part "Part VI. Enforcement and Penalties"
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)
(As enacted by Section 2 of this Act)

BY repealing and reenacting, with amendments,
Article – State Government
Section 12–101(a)(2)
Annotated Code of Maryland
(2009 Replacement Volume)

~~BY repealing and reenacting, without amendments,~~
~~Article – Public Utility Companies~~
~~Section 12–101(a)~~
~~Annotated Code of Maryland~~
~~(2008 Replacement Volume and 2009 Supplement)~~
~~(As enacted by Section 3 of this Act)~~

~~BY repealing and reenacting, with amendments,~~
~~Article – Public Utility Companies~~
~~Section 12–101(c)~~
~~Annotated Code of Maryland~~
~~(2008 Replacement Volume and 2009 Supplement)~~
~~(As enacted by Section 3 of this Act)~~

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 12–107 through 12–110; and 12–201 through 12–203 and the subtitle "Subtitle 2. Excavation Near Underground Lines and Structures in Montgomery County" of Article – Public Utility Companies of the Annotated Code of Maryland be repealed.

SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 12–104, 12–105, 12–106, 12–111, 12–112, and 12–113, respectively, of Article – Public Utility Companies of the Annotated Code of Maryland be renumbered to be Section(s) 12–120, 12–121, 12–122, 12–128, 12–134, and 12–135, respectively.

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

Article – Public Utility Companies

PART I. DEFINITIONS; GENERAL PROVISIONS.

12–101.

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

[(b) (1) "Contractor" means a person that performs excavations or demolitions.

(2) "Contractor" includes a person that performs excavations or demolitions under a contract or subcontract.**]**

(B) "AUTHORITY" MEANS THE MARYLAND UNDERGROUND FACILITIES DAMAGE PREVENTION AUTHORITY.

(C) "BUSINESS DAY" MEANS A CALENDAR DAY OTHER THAN A SATURDAY, SUNDAY, OR LEGAL HOLIDAY.

[(c)**] (D)** "Demolition" means an operation in which a structure or mass of material is wrecked, razed, rended, moved, or removed using any tool, equipment, or explosive.

(E) "DESIGNER" MEANS A LICENSED ARCHITECT ~~OR ENGINEER~~, PROFESSIONAL ENGINEER, PROFESSIONAL LAND SURVEYOR, OR LICENSED LANDSCAPE ARCHITECT, AS THOSE TERMS ARE DEFINED IN THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE, WHO PREPARES A DRAWING FOR A PROJECT THAT MAY REQUIRE EXCAVATION OR DEMOLITION.

[(d)**] (F)** (1) "Excavation" means an operation in which earth, rock, or other material in or on the ground is moved, removed, or otherwise displaced by using any tool, equipment, or explosive.

(2) "Excavation" includes grading, trenching, digging, ditching, **DREDGING,** drilling, **BORING,** augering, tunnelling, scraping, cable or pipe plowing and driving a mass of material.

(G) "FUND" MEANS THE MARYLAND UNDERGROUND FACILITIES DAMAGE PREVENTION EDUCATION AND OUTREACH FUND.

(H) "LEGAL HOLIDAY" MEANS:

(1) THE DAY ON WHICH A LEGAL HOLIDAY, AS DEFINED IN ARTICLE 1, § 27 OF THE CODE, IS OBSERVED; OR

(2) A FEDERAL LEGAL HOLIDAY.

[(e)**] (I)** "One–call system" means a communications **[**network**] SYSTEM** in the State that:

(1) allows a person to **[**telephone a one–number utility protection system;

(2) provides a toll–free number for persons to call and**]** notify owner–members of planned excavation or demolition **BY:**

(I) CALLING A TOLL–FREE NUMBER OR ABBREVIATED DIALING CODE; OR

(II) INITIATING AN INTERACTIVE INTERNET TICKET REQUEST; and

[(3)**] (2)** maintains an **[**owner–contractor**]** **UNDERGROUND FACILITIES** information exchange system.

[(f)**] (J)** (1) "Owner" means a person that:

(i) owns or operates an underground facility; and

(ii) has the right to bury an underground facility.

(2) "Owner" includes:

(i) a public utility;

(ii) a telecommunications corporation;

(iii) a cable television corporation;

(iv) a political subdivision;

(v) a municipal corporation;

(vi) a steam heating company; **[**and**]**

(vii) an authority**; AND**

(VIII) A UNIT OF THE STATE.

[(g) "Owner–contractor information exchange system" means an automated voice response unit maintained as a part of a one–call system.**]**

[(h)**] (K)** "Owner–member" means an owner that participates as a member in a one–call system.

[(i)**] (L)** (1) "Person" has the meaning stated in § 1–101 of this article.

(2) "Person" includes:

(i) **[**a municipal corporation**]**~~;~~**;**

(II) THE STATE;

~~(II)~~ **(III) A POLITICAL SUBDIVISION OF THE STATE**; and

[(ii)**]** ~~(III)~~ **(IV) [**a**] ANY** governmental unit, department, or agency.

(M) "TICKET" MEANS A NUMBERED DOCUMENT ISSUED BY A ONE–CALL SYSTEM TO NOTIFY OWNER–MEMBERS THAT:

(1) A PERSON INTENDS TO PERFORM AN EXCAVATION OR DEMOLITION; OR

(2) A DESIGNER HAS REQUESTED INFORMATION ON THE LOCATION OF UNDERGROUND FACILITIES UNDER § 12–131 OF THIS SUBTITLE.

(N) "UNDERGROUND FACILITIES INFORMATION EXCHANGE SYSTEM" MEANS AN AUTOMATED VOICE RESPONSE UNIT OR INTERACTIVE INTERNET ACCESS SYSTEM THAT IS MAINTAINED AS PART OF A ONE–CALL SYSTEM.

[(j)**] (O)** (1) "Underground facility" means personal property that is ~~to be~~ buried or submerged for:

(i) use in connection with the storage or conveyance of water, sewage, oil, gas, or other substances; or

(ii) transmission or conveyance of electronic, telephonic, or telegraphic communications or electricity.

(2) "Underground facility" includes pipes, sewers, conduits, cables, valves, lines, wires, manholes, attachments, and those portions of poles below ground.

(3) "Underground facility" does not include a stormwater drain.

12–102.

It is the intent of the General Assembly to protect underground facilities of owners from destruction, damage, or dislocation to prevent:

(1) death or injury to individuals;

(2) property damage to private and public property; and

(3) the loss of services provided to the general public.

12–103.

This subtitle does not apply to an excavation or demolition performed or to be performed by an owner **OR LESSEE** of a private residence when the excavation or demolition is performed or to be performed**:**

(1) entirely on the land on which the private residence of the owner **OR LESSEE** is located**; AND**

(2) WITHOUT THE USE OF MACHINERY.

12–104. RESERVED.

12–105. RESERVED.

PART II. MARYLAND UNDERGROUND FACILITIES DAMAGE PREVENTION AUTHORITY.

12–106.

(A) THERE IS A MARYLAND UNDERGROUND FACILITIES DAMAGE PREVENTION AUTHORITY.

(B) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE AUTHORITY NOT BE FUNDED BY APPROPRIATIONS FROM THE STATE BUDGET.

12–107.

(A) THE AUTHORITY CONSISTS OF NINE MEMBERS APPOINTED BY THE GOVERNOR.

(B) OF THE NINE MEMBERS:

(1) ONE MEMBER FROM A LIST SUBMITTED TO THE GOVERNOR BY THE ASSOCIATED UTILITY CONTRACTORS OF MARYLAND;

(2) ONE MEMBER FROM A LIST SUBMITTED TO THE GOVERNOR BY THE PUBLIC WORKS CONTRACTORS ASSOCIATION OF MARYLAND;

(3) TWO UNDERGROUND FACILITY OWNERS THAT ARE MEMBERS OF A ONE–CALL SYSTEM FROM A LIST SUBMITTED TO THE GOVERNOR BY THE MARYLAND MEMBERS OF THE MARYLAND/DC SUBSCRIBERS COMMITTEE;

(4) ONE MEMBER FROM A LIST SUBMITTED TO THE GOVERNOR BY THE ONE–CALL CENTERS OPERATING IN THE STATE;

(5) ONE MEMBER WHO REPRESENTS THE STATE'S UNDERGROUND UTILITY LOCATOR COMMUNITY FROM A LIST SUBMITTED TO THE GOVERNOR BY THE MARYLAND MEMBERS OF THE MARYLAND/DC DAMAGE PREVENTION COMMITTEE;

(6) ONE MEMBER WHO HAS EXPERIENCE IN THE FIELD OF UNDERGROUND UTILITIES FROM A LIST SUBMITTED TO THE GOVERNOR BY THE MARYLAND ASSOCIATION OF COUNTIES;

(7) ONE MEMBER WHO HAS EXPERIENCE IN THE FIELD OF UNDERGROUND UTILITIES FROM A LIST SUBMITTED TO THE GOVERNOR BY THE MARYLAND MUNICIPAL LEAGUE; AND

(8) ONE MEMBER OF THE GENERAL PUBLIC FROM A LIST SUBMITTED TO THE GOVERNOR BY THE OTHER APPOINTED AND QUALIFIED MEMBERS OF THE AUTHORITY.

(C) TO THE EXTENT PRACTICABLE, MEMBERS APPOINTED TO THE AUTHORITY SHALL REASONABLY REFLECT THE GEOGRAPHIC, RACIAL, AND GENDER DIVERSITY OF THE STATE.

~~(C)~~ (D) (1) THE TERM OF A MEMBER IS 2 YEARS.

(2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE AUTHORITY ON OCTOBER 1, 2010.

(3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(5) A MEMBER MAY NOT BE APPOINTED FOR MORE THAN TWO CONSECUTIVE FULL TERMS.

(6) TO THE EXTENT PRACTICABLE, THE GOVERNOR SHALL FILL ANY VACANCY IN THE MEMBERSHIP OF THE AUTHORITY WITHIN 60 DAYS AFTER THE VACANCY.

~~(D)~~ (E) ON THE RECOMMENDATION OF THE AUTHORITY, THE GOVERNOR MAY REMOVE A MEMBER FOR INCOMPETENCE OR MISCONDUCT.

12–108.

(A) FROM AMONG ITS MEMBERS, EACH YEAR THE AUTHORITY SHALL SELECT A CHAIR.

(B) SUBJECT TO SUBSECTION (C) OF THIS SECTION, THE MANNER OF SELECTION OF THE CHAIR AND THE CHAIR'S TERM OF OFFICE SHALL BE AS THE AUTHORITY DETERMINES.

(C) A MEMBER MAY NOT SERVE MORE THAN 2 CONSECUTIVE YEARS AS CHAIR OF THE AUTHORITY.

12–109.

(A) FIVE MEMBERS OF THE AUTHORITY ARE A QUORUM.

(B) THE AUTHORITY SHALL MEET AT LEAST ONCE EVERY 3 MONTHS AT THE TIMES AND PLACES IT DETERMINES.

(C) A MEMBER OF THE AUTHORITY:

(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE AUTHORITY; AND

(2) IS NOT ENTITLED TO REIMBURSEMENT FOR EXPENSES.

12–110.

(A) THE AUTHORITY MAY:

(1) ADOPT BYLAWS FOR THE CONDUCT OF ITS BUSINESS;

(2) ADOPT A SEAL;

(3) MAINTAIN AN OFFICE AT A PLACE IT DESIGNATES;

(4) MAINTAIN FACILITIES FOR THE PURPOSE OF HOLDING HEARINGS UNDER THIS SUBTITLE;

(5) EMPLOY A STAFF;

(6) ACCEPT A GRANT, A LOAN, OR ANY OTHER ASSISTANCE IN ANY FORM FROM ANY PUBLIC OR PRIVATE SOURCE, SUBJECT TO THE PROVISIONS OF THIS SUBTITLE;

(7) ENTER INTO CONTRACTS AND EXECUTE THE INSTRUMENTS NECESSARY OR CONVENIENT TO CARRY OUT THIS SUBTITLE TO ACCOMPLISH ITS PURPOSES; AND

(8) DO ALL THINGS NECESSARY OR CONVENIENT TO CARRY OUT THE POWERS EXPRESSLY GRANTED BY THIS SUBTITLE.

(B) THE AUTHORITY SHALL ADOPT A CODE OF CONDUCT FOR ITS MEMBERS.

12–111.

(A) THE AUTHORITY MAY OBTAIN FUNDING FOR ITS OPERATIONAL EXPENSES FROM:

(1) A FEDERAL OR STATE GRANT;

(2) FILING FEES AND ADMINISTRATIVE FEES FOR COMPLAINTS HEARD BY THE AUTHORITY AS AUTHORIZED UNDER ~~§ 12–112~~ § 12–112(B)(1) OF THIS SUBTITLE; AND

(3) ANY OTHER SOURCE.

(B) EXCEPT AS PROVIDED IN SUBSECTION (A)(2) OF THIS SECTION, THE AUTHORITY MAY NOT IMPOSE A CHARGE OR ASSESSMENT AGAINST ANY PERSON, DIRECTLY OR INDIRECTLY, TO OBTAIN FUNDING FOR ITS OPERATIONAL EXPENSES.

12–112.

(A) TO ENFORCE THIS SUBTITLE, THE AUTHORITY MAY:

(1) HEAR COMPLAINTS FOR VIOLATIONS OF THIS SUBTITLE;

(2) AFTER A HEARING, ASSESS A CIVIL PENALTY UNDER § 12–135 OF THIS SUBTITLE; AND

(3) REACH A SETTLEMENT INSTEAD OF ASSESSING A CIVIL PENALTY.

(B) (1) THE AUTHORITY MAY:

~~(1)~~ (I) ESTABLISH REASONABLE COMPLAINT FILING FEES AND ADMINISTRATIVE FEES FOR COMPLAINTS HEARD BY THE AUTHORITY; AND

~~(2)~~ (II) USE THE SERVICES OF A THIRD PARTY TO COLLECT CIVIL PENALTIES.

(2) IF THE AUTHORITY DETERMINES THAT AN INDIVIDUAL CANNOT AFFORD TO PAY A FEE ESTABLISHED UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION, THE AUTHORITY MAY EXEMPT THE INDIVIDUAL WHOLLY OR PARTLY FROM THE FEE.

(C) THE AUTHORITY MAY NOT ASSESS A CIVIL PENALTY AGAINST A PERSON UNLESS THE PERSON:

(1) RECEIVES REASONABLE PRIOR NOTICE OF THE COMPLAINT; AND

(2) HAS AN OPPORTUNITY TO BE HEARD UNDER § 12–113 OF THIS SUBTITLE.

12–113.

(A) IN A HEARING BEFORE THE AUTHORITY FOR AN ALLEGED VIOLATION OF THIS SUBTITLE:

(1) ALL TESTIMONY SHALL BE GIVEN UNDER OATH; AND

(2) THE PROCEEDINGS SHALL BE RECORDED.

(B) THE CHAIR OR A MEMBER OF THE AUTHORITY MAY ADMINISTER THE OATH.

(C) THE AUTHORITY MAY COMPEL THE ATTENDANCE OF A WITNESS BY SUBPOENA.

(D) (1) THE AUTHORITY SHALL ISSUE ITS DECISION IN WRITING, STATING THE REASON FOR ITS DECISION.

(2) A COPY OF THE DECISION SHALL BE DELIVERED OR MAILED TO ~~THE PERSON AGAINST WHOM THE COMPLAINT WAS MADE~~ ALL PARTIES TO THE COMPLAINT PROCEEDINGS.

(E) (1) A PERSON AGGRIEVED BY A DECISION OF THE AUTHORITY MAY, WITHIN 30 DAYS AFTER RECEIVING THE DECISION, REQUEST JUDICIAL REVIEW OF THE DECISION BY THE CIRCUIT COURT.

(2) IN ACCORDANCE WITH THE JUDICIAL REVIEW AND APPEALS PROCESS UNDER THE ADMINISTRATIVE PROCEDURE ACT, THE CIRCUIT COURT SHALL HEAR AND DETERMINE ALL MATTERS CONNECTED WITH THE DECISION OF THE AUTHORITY FOR WHICH JUDICIAL REVIEW IS REQUESTED.

(3) (I) ~~THE~~ EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE COSTS OF THE JUDICIAL REVIEW, INCLUDING THE COSTS OF PREPARING A RECORD AND TRANSCRIPT, SHALL BE PAID BY THE PARTY FILING THE REQUEST FOR JUDICIAL REVIEW.

(II) IF THE PARTY FILING THE REQUEST FOR JUDICIAL REVIEW PREVAILS, THE CIRCUIT COURT MAY REQUIRE THAT THE COSTS OF THE JUDICIAL REVIEW, INCLUDING THE COSTS OF PREPARING A RECORD AND TRANSCRIPT, BE PAID BY THE AUTHORITY.

(4) IF THE REQUEST FOR JUDICIAL REVIEW IS DISMISSED, THE CIRCUIT COURT SHALL AWARD ATTORNEY'S FEES TO THE AUTHORITY UNLESS THE AUTHORITY WAIVES THE AWARD OF ATTORNEY'S FEES.

(F) (1) THE RECORD OF A HEARING CONDUCTED UNDER THIS SECTION, INCLUDING ANY RECORD OF TESTIMONY OR EVIDENCE OFFERED AT THE HEARING, IS NOT ADMISSIBLE IN ANY ADMINISTRATIVE OR CIVIL PROCEEDING INVOLVING THE SAME SUBJECT MATTER OR THE SAME PARTIES.

(2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY TO JUDICIAL REVIEW OF THE AUTHORITY'S DECISION.

12–114.

BEGINNING JANUARY 1, 2012, THE AUTHORITY SHALL REPORT EACH YEAR TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON THE ACTIVITIES OF THE AUTHORITY AND ANY RECOMMENDATIONS OF THE AUTHORITY.

12–115. RESERVED.

12–116. RESERVED.

PART III. MARYLAND UNDERGROUND FACILITIES DAMAGE PREVENTION EDUCATION AND OUTREACH FUND.

12–117.

(A) THERE IS A MARYLAND UNDERGROUND FACILITIES DAMAGE PREVENTION EDUCATION AND OUTREACH FUND.

(B) THE PURPOSE OF THE FUND IS TO COVER THE COSTS OF:

(1) PUBLIC EDUCATION AND OUTREACH PROGRAMS; AND

(2) THE DEVELOPMENT OF SAFETY PROCEDURES TO PREVENT DAMAGE TO UNDERGROUND FACILITIES.

(C) THE AUTHORITY SHALL HOLD AND ADMINISTER THE FUND.

(D) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7–302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(E) THE FUND CONSISTS OF:

(1) CIVIL PENALTIES PAID INTO THE FUND UNDER § 12–135 OF THIS SUBTITLE;

(2) INVESTMENT EARNINGS OF THE FUND; AND

(3) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.

(F) (1) THE FUND MAY BE USED ONLY FOR:

(I) PUBLIC EDUCATION AND OUTREACH PROGRAMS FOR THE PREVENTION OF DAMAGE TO UNDERGROUND FACILITIES; AND

(II) THE DEVELOPMENT OF SAFETY PROCEDURES FOR EXCAVATION AND DEMOLITION PROJECTS CONDUCTED IN THE AREA OF UNDERGROUND FACILITIES.

(2) THE AUTHORITY MAY MAKE GRANTS TO LOCAL GOVERNMENTS OR PRIVATE ENTITIES CONSISTENT WITH THE PURPOSES OF THE FUND.

12–118. RESERVED.

12–119. RESERVED.

PART IV. EXCAVATION AND DEMOLITION.

12–120.

(a) Except as provided in subsections (b) and (c) of this section, a person that obtains the information required under this subtitle is not excused from:

(1) performing an excavation or demolition in a careful and prudent manner; and

(2) liability for damages or injury that results from the excavation or demolition.

(b) If an underground facility is damaged by a person that fails to comply with this subtitle, the person is deemed negligent and is liable to the owner for the total cost of repair of the underground facility, unless the owner has failed to become an owner–member in accordance with § **[**12–109(b)**]** ~~**12–123(A)**~~ **12–123** of this subtitle.

(c) If an underground facility is damaged by a person who is in compliance with this subtitle and the owner has failed to become an owner–member in accordance with § **[**12–109(b)**]** ~~**12–123(A)**~~ **12–123** of this subtitle:

(1) the person is not liable to the owner for the cost of repair of the underground facility; and

(2) the owner is liable for any repairs or restoration of property damaged by the excavation or demolition.

(d) Subsection (c) of this section may not be construed to interfere with the right of:

(1) a third party to recover damages arising out of the excavation or demolition from the person or from the owner; or

(2) the person to seek contribution from an owner for damages sought by a third party under paragraph (1) of this subsection.

12–121.

(a) Subject to § **[**12–104(b)**]** **12–120(B)** of this subtitle, if all reasonable precautions have been taken to protect underground facilities, § **[**12–104(a)**]** **12–120(A)** of this subtitle and §§ **[**12–106 through 12–113**]** **12–122 THROUGH 12–135** of this subtitle do not apply to an emergency excavation or demolition being performed to prevent danger to life, health, or property.

(b) A person performing an emergency excavation or demolition to prevent danger to life, health, or property shall:

(1) take all reasonable precautions to protect underground facilities in and near the excavation or demolition area; and

(2) [promptly notify each owner of an underground facility in and near the excavation or demolition area] **IMMEDIATELY NOTIFY THE ONE–CALL SYSTEM SERVING THE GEOGRAPHIC AREA WHERE THE EMERGENCY EXCAVATION OR DEMOLITION IS PERFORMED TO INFORM THE APPROPRIATE OWNER–MEMBERS OF THE EXCAVATION OR DEMOLITION AREA**.

(C) A PERSON THAT ABUSES THE EMERGENCY EXCAVATION AND DEMOLITION PROCEDURE SET FORTH IN THIS SECTION IS SUBJECT TO PENALTIES UNDER § 12–135 OF THIS SUBTITLE.

12–122.

(a) Except as provided in subsection (b) of this section, a person that operates a one–call system in the State shall register with and obtain certification to operate from the Commission.

(b) A person operating a one–call system on or before July 1, 1990, is automatically registered with and certified by the Commission to continue to operate.

(c) (1) The operator of a one–call system shall install and make available an [owner–contractor] **UNDERGROUND FACILITIES** information exchange system in its one–call center in the State.

(2) The [owner–contractor] **UNDERGROUND FACILITIES** information exchange system shall be available to any caller at all times.

(d) The Commission may grant, amend, or revoke the certification of a person operating a one–call system.

12–123.

(A) (1) AN OWNER SHALL BE A MEMBER OF A ONE–CALL SYSTEM.

(2) ~~AN~~ EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, AN OWNER BECOMES A MEMBER OF A ONE–CALL SYSTEM BY REGISTERING WITH THE ONE–CALL SYSTEM.

(3) THE DEPARTMENT OF TRANSPORTATION, ITS ADMINISTRATIONS, AND THE MARYLAND TRANSPORTATION AUTHORITY SHALL BECOME MEMBERS OF THE ONE–CALL SYSTEM THROUGH A SEPARATE AGREEMENT AND USING THE INFORMATION COLLECTED UNDER § 12–124(B)(2) OF THIS SUBTITLE.

(B) (1) AN OWNER–MEMBER OF A ONE–CALL SYSTEM SHALL SUBMIT TO THE ONE–CALL SYSTEM, IN WRITING, THE TELEPHONE NUMBER OF THE

PERSON TO WHICH CALLS CONCERNING PROPOSED EXCAVATIONS OR DEMOLITIONS SHALL BE DIRECTED.

(2) AN OWNER–MEMBER SHALL ENSURE THAT ALL CONTACT INFORMATION PROVIDED TO THE ONE–CALL SYSTEM REMAINS CURRENT.

12–124.

(A) A PERSON THAT INTENDS TO PERFORM AN EXCAVATION OR DEMOLITION IN THE STATE SHALL INITIATE A TICKET REQUEST BY NOTIFYING THE ONE–CALL SYSTEM SERVING THE GEOGRAPHIC AREA WHERE THE EXCAVATION OR DEMOLITION IS TO BE PERFORMED OF THE PERSON'S INTENT TO PERFORM THE EXCAVATION OR DEMOLITION.

(B) NOTICE PROVIDED TO A ONE–CALL SYSTEM UNDER SUBSECTION (A) OF THIS SECTION SHALL INDICATE:

(1) THE LOCATION OF THE PROPOSED EXCAVATION OR DEMOLITION; ~~AND~~

(2) WHETHER THE PROPOSED EXCAVATION OR DEMOLITION IS WITHIN RIGHTS–OF–WAY OWNED OR CONTROLLED BY THE DEPARTMENT OF TRANSPORTATION, AN ADMINISTRATION OF THE DEPARTMENT OF TRANSPORTATION, OR THE MARYLAND TRANSPORTATION AUTHORITY AND, IF SO, THE ENTITY AND THE PERMIT NUMBER OR AUTHORIZATION NUMBER OBTAINED FROM THAT ENTITY; AND

~~(2)~~ (3) THE TYPE OF WORK TO BE PERFORMED IN CONNECTION WITH THE PROPOSED EXCAVATION OR DEMOLITION.

(C) (1) ~~ON~~ EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, ON RECEIVING NOTICE, THE ONE–CALL SYSTEM SHALL PROMPTLY TRANSMIT A COPY OF THE TICKET TO ALL OWNER–MEMBERS IN THE GEOGRAPHIC AREA INDICATED FOR THAT TICKET.

(2) BASED ON INFORMATION COLLECTED UNDER § 12–124(B)(2) OF THIS SUBTITLE, THE ONE–CALL SYSTEM SHALL PROMPTLY TRANSMIT A COPY OF THE TICKET TO THE DEPARTMENT OF TRANSPORTATION, AN ADMINISTRATION OF THE DEPARTMENT OF TRANSPORTATION, OR THE MARYLAND TRANSPORTATION AUTHORITY, AS APPLICABLE.

(3) A TICKET IS VALID FOR 12 BUSINESS DAYS AFTER THE DAY ON WHICH THE TICKET IS TRANSMITTED BY THE ONE–CALL SYSTEM TO AN ~~OWNER~~ OWNER–MEMBER.

12–125.

(A) A PERSON SHALL REPEAT THE NOTIFICATION REQUIRED UNDER § 12–124~~(A)~~ OF THIS SUBTITLE IF THE PERSON:

(1) HAS NOT COMPLETED OR WILL NOT COMPLETE THE EXCAVATION OR DEMOLITION WITHIN THE TIME PERIOD AUTHORIZED BY THE TICKET; OR

(2) INTENDS TO EXPAND THE EXCAVATION OR DEMOLITION BEYOND THE LOCATION INDICATED IN THE NOTICE UNDER § 12–124(B) OF THIS SUBTITLE.

(B) A PERSON SHALL REPEAT THE NOTIFICATION REGARDLESS OF:

(1) ANY DELAYS BY AN ~~OWNER~~ OWNER–MEMBER IN MARKING ITS UNDERGROUND FACILITIES; OR

(2) AN AGREEMENT BETWEEN THE PERSON AND AN ~~OWNER~~ OWNER–MEMBER REGARDING THE TIME FOR MARKING UNDERGROUND FACILITIES.

12–126.

(A) AN ~~OWNER~~ OWNER–MEMBER SHALL MARK ITS UNDERGROUND FACILITY IF THE ~~OWNER~~ OWNER–MEMBER HAS DETERMINED THAT A PROPOSED EXCAVATION OR DEMOLITION:

(1) IS WITHIN 5 FEET OF THE HORIZONTAL PLANE OF THE UNDERGROUND FACILITY; OR

(2) BECAUSE OF PLANNED BLASTING, IS SO NEAR TO THE UNDERGROUND FACILITY THAT THE UNDERGROUND FACILITY MAY BE DAMAGED OR DISTURBED.

(B) (1) AN ~~OWNER~~ OWNER–MEMBER SHALL MARK THE LOCATION OF ITS UNDERGROUND FACILITY BY MARKING ON THE GROUND WITHIN 18 INCHES ON A HORIZONTAL PLANE ON EITHER SIDE OF THE UNDERGROUND FACILITY.

(2) (I) WHEN MARKING THE LOCATION OF AN UNDERGROUND FACILITY, AN ~~OWNER~~ OWNER–MEMBER SHALL USE THE CURRENT COLOR CODES ESTABLISHED BY THE AMERICAN PUBLIC WORKS ASSOCIATION FOR MARKING UNDERGROUND FACILITIES.

(II) IF TWO OR MORE ~~OWNERS~~ OWNER–MEMBERS SHARE THE SAME COLOR CODE, EACH ~~OWNER~~ OWNER–MEMBER SHALL INCLUDE INFORMATION WITH THE MARKING THAT INDICATES THE ~~OWNER~~ OWNER–MEMBER OF THE MARKED UNDERGROUND FACILITY.

(C) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, WITHIN 2 BUSINESS DAYS AFTER THE DAY ON WHICH A TICKET IS TRANSFERRED TO AN ~~OWNER~~ OWNER–MEMBER, THE ~~OWNER~~ OWNER–MEMBER SHALL:

(1) MARK THE LOCATION OF THE ~~OWNER'S~~ OWNER–MEMBER'S UNDERGROUND FACILITY AND REPORT TO THE UNDERGROUND FACILITIES INFORMATION EXCHANGE SYSTEM THAT THE UNDERGROUND FACILITY HAS BEEN MARKED; OR

(2) REPORT TO THE UNDERGROUND FACILITIES INFORMATION EXCHANGE SYSTEM THAT THE ~~OWNER~~ OWNER–MEMBER HAS NO UNDERGROUND FACILITIES IN THE VICINITY OF THE PLANNED EXCAVATION OR DEMOLITION.

(D) (1) IF AN ~~OWNER~~ OWNER–MEMBER IS UNABLE TO MARK THE LOCATION OF THE ~~OWNER'S~~ OWNER–MEMBER'S UNDERGROUND FACILITY WITHIN THE TIME PERIOD PRESCRIBED IN SUBSECTION (C) OF THIS SECTION BECAUSE OF THE SCOPE OF THE PROPOSED EXCAVATION OR DEMOLITION, THE ~~OWNER~~ OWNER–MEMBER SHALL:

(I) PROMPTLY NOTIFY THE UNDERGROUND FACILITIES INFORMATION EXCHANGE SYSTEM AND THE PERSON THAT INTENDS TO PERFORM THE EXCAVATION OR DEMOLITION; AND

(II) WORK WITH THE PERSON THAT INTENDS TO PERFORM THE EXCAVATION OR DEMOLITION TO DEVELOP A MUTUALLY AGREEABLE SCHEDULE FOR MARKING THE UNDERGROUND FACILITY.

(2) IF THE ~~OWNER~~ OWNER–MEMBER AND PERSON THAT INTENDS TO PERFORM THE EXCAVATION OR DEMOLITION CANNOT REACH A MUTUALLY AGREEABLE SCHEDULE FOR MARKING UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE ~~OWNER~~ OWNER–MEMBER SHALL MARK THAT PORTION OF THE SITE WHERE EXCAVATION OR DEMOLITION WILL FIRST OCCUR, AND THE ~~OWNER~~ OWNER–MEMBER SHALL MARK THE REMAINDER OF THE SITE WITHIN A REASONABLE TIME.

(3) IF, DUE TO CIRCUMSTANCES BEYOND AN ~~OWNER'S~~ OWNER–MEMBER'S CONTROL AND FOR REASONS OTHER THAN THOSE SPECIFIED IN PARAGRAPH (1) OF THIS SUBSECTION, AN ~~OWNER~~

OWNER–MEMBER IS UNABLE TO MARK THE LOCATION OF THE ~~OWNER'S~~ OWNER–MEMBER'S UNDERGROUND FACILITY WITHIN THE TIME PERIOD PRESCRIBED IN SUBSECTION (C) OF THIS SECTION, THE ~~OWNER~~ OWNER–MEMBER SHALL REPORT TO THE UNDERGROUND FACILITIES INFORMATION EXCHANGE SYSTEM THAT AN EXTENSION IS REQUIRED.

(4) IN CONNECTION WITH EXTENSIVE OR CONTIGUOUS EXCAVATION OR DEMOLITION PROJECTS, THE PERSON PERFORMING THE EXCAVATION OR DEMOLITION AND THE ~~OWNER~~ OWNER–MEMBER MAY ESTABLISH A WORKING AGREEMENT REGARDING THE TIME PERIODS FOR MARKING THE UNDERGROUND FACILITY.

12–127.

(A) A PERSON MAY BEGIN EXCAVATION OR DEMOLITION ONLY AFTER THE PERSON RECEIVES NOTIFICATION FROM THE UNDERGROUND FACILITIES INFORMATION EXCHANGE SYSTEM OF THE ONE–CALL SYSTEM CONFIRMING THAT ALL APPLICABLE ~~OWNERS~~ OWNER–MEMBERS HAVE:

(1) MARKED THEIR UNDERGROUND FACILITIES IN ACCORDANCE WITH § 12–126(C) OF THIS SUBTITLE;

(2) MARKED THE APPLICABLE PORTION OF THEIR UNDERGROUND FACILITIES IN ACCORDANCE WITH § 12–126(D) OF THIS SUBTITLE; OR

(3) REPORTED THAT THEY HAVE NO UNDERGROUND FACILITIES IN THE VICINITY OF THE EXCAVATION OR DEMOLITION.

(B) (1) AFTER AN ~~OWNER~~ OWNER–MEMBER HAS MARKED THE LOCATION OF AN UNDERGROUND FACILITY IN ACCORDANCE WITH § 12–126 OF THIS SUBTITLE, THE PERSON PERFORMING THE EXCAVATION OR DEMOLITION IS RESPONSIBLE FOR THE MAINTENANCE OF THE DESIGNATED MARKER.

(2) IF THE MARKER IS OBLITERATED, DESTROYED, OR REMOVED, THE PERSON SHALL REPEAT THE NOTIFICATION REQUIRED UNDER § 12–124~~(A)~~ OF THIS SUBTITLE.

(C) (1) A PERSON PERFORMING AN EXCAVATION OR DEMOLITION SHALL EXERCISE DUE CARE TO AVOID INTERFERENCE WITH OR DAMAGE TO AN UNDERGROUND FACILITY THAT AN ~~OWNER~~ OWNER–MEMBER HAS MARKED IN ACCORDANCE WITH § 12–126 OF THIS SUBTITLE.

~~(2) IF EXCAVATION OR DEMOLITION IS PERFORMED WITHIN 18 INCHES OF AN UNDERGROUND FACILITY MARKING, THE EXCAVATION OR DEMOLITION SHALL BE PERFORMED BY HAND OR OTHER NONDESTRUCTIVE TECHNIQUES.~~

(2) BEFORE USING MECHANIZED EQUIPMENT FOR EXCAVATION OR DEMOLITION WITHIN 18 INCHES OF AN UNDERGROUND FACILITY MARKING, A PERSON SHALL EXPOSE THE UNDERGROUND FACILITY TO ITS OUTERMOST SURFACES BY HAND OR OTHER NONDESTRUCTIVE TECHNIQUES.

(3) A PERSON MAY NOT USE MECHANIZED EQUIPMENT TO EXCAVATE WITHIN 18 INCHES OF THE OUTERMOST SURFACE OF AN EXPOSED UNDERGROUND FACILITY.

~~(4) IF A PERSON IS PERFORMING AN EXCAVATION OR DEMOLITION THAT RUNS PARALLEL TO AN UNDERGROUND FACILITY AND IS WITHIN 18 INCHES OF AN UNDERGROUND FACILITY MARKING, THE PERSON SHALL:~~

~~(I) MAKE TEST HOLES AT THE MIDPOINT AND AT EACH END OF THE EXCAVATION OR DEMOLITION AREA; AND~~

~~(II) IF APPLICABLE, MAKE TEST HOLES AT INTERVALS OF NOT MORE THAN 100 FEET.~~

(D) (1) THE PERSON PERFORMING AN EXCAVATION OR DEMOLITION IMMEDIATELY SHALL NOTIFY THE ~~OWNER~~ OWNER–MEMBER OF THE FACILITY IF THE PERSON DISCOVERS OR CAUSES ANY DAMAGE TO OR DISLOCATION OR DISTURBANCE OF AN UNDERGROUND FACILITY IN CONNECTION WITH THE EXCAVATION OR DEMOLITION.

(2) IF THE DAMAGE, DISLOCATION, OR DISTURBANCE RESULTS IN THE ESCAPE OF A FLAMMABLE, TOXIC, OR CORROSIVE GAS OR LIQUID, THE PERSON PERFORMING THE EXCAVATION OR DEMOLITION IMMEDIATELY SHALL REPORT THE DAMAGE TO THE 9–1–1 EMERGENCY SYSTEM.

(E) (1) IF A PERSON KNOWS OR HAS REASON TO KNOW THAT AN UNDERGROUND FACILITY IN THE AREA OF A PLANNED OR ONGOING EXCAVATION OR DEMOLITION IS NOT MARKED AS REQUIRED BY THIS SUBTITLE, THE PERSON MAY NOT BEGIN OR CONTINUE THE EXCAVATION OR DEMOLITION UNLESS THE PERSON:

(I) HAS REPEATED THE NOTIFICATION REQUIRED UNDER § 12–124~~(A)~~ OF THIS SUBTITLE; AND

(II) RECEIVES NOTIFICATION FROM THE UNDERGROUND FACILITIES INFORMATION EXCHANGE SYSTEM OF THE ONE–CALL SYSTEM CONFIRMING THAT ALL APPLICABLE ~~OWNERS~~ OWNER–MEMBERS THAT HAVE UNDERGROUND FACILITIES IN THE VICINITY OF THE EXCAVATION OR DEMOLITION HAVE MARKED:

1. THE UNDERGROUND FACILITIES IN ACCORDANCE WITH § 12–126(C) OF THIS SUBTITLE; OR

2. THE APPLICABLE PORTION OF THE UNDERGROUND FACILITIES IN ACCORDANCE WITH 12–126(D) OF THIS SUBTITLE.

(2) IF THE UNDERGROUND FACILITY IS NOT MARKED AS REQUIRED BY THIS SUBTITLE AFTER THE PERSON RECEIVES NOTIFICATION FROM THE UNDERGROUND FACILITIES INFORMATION EXCHANGE SYSTEM UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE PERSON MAY PROCEED WITH THE EXCAVATION OR DEMOLITION.

12–128.

~~[~~(a)~~]~~ A political subdivision ~~[or,], A~~ municipal corporation**, THE DEPARTMENT OF TRANSPORTATION, AN ADMINISTRATION OF THE DEPARTMENT OF TRANSPORTATION, OR THE MARYLAND TRANSPORTATION AUTHORITY**~~, OR AN OWNER~~ may ~~NOT~~ charge, assess, or collect from a person ~~[~~a one–time initial marking fee not exceeding $35~~]~~ ~~A FEE~~ for reimbursement of expenses that the political subdivision ~~[or,],~~ municipal corporation**, THE DEPARTMENT OF TRANSPORTATION, AN ADMINISTRATION OF THE DEPARTMENT OF TRANSPORTATION, OR THE MARYLAND TRANSPORTATION AUTHORITY**~~, OR OWNER~~ incurs to comply with this subtitle.

~~[~~(b) If re–marking is requested, or is required after renotification under § 12–108(b) of this subtitle, a political subdivision ~~or~~**,** municipal corporation**, OR ANY OF THE TRANSPORTATION ENTITIES SPECIFIED IN SUBSECTION (A) OF THIS SECTION** may charge, assess, or collect from a person a re–marking fee not exceeding $15 for reimbursement of expenses that the political subdivision ~~or~~**,** municipal corporation**, OR ANY OF THE TRANSPORTATION ENTITIES SPECIFIED IN SUBSECTION (A) OF THIS SECTION** incurs to comply with this subtitle.~~]~~

12–129. RESERVED.

12–130. RESERVED.

PART V. DESIGNER REQUESTS.

12–131.

(A) IN CONNECTION WITH A PROJECT THAT MAY REQUIRE EXCAVATION OR DEMOLITION, A DESIGNER MAY INITIATE A TICKET REQUEST BY NOTIFYING THE ONE–CALL SYSTEM SERVING THE GEOGRAPHIC AREA COVERING THE PLANNED PROJECT.

(B) A DESIGNER INITIATING A TICKET REQUEST UNDER THIS SECTION:

(1) MAY INITIATE ONLY ONE TICKET REQUEST FOR A SINGLE PROJECT; AND

(2) SHALL, IN CONNECTION WITH A TICKET REQUEST:

(I) INDICATE THAT THE REQUEST IS FOR DESIGN PURPOSES ONLY AND MAY NOT BE USED FOR THE PURPOSE OF EXCAVATION OR DEMOLITION;

(II) NOTIFY THE ONE–CALL SYSTEM OF ANY ~~OWNERS~~ OWNER–MEMBERS FROM WHICH THE DESIGNER DOES NOT REQUIRE UNDERGROUND FACILITIES INFORMATION; AND

(III) ON THE REQUEST OF AN ~~OWNER~~ OWNER–MEMBER, PROVIDE THE ~~OWNER~~ OWNER–MEMBER WITH A PRELIMINARY DRAWING THAT INDICATES THE SCOPE OF THE PROJECT.

(C) (1) WITHIN 15 BUSINESS DAYS AFTER RECEIVING NOTICE FROM A ONE–CALL SYSTEM THAT A DESIGNER HAS MADE A REQUEST UNDER THIS SECTION, AN ~~OWNER~~ OWNER–MEMBER OF AN UNDERGROUND FACILITY IN THE AREA OF THE PROJECT SHALL NOTIFY THE DESIGNER OF THE TYPE AND APPROXIMATE LOCATION OF THE UNDERGROUND FACILITY.

(2) AN ~~OWNER~~ OWNER–MEMBER MAY PROVIDE NOTICE OF THE APPROXIMATE LOCATION OF AN UNDERGROUND FACILITY THROUGH THE USE OF:

(I) FIELD LOCATES;

(II) MAPS;

(III) SURVEYS;

(IV) INSTALLATION RECORDS; OR

(V) OTHER SIMILAR MEANS.

(D) (1) INFORMATION PROVIDED TO A DESIGNER UNDER THIS SECTION IS FOR INFORMATIONAL PURPOSES ONLY.

(2) AN ~~OWNER~~ OWNER–MEMBER OR AGENT OF AN ~~OWNER~~ OWNER–MEMBER MAY NOT BE HELD LIABLE FOR ANY INACCURATE INFORMATION PROVIDED TO A DESIGNER UNDER THIS SECTION.

12–132. RESERVED.

12–133. RESERVED.

PART VI. ENFORCEMENT AND PENALTIES.

12–134.

(a) To stop or prevent a negligent or unsafe excavation or demolition, an owner or the Attorney General may file an action for a writ of mandamus or injunction in a court of competent jurisdiction in Baltimore City or the county in which the excavation or demolition is being performed or is to be performed or in which the person resides or has its principal place of business, if the person:

(1) is performing an excavation or demolition in a negligent or unsafe manner that has resulted in or is likely to result in damage to an underground facility; or

(2) is intending to use procedures to carry out the excavation or demolition that are likely to result in damage to an underground facility.

(b) (1) To make its judgment or processes effective, the court may join as parties any persons necessary or proper.

(2) If appropriate, the court shall issue a final order granting the injunction or writ of mandamus.

12–135.

(a) **(1)** A person that performs an excavation or demolition without first providing the notice required under § **[**12–108**] 12–124(A)** of this subtitle and damages, dislocates, or disturbs an underground facility is deemed negligent and is subject to a civil penalty **ASSESSED BY THE AUTHORITY** not exceeding**:**

(I) [$1,000**] ~~$2,500~~ $2,000** for the first offense**;** and

(II) **[**$1,000**] SUBJECT TO SUBSECTION (C) OF THIS SECTION,** ~~**$5,000**~~ **$4,000** for each subsequent offense **[**or ten times the cost of repairs to the underground facility caused by the damage, dislocation, or disturbance**]**.

(2) INSTEAD OF OR IN ADDITION TO A CIVIL PENALTY ASSESSED UNDER THIS SUBSECTION, THE AUTHORITY MAY:

(I) REQUIRE THAT A PERSON:

1. PARTICIPATE IN DAMAGE PREVENTION TRAINING; OR

2. IMPLEMENT PROCEDURES TO MITIGATE THE LIKELIHOOD OF DAMAGE TO UNDERGROUND FACILITIES; OR

(II) IMPOSE OTHER SIMILAR MEASURES.

(3) A PERSON THAT VIOLATES ANY ~~**OTHER**~~ **PROVISION OF PART IV** ~~**OR PART V**~~ **OF THIS SUBTITLE IS SUBJECT TO A CIVIL PENALTY ASSESSED BY THE AUTHORITY NOT EXCEEDING** ~~**$2,500**~~ **$2,000.**

(b) **(1) THIS SUBSECTION APPLIES IF A PROCEEDING HAS NOT BEEN INITIATED BEFORE THE AUTHORITY.**

(2) A COURT OF COMPETENT JURISDICTION MAY ASSESS A CIVIL PENALTY OF UP TO 10 TIMES THE COST OF REPAIRS TO THE UNDERGROUND FACILITY CAUSED BY THE DAMAGE, DISLOCATION, OR DISTURBANCE AGAINST A PERSON THAT HAS COMMITTED A SUBSEQUENT OFFENSE UNDER SUBSECTION (A)(1) OF THIS SECTION.

(3) An action to recover a civil penalty under this **[**section**] SUBSECTION** shall be brought by an owner of a damaged, dislocated, or disturbed underground facility or the Attorney General in a court of competent jurisdiction in Baltimore City or the county in which the damage, dislocation, or disturbance occurred.

(4) THE PARTY BRINGING AN ACTION UNDER THIS SUBSECTION MAY RECOVER REASONABLE ATTORNEY'S FEES.

(C) THE AUTHORITY MAY NOT ASSESS A CIVIL PENALTY UNDER SUBSECTION (A)(1)(II) OF THIS SECTION IF AN ACTION TO RECOVER A CIVIL PENALTY HAS BEEN BROUGHT UNDER SUBSECTION (B) OF THIS SECTION.

[(c)**] (D)** All civil penalties recovered **[**in an action**]** under this section**[**, including reasonable attorney's fees,**]** shall be paid into the **[**General Fund of the State**] FUND**.

Article – State Government

12–101.

(a) In this subtitle, unless the context clearly requires otherwise, "State personnel" means:

(2) an employee or official of the:

(i) Maryland Transportation Authority;

(ii) Injured Workers' Insurance Fund;

(iii) Maryland Stadium Authority;

(iv) Maryland Environmental Service;

(v) overseas programs of the University College of the University System of Maryland;

(vi) Maryland Economic Development Corporation;

(vii) Maryland Technology Development Corporation;

(viii) Maryland African American Museum Corporation;

(ix) Maryland Automobile Insurance Fund;

(x) Maryland Health and Higher Educational Facilities Authority;

(xi) Maryland Agricultural and Resource–Based Industry Development Corporation;

(xii) Somers Cove Marina Commission; **[**and**]**

(xiii) Maryland Workforce Corporation; **AND**

(XIV) MARYLAND UNDERGROUND FACILITIES DAMAGE PREVENTION AUTHORITY;

~~SECTION 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:~~

~~**Article – Public Utility Companies**~~

~~12–101.~~

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

~~(c) (1) "Underground facility" means personal property that is to be buried or submerged for:~~

~~(i) use in connection with the storage or conveyance of water, sewage, oil, gas, or other substances; or~~

~~(ii) transmission or conveyance of electronic, telephonic, or telegraphic communications or electricity.~~

~~(2) "Underground facility" includes **STORMWATER DRAINS,** pipes, sewers, conduits, cables, valves, lines, wires, manholes, attachments, and those portions of poles below ground.~~

~~**[**(3) "Underground facility" does not include a stormwater drain.**]**~~

SECTION ~~5.~~ 4. AND BE IT FURTHER ENACTED, That the terms of the initial members of the Maryland Underground Facilities Damage Prevention Authority shall expire as follows:

(1) in 2011:

(i) the member appointed from a list submitted by the Public Works Contractors Association of Maryland;

(ii) one of the underground facility owners appointed from a list submitted by the Maryland members of the Maryland/DC Subscribers Committee as identified by the Governor on the initial appointment of that member to the Authority;

(iii) the member who represents Maryland's underground utility locator community appointed from a list submitted by the Maryland members of the Maryland/DC Damage Prevention Committee;

(iv) the member appointed from a list submitted by the Maryland Association of Counties; and

(v) the member of the general public; and

(2) in 2012:

(i) the member appointed from a list submitted by the Associated Utility Contractors of Maryland;

(ii) one of the underground facility owners appointed from a list submitted by the Maryland members of the Maryland/DC Subscribers Committee as identified by the Governor on the initial appointment of that member to the Authority;

(iii) the member appointed from a list submitted by the one–call centers operating in the State; and

(iv) the member appointed from a list submitted by the Maryland Municipal League.

~~SECTION 6. AND BE IT FURTHER ENACTED, That a person that owns stormwater drains in the State shall make a good faith effort to identify the location of the stormwater drains before January 1, 2012. A person that owns stormwater drains constructed before January 1, 2012, shall be held harmless under this Act with respect to any such stormwater drains that the owner could not identify and locate after making a good faith effort.~~

~~SECTION 7. AND BE IT FURTHER ENACTED, That Section 4 of this Act shall take effect January 1, 2012.~~

SECTION ~~8.~~ 5. AND BE IT FURTHER ENACTED, That~~, except as provided in Section 7 of this Act,~~ this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 636

(Senate Bill 924)

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 $35,000,000 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, $35,000,000 and to evidence such borrowing by the issuance and sale upon its full faith and credit of general obligation bonds in like par amount, which may be issued at one time or from time to time, in one or more groups or series, as the County may determine.

SECTION 3. AND BE IT FURTHER ENACTED, That the bonds shall be issued in accordance with a resolution of the County, which shall describe generally the construction, improvement, or development of public facilities, 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, 2010.

Approved by the Governor, May 20, 2010.

Chapter 637

(Senate Bill 948)

AN ACT concerning

Child Abuse and Neglect – Disclosure of Information

FOR the purpose of requiring a director of a local department of social services or the Secretary of Human Resources to disclose certain information concerning child abuse and neglect under certain circumstances; altering the circumstances under which certain information concerning child abuse and neglect is required to be disclosed; requiring the State's Attorney to notify the local director or the Secretary within a certain period of time after the conclusion of a certain investigation or prosecution under certain circumstances; requiring the local director or the Secretary to make a certain disclosure within a certain period of time after notification by the State's Attorney; repealing a requirement that the Secretary consult with a certain law enforcement agency before disclosing certain information concerning child abuse and neglect; requiring the local director or the Secretary to disclose certain information; prohibiting the local director and the Secretary from disclosing the names of certain individuals; and generally relating to the disclosure of information concerning child abuse and neglect.

BY repealing and reenacting, with amendments,
Article – Human Services
Section 1–203
Annotated Code of Maryland
(2007 Volume and 2009 Supplement)

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

Article – Human Services

1–203.

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

(2) "Local department" means the department of social services that has jurisdiction in the county:

(i) where the allegedly abused or neglected child lives; or

(ii) if different, where the abuse or neglect is alleged to have taken place.

(3) "Local director" means the director of the local department.

(4) "Medical report" means a psychological, psychiatric, therapeutic, clinical, or medical report or evaluation related to the allegedly abused or neglected child, a sibling of the child, or another child in the household, family, or care of the alleged abuser or neglector.

(5) "Secretary" means the Secretary of Human Resources.

(b) (1) Notwithstanding any other provision of law, the local director or the Secretary **[**may**]** **SHALL, ON REQUEST,** disclose information concerning child abuse or neglect in accordance with subsection (c) of this section if:

(i) **[**the local director or the Secretary determines that the disclosure is not contrary to the best interests of the child, the child's siblings, or other children in the household, family, or care of the alleged abuser or neglector**]** **THE INFORMATION IS LIMITED TO ACTIONS OR OMISSIONS OF THE LOCAL DEPARTMENT, THE DEPARTMENT OF HUMAN RESOURCES, OR AN AGENT OF THE DEPARTMENT OF HUMAN RESOURCES**;

(ii) **[**the alleged abuser or neglector has been charged with a crime related to a report of child abuse or neglect; and

(iii)**]** the child named in a report of abuse or neglect has **[**died or**]** suffered a **[**serious physical injury, as defined in § 3–201 of the Criminal Law Article**]** **FATALITY OR NEAR FATALITY; AND**

(III) 1. THE LOCAL DIRECTOR OR THE SECRETARY HAS CONSULTED THE STATE'S ATTORNEY'S OFFICE; AND

2. THE STATE'S ATTORNEY'S OFFICE HAS ADVISED THE LOCAL DIRECTOR OR THE SECRETARY THAT DISCLOSURE OF THE INFORMATION WOULD NOT JEOPARDIZE OR PREJUDICE A RELATED INVESTIGATION OR PROSECUTION.

(2) **[**In determining whether disclosure is contrary to the best interests of the child, the child's siblings, or other children in the household, family, or care of the alleged abuser or neglector under paragraph (1)(i) of this subsection, the local director or the Secretary shall consider the effect that disclosure may have on the provision of services to the child, the child's household or family members, and any children in the care of the alleged abuser or neglector.**]**

(I) IF THE LOCAL DIRECTOR OR THE SECRETARY DOES NOT DISCLOSE INFORMATION UNDER PARAGRAPH (1) OF THIS SUBSECTION BECAUSE THE STATE'S ATTORNEY HAS ADVISED THAT DISCLOSURE OF THE INFORMATION WOULD JEOPARDIZE OR PREJUDICE A RELATED INVESTIGATION OR PROSECUTION, THE STATE'S ATTORNEY SHALL NOTIFY THE LOCAL

DIRECTOR OR THE SECRETARY WITHIN 10 DAYS AFTER THE CONCLUSION OF THE RELATED INVESTIGATION OR PROSECUTION.

(II) WITHIN 30 DAYS AFTER NOTIFICATION FROM THE STATE'S ATTORNEY UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE LOCAL DIRECTOR OR THE SECRETARY SHALL DISCLOSE INFORMATION IN ACCORDANCE WITH THIS SECTION.

(c) Before disclosing the information:

(1) the local director or the Secretary shall consult the **[**primary law enforcement agency and the**]** State's Attorney's office **[**concerning whether disclosure of the information would jeopardize or prejudice any related investigation or prosecution**]**; and

(2) the local director and the Secretary shall consult each other.

(d) **[**The**]** **SUBJECT TO SUBSECTION (E) OF THIS SECTION, THE** local director or the Secretary **[**may**]** **SHALL** disclose:

(1) the name of the allegedly abused or neglected child **WHO HAS SUFFERED A FATALITY** ~~**OR NEAR FATALITY**~~;

(2) the date of the report of the alleged child abuse or neglect and of any prior or subsequent reports;

(3) the findings made by the local department at the conclusion of its investigation and the disposition made by the local department based on its findings;

(4) any services provided to the alleged abuser or neglector, the allegedly abused or neglected child, and the household or family members;

(5) the number of referrals for professional services for the alleged abuser or neglector, the allegedly abused or neglected child, and the household or family members;

(6) any prior adjudication as a child in need of assistance of the allegedly abused or neglected child, a sibling of the child, or another child in the household, family, or care of the alleged abuser or neglector; **[**and**]**

(7) THE STATUS OF ANY CASE INVOLVING THE CHILD THAT WAS OPEN AT THE TIME OF THE FATALITY OR NEAR FATALITY;

(8) A SUMMARY OF THE FACTS OF THE FATALITY OR NEAR FATALITY, INCLUDING THE DATE OF THE FATALITY OR NEAR FATALITY AND, IN

THE CASE OF A FATALITY, THE CAUSE OF DEATH REPORTED BY THE MEDICAL EXAMINER; AND

[(7)**] (9)** any information concerning the circumstances of the alleged child abuse or neglect and the investigation of the circumstances, if the local director or the Secretary determines that the disclosure is consistent with the public interest.

(e) (1) The local director or the Secretary may not:

(i) disclose the identity of or provide an identifying description of the person who made the report;

(ii) disclose the name of a **CHILD WHO HAS SUFFERED A NEAR FATALITY, A** sibling of the allegedly abused or neglected child, a parent of the allegedly abused or neglected child, an individual legally responsible for the child, **THE ALLEGED ABUSER OR NEGLECTOR,** or another household or family member**[**, other than the alleged abuser or neglector**]**;

(iii) except as provided in paragraph (2) of this subsection, disclose a medical report; or

(iv) except for the information described in subsection (d) of this section, disclose the file relating to the allegedly abused or neglected child.

(2) Notwithstanding Title 4, Subtitle 3 of the Health – General Article, the local director or the Secretary may disclose a medical report related to the cause of the child's injury or death as a result of the alleged abuse or neglect.

(f) In consultation with the local directors, the Secretary shall develop a form for disclosure of the information described in subsection (d) of this section.

(g) This section does not grant a right to any person to receive the information described in subsection (d) of this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 638

(House Bill 1141)

AN ACT concerning

Child Abuse and Neglect – Disclosure of Information

FOR the purpose of requiring a director of a local department of social services or the Secretary of Human Resources to disclose certain information concerning child abuse and neglect under certain circumstances; altering the circumstances under which certain information concerning child abuse and neglect is required to be disclosed; requiring the State's Attorney to notify the local director or the Secretary within a certain period of time after the conclusion of a certain investigation or prosecution under certain circumstances; requiring the local director or the Secretary to make a certain disclosure within a certain period of time after notification by the State's Attorney; repealing a requirement that the Secretary consult with a certain law enforcement agency before disclosing certain information concerning child abuse and neglect; requiring the local director or the Secretary to disclose certain information; prohibiting the local director and the Secretary from disclosing the names of certain individuals; and generally relating to the disclosure of information concerning child abuse and neglect.

BY repealing and reenacting, with amendments,
Article – Human Services
Section 1–203
Annotated Code of Maryland
(2007 Volume and 2009 Supplement)

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

Article – Human Services

1–203.

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

(2) "Local department" means the department of social services that has jurisdiction in the county:

(i) where the allegedly abused or neglected child lives; or

(ii) if different, where the abuse or neglect is alleged to have taken place.

(3) "Local director" means the director of the local department.

(4) "Medical report" means a psychological, psychiatric, therapeutic, clinical, or medical report or evaluation related to the allegedly abused or neglected

child, a sibling of the child, or another child in the household, family, or care of the alleged abuser or neglector.

(5) "Secretary" means the Secretary of Human Resources.

(b) (1) Notwithstanding any other provision of law, the local director or the Secretary **[**may**]** **SHALL, ON REQUEST,** disclose information concerning child abuse or neglect in accordance with subsection (c) of this section if:

(i) **[**the local director or the Secretary determines that the disclosure is not contrary to the best interests of the child, the child's siblings, or other children in the household, family, or care of the alleged abuser or neglector**]** **THE INFORMATION IS LIMITED TO ACTIONS OR OMISSIONS OF THE LOCAL DEPARTMENT, THE DEPARTMENT OF HUMAN RESOURCES, OR AN AGENT OF THE DEPARTMENT OF HUMAN RESOURCES**;

(ii) **[**the alleged abuser or neglector has been charged with a crime related to a report of child abuse or neglect; and

(iii)**]** the child named in a report of abuse or neglect has **[**died or**]** suffered a **[**serious physical injury, as defined in § 3–201 of the Criminal Law Article**]** **FATALITY OR NEAR FATALITY; AND**

(III) 1. THE LOCAL DIRECTOR OR THE SECRETARY HAS CONSULTED THE STATE'S ATTORNEY'S OFFICE; AND

2. THE STATE'S ATTORNEY'S OFFICE HAS ADVISED THE LOCAL DIRECTOR OR THE SECRETARY THAT DISCLOSURE OF THE INFORMATION WOULD NOT JEOPARDIZE OR PREJUDICE A RELATED INVESTIGATION OR PROSECUTION.

(2) **[**In determining whether disclosure is contrary to the best interests of the child, the child's siblings, or other children in the household, family, or care of the alleged abuser or neglector under paragraph (1)(i) of this subsection, the local director or the Secretary shall consider the effect that disclosure may have on the provision of services to the child, the child's household or family members, and any children in the care of the alleged abuser or neglector.**]**

(I) IF THE LOCAL DIRECTOR OR THE SECRETARY DOES NOT DISCLOSE INFORMATION UNDER PARAGRAPH (1) OF THIS SUBSECTION BECAUSE THE STATE'S ATTORNEY HAS ADVISED THAT DISCLOSURE OF THE INFORMATION WOULD JEOPARDIZE OR PREJUDICE A RELATED INVESTIGATION OR PROSECUTION, THE STATE'S ATTORNEY SHALL NOTIFY THE LOCAL DIRECTOR OR THE SECRETARY WITHIN 10 DAYS AFTER THE CONCLUSION OF THE RELATED INVESTIGATION OR PROSECUTION.

(II) WITHIN 30 DAYS AFTER NOTIFICATION FROM THE STATE'S ATTORNEY UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE LOCAL DIRECTOR OR THE SECRETARY SHALL DISCLOSE INFORMATION IN ACCORDANCE WITH THIS SECTION.

(c) Before disclosing the information:

(1) the local director or the Secretary shall consult the **[**primary law enforcement agency and the**]** State's Attorney's office **[**concerning whether disclosure of the information would jeopardize or prejudice any related investigation or prosecution**]**; and

(2) the local director and the Secretary shall consult each other.

(d) **[**The**]** **SUBJECT TO SUBSECTION (E) OF THIS SECTION, THE** local director or the Secretary **[**may**]** **SHALL** disclose:

(1) the name of the allegedly abused or neglected child **WHO HAS SUFFERED A FATALITY** ~~**OR NEAR FATALITY**~~;

(2) the date of the report of the alleged child abuse or neglect and of any prior or subsequent reports;

(3) the findings made by the local department at the conclusion of its investigation and the disposition made by the local department based on its findings;

(4) any services provided to the alleged abuser or neglector, the allegedly abused or neglected child, and the household or family members;

(5) the number of referrals for professional services for the alleged abuser or neglector, the allegedly abused or neglected child, and the household or family members;

(6) any prior adjudication as a child in need of assistance of the allegedly abused or neglected child, a sibling of the child, or another child in the household, family, or care of the alleged abuser or neglector; **[**and**]**

(7) THE STATUS OF ANY CASE INVOLVING THE CHILD THAT WAS OPEN AT THE TIME OF THE FATALITY OR NEAR FATALITY;

(8) A SUMMARY OF THE FACTS OF THE FATALITY OR NEAR FATALITY, INCLUDING THE DATE OF THE FATALITY OR NEAR FATALITY AND, IN THE CASE OF A FATALITY, THE CAUSE OF DEATH REPORTED BY THE MEDICAL EXAMINER; AND

[(7)**] (9)** any information concerning the circumstances of the alleged child abuse or neglect and the investigation of the circumstances, if the local director or the Secretary determines that the disclosure is consistent with the public interest.

(e) (1) The local director or the Secretary may not:

(i) disclose the identity of or provide an identifying description of the person who made the report;

(ii) disclose the name of a **CHILD WHO HAS SUFFERED A NEAR FATALITY, A** sibling of the allegedly abused or neglected child, a parent of the allegedly abused or neglected child, an individual legally responsible for the child, **THE ALLEGED ABUSER OR NEGLECTOR,** or another household or family member**[**, other than the alleged abuser or neglector**]**;

(iii) except as provided in paragraph (2) of this subsection, disclose a medical report; or

(iv) except for the information described in subsection (d) of this section, disclose the file relating to the allegedly abused or neglected child.

(2) Notwithstanding Title 4, Subtitle 3 of the Health – General Article, the local director or the Secretary may disclose a medical report related to the cause of the child's injury or death as a result of the alleged abuse or neglect.

(f) In consultation with the local directors, the Secretary shall develop a form for disclosure of the information described in subsection (d) of this section.

(g) This section does not grant a right to any person to receive the information described in subsection (d) of this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 639

(Senate Bill 958)

AN ACT concerning

Calvert County – Noise Control Ordinance

FOR the purpose of authorizing the County Commissioners of Calvert County to enact an ordinance adopting environmental noise standards, sound level limits, and certain noise controls under certain circumstances, authorizing the Calvert County Sheriff's Office to enforce the ordinance, and providing that a violation of the ordinance is a civil offense subject to a certain fine; and generally relating to noise control in Calvert County.

BY adding to
The Public Local Laws of Calvert County
Section 13–101 to be under the new title "Title 13. Noise Control"
Article 5 – Public Local Laws of Maryland
(2002 Edition and May 2008 Supplement, as amended)

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

Article 5 – Calvert County

TITLE 13. NOISE CONTROL.

13–101.

SUBJECT TO § 3–105 OF THE ENVIRONMENT ARTICLE OF THE ANNOTATED CODE OF MARYLAND, THE COUNTY COMMISSIONERS MAY ENACT AN ORDINANCE THAT:

(1) ADOPTS ENVIRONMENTAL NOISE STANDARDS, SOUND LEVEL LIMITS, AND NOISE CONTROLS AS NECESSARY TO PROTECT THE PUBLIC HEALTH, THE GENERAL WELFARE, AND PROPERTY;

(2) AUTHORIZES THE CALVERT COUNTY SHERIFF'S OFFICE TO ENFORCE THE ORDINANCE; AND

(3) PROVIDES THAT A VIOLATION OF THE ORDINANCE IS A CIVIL OFFENSE SUBJECT TO A FINE NOT TO EXCEED $10,000.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 640

(Senate Bill 979)

AN ACT concerning

Public–Private Partnerships – Oversight

FOR the purpose of requiring certain State agencies to submit a report concerning a proposed public–private partnership to the State Treasurer and certain committees of the General Assembly at a certain time prior to issuing a public notice of solicitation for the public–private partnership; requiring certain State agencies to submit an annual report concerning public–private partnerships that are under consideration to certain committees of the General Assembly; requiring certain State agencies to submit an annual report concerning existing public–private partnerships to certain committees of the General Assembly; requiring certain units of State government to submit an annual report concerning public–private partnerships for which the unit is providing conduit financing to certain committees of the General Assembly; requiring the State Treasurer to analyze the impact of a proposed public–private partnership ~~operating lease~~ agreement on the State's capital debt affordability limits; requiring the State Treasurer to submit each analysis of a public–private partnership ~~operating lease~~ agreement to certain committees of the General Assembly within a certain time; prohibiting the Board of Public Works from approving a public–private partnership ~~operating lease~~ agreement until certain committees of the General Assembly have ~~commented~~ had a certain period of time to review and comment on the State Treasurer's analysis of the ~~lease~~ agreement; requiring that the annual report of the Capital Debt Affordability Committee include certain information concerning the impact of public–private partnership ~~operating leases;~~ agreements; requiring the Maryland Transportation Authority to submit a certain analysis of a proposed public–private partnership agreement to certain committees of the General Assembly within a certain period of time before entering into the agreement; prohibiting the Board of Public Works from approving a public–private partnership agreement that the Authority proposes to enter into until certain committees of the General Assembly have had a certain period of time to review and comment on the Authority's analysis of the agreement; establishing a Joint Legislative and Executive Commission on Oversight of Public–Private Partnerships; specifying the membership of the Commission; providing for the chair and staffing of the Commission; prohibiting a member of the Commission from receiving certain compensation but authorizing a member of the Commission to receive certain reimbursements; requiring the Commission to study and make recommendations regarding certain issues; requiring the Commission to report its findings and recommendations to the Governor and the General Assembly on or before a certain date; repealing certain provisions of law requiring the ~~Maryland Transportation~~ Authority to provide certain information to certain committees of the General Assembly concerning

public–private partnerships; providing that certain committees of the General Assembly have a certain period of time to review and comment on reports submitted under this Act; defining certain terms; providing for the termination of certain provisions of this Act; and generally relating to oversight of public–private partnerships.

BY adding to
Article – State Finance and Procurement
Section 10A–101 and 10A–102 to be under the new title "Title 10A. Public–Private Partnerships"
Annotated Code of Maryland
(2009 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Transportation
Section 4–205(c)
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

BY adding to
Article – Transportation
Section 4–406
Annotated Code of Maryland
(2008 Replacement Volume and 2009 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

TITLE 10A. PUBLIC–PRIVATE PARTNERSHIPS.

10A–101.

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

(2) "BUDGET COMMITTEES" MEANS THE SENATE BUDGET AND TAXATION COMMITTEE, THE HOUSE COMMITTEE ON WAYS AND MEANS, AND THE HOUSE APPROPRIATIONS COMMITTEE.

(3) "PRIVATE ENTITY" MEANS AN INDIVIDUAL, A CORPORATION, A GENERAL OR LIMITED PARTNERSHIP, A LIMITED LIABILITY COMPANY, A JOINT VENTURE, A BUSINESS TRUST, A PUBLIC BENEFIT CORPORATION, A NONPROFIT ENTITY, OR ANOTHER BUSINESS ENTITY.

(4) "PUBLIC NOTICE OF SOLICITATION" INCLUDES A REQUEST FOR EXPRESSIONS OF INTEREST, A REQUEST FOR PROPOSALS, A MEMORANDUM OF UNDERSTANDING, AN INTERIM DEVELOPMENT AGREEMENT, A LETTER OF INTENT, OR A PRELIMINARY DEVELOPMENT PLAN.

(5) (I) "PUBLIC–PRIVATE PARTNERSHIP" MEANS A SALE OR ~~LONG–TERM~~ LEASE AGREEMENT BETWEEN A ~~CONTRACTING AGENCY~~ UNIT OF STATE GOVERNMENT AND A PRIVATE ENTITY UNDER WHICH:

1. THE PRIVATE ENTITY ASSUMES CONTROL OF THE OPERATION AND MAINTENANCE OF AN EXISTING STATE FACILITY; OR

2. THE PRIVATE ENTITY CONSTRUCTS, RECONSTRUCTS, FINANCES, OR OPERATES A STATE FACILITY ~~AND IS AUTHORIZED TO COLLECT~~ OR A FACILITY FOR STATE USE AND WILL COLLECT FEES, CHARGES, RENTS, OR TOLLS FOR THE USE OF THE FACILITY.

(II) "PUBLIC–PRIVATE PARTNERSHIP" DOES NOT INCLUDE:

1. A SHORT–TERM OPERATING SPACE LEASE ENTERED INTO IN THE ORDINARY COURSE OF BUSINESS BY A UNIT OF STATE GOVERNMENT AND A PRIVATE ENTITY ~~IF~~ AND APPROVED UNDER § 10–305 OF THIS ARTICLE; ~~OR~~

2. A PROCUREMENT GOVERNED BY DIVISION II OF THIS ARTICLE; OR

3. PUBLIC–PRIVATE PARTNERSHIP AGREEMENTS ENTERED INTO BY THE UNIVERSITY SYSTEM OF MARYLAND, WHERE NO STATE FUNDS ARE USED TO FUND OR FINANCE ANY PORTION OF A CAPITAL PROJECT.

(6) "REPORTING AGENCY" MEANS:

(I) THE DEPARTMENT OF GENERAL SERVICES;

(II) THE MARYLAND DEPARTMENT OF TRANSPORTATION;

(III) THE UNIVERSITY SYSTEM OF MARYLAND;

(IV) MORGAN STATE UNIVERSITY;

(V) ST. MARY'S COLLEGE OF MARYLAND; AND

(VI) THE BALTIMORE CITY COMMUNITY COLLEGE.

(B) THE REQUIREMENTS OF THIS TITLE DO NOT APPLY TO THE MARYLAND TRANSPORTATION AUTHORITY OR TO A PUBLIC–PRIVATE PARTNERSHIP PROPOSED OR ENTERED INTO BY THE MARYLAND TRANSPORTATION AUTHORITY.

~~(B)~~ (C) (1) THE REPORTS PROVIDED BY THE DEPARTMENT OF GENERAL SERVICES UNDER THIS SECTION SHALL INCLUDE INFORMATION CONCERNING ALL PUBLIC–PRIVATE PARTNERSHIPS INVOLVING UNITS WITHIN THE EXECUTIVE BRANCH OF STATE GOVERNMENT, EXCEPT FOR THOSE UNITS THAT ARE ALSO REPORTING AGENCIES.

(2) FOLLOWING THE SUBMISSION OF EACH OF THE REPORTS REQUIRED UNDER THIS SECTION, THE BUDGET COMMITTEES SHALL HAVE 45 DAYS TO REVIEW AND COMMENT ON THE REPORTS.

~~(C)~~ (D) (1) NOT LESS THAN 45 DAYS BEFORE ISSUING A PUBLIC NOTICE OF SOLICITATION FOR A PUBLIC–PRIVATE PARTNERSHIP, A REPORTING AGENCY SHALL SUBMIT TO THE STATE TREASURER AND THE BUDGET COMMITTEES, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, A REPORT CONCERNING THE PROPOSED PUBLIC–PRIVATE PARTNERSHIP.

(2) BY ~~JULY~~ JANUARY 1 OF EACH YEAR, EACH REPORTING AGENCY SHALL SUBMIT TO THE BUDGET COMMITTEES, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, A REPORT CONCERNING EACH PUBLIC–PRIVATE PARTNERSHIP UNDER CONSIDERATION AT THAT TIME BY THE REPORTING AGENCY THAT HAS NOT BEEN REVIEWED OR APPROVED PREVIOUSLY BY THE GENERAL ASSEMBLY.

(3) BY JANUARY 1 OF EACH YEAR, EACH REPORTING AGENCY SHALL SUBMIT TO THE BUDGET COMMITTEES, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, A STATUS REPORT CONCERNING EACH EXISTING PUBLIC–PRIVATE PARTNERSHIP IN WHICH THE REPORTING AGENCY IS INVOLVED.

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

10A–102.

(A) THE STATE TREASURER SHALL ANALYZE THE IMPACT OF EACH PUBLIC–PRIVATE PARTNERSHIP ~~OPERATING LEASE ENTERED INTO~~ AGREEMENT PROPOSED BY A UNIT OF STATE GOVERNMENT ON THE STATE'S CAPITAL DEBT AFFORDABILITY LIMITS.

(B) ~~(1)~~ THE STATE TREASURER SHALL SUBMIT TO THE BUDGET COMMITTEES, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, EACH ANALYSIS REQUIRED UNDER SUBSECTION (A) OF THIS SECTION WITHIN 30 DAYS AFTER THE STATE TREASURER RECEIVES A PROPOSED PUBLIC–PRIVATE PARTNERSHIP AGREEMENT FROM A UNIT OF STATE GOVERNMENT.

~~(2) FOLLOWING THE SUBMISSION OF EACH ANALYSIS, THE BUDGET COMMITTEES SHALL HAVE 45 DAYS TO REVIEW AND COMMENT ON THE ANALYSIS.~~

(C) THE BOARD OF PUBLIC WORKS MAY NOT APPROVE A PUBLIC–PRIVATE PARTNERSHIP ~~OPERATING LEASE UNDER~~ AGREEMENT UNDER § 10–305 OR § 12–204 OF THIS ARTICLE UNTIL THE BUDGET COMMITTEES HAVE ~~COMMENTED~~ HAD 30 DAYS TO REVIEW AND COMMENT ON THE STATE TREASURER'S ANALYSIS OF THE ~~LEASE~~ AGREEMENT REQUIRED UNDER SUBSECTION (A) OF THIS SECTION.

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

Article – Transportation

4–205.

(c) (1) Subject to the limitations described in **[**paragraphs (2) and (3)**]** **PARAGRAPH (2)** of this subsection, the Authority may make any contracts and agreements necessary or incidental to the exercise of its powers and performance of its duties.

(2) Not less than 45 days before entering into any contract or agreement to acquire or construct a revenue–producing transportation facilities project, subject to § 2–1246 of the State Government Article, the Authority shall provide, to the Senate Budget and Taxation Committee, the House Committee on Ways and Means, and the House Appropriations Committee, for review and comment,

and to the Department of Legislative Services, a description of the proposed project, a summary of the contract or agreement, and a financing plan that details:

(i) The estimated annual revenue from the issuance of bonds to finance the project; and

(ii) The estimated impact of the issuance of bonds to finance the project on the bonding capacity of the Authority.

[(3) (i) 1. In this paragraph the following words have the meanings indicated.

2. "Public notice of procurement" includes a request for proposals issued by the Authority.

3. "Public–private partnership arrangement" means a lease agreement between the Authority and a private entity under which the private entity assumes control of the operation and maintenance of an existing or future revenue–producing highway, bridge, tunnel, or transit facility.

(ii) Not less than 45 days before issuing a public notice of procurement related to a public–private partnership arrangement, subject to § 2–1246 of the State Government Article, the Authority shall provide, to the Senate Budget and Taxation Committee, the House Committee on Ways and Means, and the House Appropriations Committee, for review and comment, and to the Department of Legislative Services, a summary of the proposed procurement document to be used for solicitation of the public–private partnership arrangement.

(iii) Not less than 45 days before entering into any public–private partnership arrangement, subject to § 2–1246 of the State Government Article, the Authority shall provide, to the Senate Budget and Taxation Committee, the House Committee on Ways and Means, and the House Appropriations Committee, for review and comment, and to the Department of Legislative Services, a description of the proposed lease agreement and a financing plan, including:

1. The length of the proposed lease;

2. The scope of any toll–setting authority to be granted to the private entity;

3. The scope of payments to the Authority from the proposed public–private partnership arrangement;

4. A cost–benefit analysis of the proposed public–private partnership arrangement; and

5. Requirements pertaining to the ongoing operation and maintenance of the facility and contract oversight.]

4–406.

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

(2) "BUDGET COMMITTEES" MEANS THE SENATE BUDGET AND TAXATION COMMITTEE, THE HOUSE COMMITTEE ON WAYS AND MEANS, AND THE HOUSE APPROPRIATIONS COMMITTEE.

(3) "PRIVATE ENTITY" MEANS AN INDIVIDUAL, A CORPORATION, A GENERAL OR LIMITED PARTNERSHIP, A LIMITED LIABILITY COMPANY, A JOINT VENTURE, A BUSINESS TRUST, A PUBLIC BENEFIT CORPORATION, A NONPROFIT ENTITY, OR ANOTHER BUSINESS ENTITY.

(4) "PUBLIC NOTICE OF SOLICITATION" INCLUDES A REQUEST FOR EXPRESSIONS OF INTEREST, A REQUEST FOR PROPOSALS, A MEMORANDUM OF UNDERSTANDING, AN INTERIM DEVELOPMENT AGREEMENT, A LETTER OF INTENT, OR A PRELIMINARY DEVELOPMENT PLAN.

(5) (I) "PUBLIC–PRIVATE PARTNERSHIP" MEANS A SALE OR ~~LONG–TERM~~ LEASE AGREEMENT BETWEEN THE AUTHORITY AND A PRIVATE ENTITY UNDER WHICH:

1. THE PRIVATE ENTITY ASSUMES CONTROL OF THE OPERATION AND MAINTENANCE OF AN EXISTING STATE FACILITY; OR

2. THE PRIVATE ENTITY CONSTRUCTS, RECONSTRUCTS, FINANCES, OR OPERATES A STATE FACILITY ~~AND IS AUTHORIZED TO COLLECT~~ OR A FACILITY FOR STATE USE AND WILL COLLECT FEES, CHARGES, RENTS, OR TOLLS FOR THE USE OF THE FACILITY.

(II) "PUBLIC–PRIVATE PARTNERSHIP" DOES NOT INCLUDE:

1. A SHORT–TERM OPERATING SPACE LEASE ENTERED INTO IN THE ORDINARY COURSE OF BUSINESS BY THE AUTHORITY AND A PRIVATE ENTITY ~~IF~~ AND APPROVED UNDER § 10–305 OF THE STATE FINANCE AND PROCUREMENT ARTICLE; OR

2. A PROCUREMENT GOVERNED BY DIVISION II OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(B) FOLLOWING THE SUBMISSION OF EACH OF THE REPORTS REQUIRED UNDER THIS SECTION, THE BUDGET COMMITTEES SHALL HAVE 45 DAYS TO REVIEW AND COMMENT ON THE REPORTS.

(C) (1) NOT LESS THAN 45 DAYS BEFORE ISSUING A PUBLIC NOTICE OF SOLICITATION FOR A PUBLIC–PRIVATE PARTNERSHIP, THE AUTHORITY SHALL SUBMIT TO THE BUDGET COMMITTEES, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, A REPORT CONCERNING THE PROPOSED PUBLIC–PRIVATE PARTNERSHIP.

(2) BY ~~JULY~~ JANUARY 1 OF EACH YEAR, THE AUTHORITY SHALL SUBMIT TO THE BUDGET COMMITTEES, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, A REPORT CONCERNING EACH PUBLIC–PRIVATE PARTNERSHIP UNDER CONSIDERATION AT THAT TIME BY THE AUTHORITY THAT HAS NOT BEEN REVIEWED OR APPROVED PREVIOUSLY BY THE GENERAL ASSEMBLY.

(3) BY JANUARY 1 OF EACH YEAR, THE AUTHORITY SHALL SUBMIT TO THE BUDGET COMMITTEES, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, A STATUS REPORT CONCERNING EACH EXISTING PUBLIC–PRIVATE PARTNERSHIP IN WHICH THE AUTHORITY IS INVOLVED.

(D) BY ~~JULY~~ JANUARY 1 OF EACH YEAR, THE AUTHORITY SHALL SUBMIT TO THE BUDGET COMMITTEES, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, A REPORT CONCERNING EACH PUBLIC–PRIVATE PARTNERSHIP FOR WHICH THE AUTHORITY IS PROVIDING CONDUIT FINANCING.

(E) NOT LESS THAN 30 DAYS BEFORE ENTERING INTO A PUBLIC–PRIVATE PARTNERSHIP AGREEMENT, THE AUTHORITY SHALL SUBMIT TO THE BUDGET COMMITTEES, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, AN ANALYSIS OF THE IMPACT OF THE PROPOSED PUBLIC–PRIVATE PARTNERSHIP AGREEMENT ON THE AUTHORITY'S FINANCING PLAN, INCLUDING THE AUTHORITY'S OPERATING AND CAPITAL BUDGETS AND DEBT CAPACITY.

(F) THE BOARD OF PUBLIC WORKS MAY NOT APPROVE A PUBLIC–PRIVATE PARTNERSHIP AGREEMENT UNDER § 10–305 OR § 12–204 OF THE STATE FINANCE AND PROCUREMENT ARTICLE THAT THE AUTHORITY PROPOSES TO ENTER INTO UNTIL THE BUDGET COMMITTEES HAVE HAD 30 DAYS TO REVIEW AND COMMENT ON THE AUTHORITY'S ANALYSIS OF THE AGREEMENT REQUIRED UNDER SUBSECTION (E) OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) There is a Joint Legislative and Executive Commission on Oversight of Public–Private Partnerships.

(b) The Commission 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 Secretary of Budget and Management, or the Secretary's designee;

(4) the Secretary of General Services, or the Secretary's designee;

(5) the Secretary of Transportation, or the Secretary's designee;

(6) the Chancellor of the University System of Maryland, or the Chancellor's designee;

(7) the State Treasurer, or the State Treasurer's designee;

(8) the Executive Director of the Maryland Stadium Authority, or the Executive Director's designee;

(9) the Executive Director of the Maryland Economic Development Corporation, or the Executive Director's designee;

(10) the President of the Baltimore City Community College, or the President's designee;

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

(12) the President of St. Mary's College of Maryland, or the President's designee; and

(13) a representative of the private sector who has experience and expertise in developing public–private partnerships, appointed by the Governor in consultation with the President of the Senate and the Speaker of the House.

(c) The Governor shall designate the chair of the Commission.

(d) The Department of ~~Budget and Management~~ Transportation, Department of General Services, and the Department of Legislative Services shall provide staff for the Commission.

(e) A member of the Commission:

(1) may not receive compensation as a member of the Commission; but

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

(f) The Commission shall:

(1) assess the oversight, best practices, and approval processes for public–private partnerships in other states, including the Army Enhanced Use Lease Program;

(2) evaluate the statutory ~~definition of~~ definitions of "public notice of solicitation" and "public–private partnership", as enacted by Section 1 of this Act, and recommend any amendments to the ~~definition~~ definitions to enhance ~~its~~ their utility and refine ~~its~~ their scope;

(3) make recommendations concerning the appropriate manner of conducting ongoing legislative monitoring and oversight of public–private partnerships, including the following issues:

(i) the appropriate time for submission for legislative review of a proposed conceptual plan, a letter of intent, an interim development agreement, a master development agreement, and an operating lease for a public–private partnership;

(ii) the need for a State agency to state its justifications for seeking a public–private partnership before issuing a request for proposals or any other solicitation;

(iii) the appropriate way to assess the effects of a public–private partnership on the State budget, including the aggregate effect on spending by fund source and revenues;

(iv) the need for disclosure of all public–private partnership revenue and expenditure data and assumptions;

(v) the need for disclosure of all public–private partnership financing assumptions, including projected return on investment and a cost–benefit analysis; and

(vi) the appropriate periods for legislative review and comment; and

(4) make recommendations concerning broad policy parameters within which public–private partnerships should be negotiated, which may include the following issues:

(i) the processes for reviewing and approving a letter of intent, an interim development agreement, a master development agreement, an operating lease, and a request for qualifications;

(ii) the length of a public–private partnership agreement, including ground rent, operating leases, and renewal terms;

(iii) noncompete clauses and adverse action clauses;

(iv) revenue–sharing;

(v) limits on the timing and size of rent, toll, or other revenue source increases;

(vi) the use of proceeds from concession agreements;

(vii) guidelines on minority business enterprise involvement and goals;

(viii) performance measures that are linked to State payments;

(ix) the number and timing of appraisals of land and structures;

(x) green building requirements;

(xi) structuring public–private partnerships in a manner that preserves and promotes important State policy objectives;

(xii) contract oversight and remedies for default;

(xiii) police jurisdiction;

(xiv) eminent domain;

(xv) maintenance requirements;

(xvi) solicitation of public comment regarding proposed public–private partnerships and proposed toll rates or user rates;

(xvii) methods for developing competitive solicitations for public–private partnerships, including the advisability of establishing a special fund to reimburse a private entity for predevelopment expenses;

(xviii) the role of the Maryland Economic Development Corporation or other State entities in the issuance of tax increment financing bonds, tax–exempt financing, or other conduit financing;

(xix) the effect on the State workforce of requiring a private entity to give a hiring preference to State employees;

(xx) a policy on foreign ownership of State assets and requirements to meet conditions of the Committee on Foreign Investment in the United States;

(xxi) the transition and process for the return of assets to State control at the conclusion of a public–private partnership agreement;

(xxii) the time period for assignment of a lease or sale of facilities without requiring State consent or providing the State the right of first refusal; and

(xxiii) the advisability of considering unsolicited public–private partnership proposals.

(g) On or before December 1, 2011, the Commission shall report its findings and legislative recommendations concerning the issues outlined in subsection (f) of this section for consideration during the 2012 regular session of the General Assembly to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010. Section 2 of this Act shall remain effective for a period of 2 years and 1 month and, at the end of ~~May 31, 2012~~ June 30, 2012, with no further action required by the General Assembly, Section 2 of this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 20, 2010.

Chapter 641

(House Bill 1370)

AN ACT concerning

Public–Private Partnerships – Oversight

FOR the purpose of requiring certain State agencies to submit a report concerning a proposed public–private partnership to the State Treasurer and certain committees of the General Assembly at a certain time prior to issuing a public notice of solicitation for the public–private partnership; requiring certain State agencies to submit an annual report concerning public–private partnerships that are under consideration to certain committees of the General Assembly; requiring certain State agencies to submit an annual report concerning existing public–private partnerships to certain committees of the General Assembly; requiring certain units of State government to submit an annual report concerning public–private partnerships for which the unit is providing conduit financing to certain committees of the General Assembly; requiring the State Treasurer to analyze the impact of a proposed public–private partnership ~~operating lease~~ agreement on the State's capital debt affordability limits; requiring the State Treasurer to submit each analysis of a public–private partnership ~~operating lease~~ agreement to certain committees of the General Assembly within a certain time; prohibiting the Board of Public Works from approving a public–private partnership ~~operating lease~~ agreement until certain committees of the General Assembly have ~~commented~~ had a certain period of time to review and comment on the State Treasurer's analysis of the ~~lease~~ agreement; requiring that the annual report of the Capital Debt Affordability Committee include certain information concerning the impact of public–private partnership ~~operating leases;~~ agreements; requiring the Maryland Transportation Authority to submit a certain analysis of a proposed public–private partnership agreement to certain committees of the General Assembly within a certain period of time before entering into the agreement; prohibiting the Board of Public Works from approving a public–private partnership agreement that the Authority proposes to enter into until certain committees of the General Assembly have had a certain period of time to review and comment on the Authority's analysis of the agreement; establishing a Joint Legislative and Executive Commission on Oversight of Public–Private Partnerships; specifying the membership of the Commission; providing for the chair and staffing of the Commission; prohibiting a member of the Commission from receiving certain compensation but authorizing a member of the Commission to receive certain reimbursements; requiring the Commission to study and make recommendations regarding certain issues; requiring the Commission to report its findings and recommendations to the Governor and the General Assembly on or before a certain date; repealing certain provisions of law requiring the ~~Maryland Transportation~~ Authority to provide certain information to certain committees of the General Assembly concerning public–private partnerships; providing that certain committees of the General Assembly have a certain period of time to review and comment on reports submitted under this Act; defining certain terms; providing for the termination of certain provisions of this Act; and generally relating to oversight of public–private partnerships.

BY adding to

Article – State Finance and Procurement
Section 10A–101 and 10A–102 to be under the new title "Title 10A. Public–Private Partnerships"
Annotated Code of Maryland
(2009 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Transportation
Section 4–205(c)
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

BY adding to
Article – Transportation
Section 4–406
Annotated Code of Maryland
(2008 Replacement Volume and 2009 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

TITLE 10A. PUBLIC–PRIVATE PARTNERSHIPS.

10A–101.

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

(2) "BUDGET COMMITTEES" MEANS THE SENATE BUDGET AND TAXATION COMMITTEE, THE HOUSE COMMITTEE ON WAYS AND MEANS, AND THE HOUSE APPROPRIATIONS COMMITTEE.

(3) "PRIVATE ENTITY" MEANS AN INDIVIDUAL, A CORPORATION, A GENERAL OR LIMITED PARTNERSHIP, A LIMITED LIABILITY COMPANY, A JOINT VENTURE, A BUSINESS TRUST, A PUBLIC BENEFIT CORPORATION, A NONPROFIT ENTITY, OR ANOTHER BUSINESS ENTITY.

(4) "PUBLIC NOTICE OF SOLICITATION" INCLUDES A REQUEST FOR EXPRESSIONS OF INTEREST, A REQUEST FOR PROPOSALS, A MEMORANDUM OF UNDERSTANDING, AN INTERIM DEVELOPMENT AGREEMENT, A LETTER OF INTENT, OR A PRELIMINARY DEVELOPMENT PLAN.

(5) (I) "PUBLIC–PRIVATE PARTNERSHIP" MEANS A SALE OR ~~LONG–TERM~~ LEASE AGREEMENT BETWEEN A ~~CONTRACTING AGENCY~~ UNIT OF STATE GOVERNMENT AND A PRIVATE ENTITY UNDER WHICH:

1. THE PRIVATE ENTITY ASSUMES CONTROL OF THE OPERATION AND MAINTENANCE OF AN EXISTING STATE FACILITY; OR

2. THE PRIVATE ENTITY CONSTRUCTS, RECONSTRUCTS, FINANCES, OR OPERATES A STATE FACILITY ~~AND IS AUTHORIZED TO COLLECT~~ OR A FACILITY FOR STATE USE AND WILL COLLECT FEES, CHARGES, RENTS, OR TOLLS FOR THE USE OF THE FACILITY.

(II) "PUBLIC–PRIVATE PARTNERSHIP" DOES NOT INCLUDE:

1. A SHORT–TERM OPERATING SPACE LEASE ENTERED INTO IN THE ORDINARY COURSE OF BUSINESS BY A UNIT OF STATE GOVERNMENT AND A PRIVATE ENTITY ~~IF~~ AND APPROVED UNDER § 10–305 OF THIS ARTICLE; ~~OR~~

2. A PROCUREMENT GOVERNED BY DIVISION II OF THIS ARTICLE*; OR*

***3. PUBLIC–PRIVATE PARTNERSHIP AGREEMENTS ENTERED INTO BY THE UNIVERSITY SYSTEM OF MARYLAND, WHERE NO STATE FUNDS ARE USED TO FUND OR FINANCE ANY PORTION OF A CAPITAL PROJECT*.**

(6) "REPORTING AGENCY" MEANS:

(I) THE DEPARTMENT OF GENERAL SERVICES;

(II) THE MARYLAND DEPARTMENT OF TRANSPORTATION;

(III) THE UNIVERSITY SYSTEM OF MARYLAND;

(IV) MORGAN STATE UNIVERSITY;

(V) ST. MARY'S COLLEGE OF MARYLAND; AND

(VI) THE BALTIMORE CITY COMMUNITY COLLEGE.

(B) THE REQUIREMENTS OF THIS TITLE DO NOT APPLY TO THE MARYLAND TRANSPORTATION AUTHORITY OR TO A PUBLIC–PRIVATE PARTNERSHIP PROPOSED OR ENTERED INTO BY THE MARYLAND TRANSPORTATION AUTHORITY.

~~(B)~~ (C) (1) THE REPORTS PROVIDED BY THE DEPARTMENT OF GENERAL SERVICES UNDER THIS SECTION SHALL INCLUDE INFORMATION CONCERNING ALL PUBLIC–PRIVATE PARTNERSHIPS INVOLVING UNITS WITHIN THE EXECUTIVE BRANCH OF STATE GOVERNMENT, EXCEPT FOR THOSE UNITS THAT ARE ALSO REPORTING AGENCIES.

(2) FOLLOWING THE SUBMISSION OF EACH OF THE REPORTS REQUIRED UNDER THIS SECTION, THE BUDGET COMMITTEES SHALL HAVE 45 DAYS TO REVIEW AND COMMENT ON THE REPORTS.

~~(C)~~ (D) (1) NOT LESS THAN 45 DAYS BEFORE ISSUING A PUBLIC NOTICE OF SOLICITATION FOR A PUBLIC–PRIVATE PARTNERSHIP, A REPORTING AGENCY SHALL SUBMIT TO THE STATE TREASURER AND THE BUDGET COMMITTEES, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, A REPORT CONCERNING THE PROPOSED PUBLIC–PRIVATE PARTNERSHIP.

(2) BY ~~JULY~~ JANUARY 1 OF EACH YEAR, EACH REPORTING AGENCY SHALL SUBMIT TO THE BUDGET COMMITTEES, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, A REPORT CONCERNING EACH PUBLIC–PRIVATE PARTNERSHIP UNDER CONSIDERATION AT THAT TIME BY THE REPORTING AGENCY THAT HAS NOT BEEN REVIEWED OR APPROVED PREVIOUSLY BY THE GENERAL ASSEMBLY.

(3) BY JANUARY 1 OF EACH YEAR, EACH REPORTING AGENCY SHALL SUBMIT TO THE BUDGET COMMITTEES, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, A STATUS REPORT CONCERNING EACH EXISTING PUBLIC–PRIVATE PARTNERSHIP IN WHICH THE REPORTING AGENCY IS INVOLVED.

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

10A–102.

(A) THE STATE TREASURER SHALL ANALYZE THE IMPACT OF EACH PUBLIC–PRIVATE PARTNERSHIP ~~OPERATING LEASE ENTERED INTO~~ AGREEMENT PROPOSED BY A UNIT OF STATE GOVERNMENT ON THE STATE'S CAPITAL DEBT AFFORDABILITY LIMITS.

(B) ~~(1)~~ THE STATE TREASURER SHALL SUBMIT TO THE BUDGET COMMITTEES, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, EACH ANALYSIS REQUIRED UNDER SUBSECTION (A) OF THIS SECTION WITHIN 30 DAYS AFTER THE STATE TREASURER RECEIVES A PROPOSED PUBLIC–PRIVATE PARTNERSHIP AGREEMENT FROM A UNIT OF STATE GOVERNMENT.

~~(2) FOLLOWING THE SUBMISSION OF EACH ANALYSIS, THE BUDGET COMMITTEES SHALL HAVE 45 DAYS TO REVIEW AND COMMENT ON THE ANALYSIS.~~

(C) THE BOARD OF PUBLIC WORKS MAY NOT APPROVE A PUBLIC–PRIVATE PARTNERSHIP ~~OPERATING LEASE UNDER~~ AGREEMENT UNDER § 10–305 OR § 12–204 OF THIS ARTICLE UNTIL THE BUDGET COMMITTEES HAVE ~~COMMENTED~~ HAD 30 DAYS TO REVIEW AND COMMENT ON THE STATE TREASURER'S ANALYSIS OF THE ~~LEASE~~ AGREEMENT REQUIRED UNDER SUBSECTION (A) OF THIS SECTION.

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

Article – Transportation

4–205.

(c) (1) Subject to the limitations described in **[**paragraphs (2) and (3)**]** **PARAGRAPH (2)** of this subsection, the Authority may make any contracts and agreements necessary or incidental to the exercise of its powers and performance of its duties.

(2) Not less than 45 days before entering into any contract or agreement to acquire or construct a revenue–producing transportation facilities project, subject to § 2–1246 of the State Government Article, the Authority shall provide, to the Senate Budget and Taxation Committee, the House Committee on Ways and Means, and the House Appropriations Committee, for review and comment, and to the Department of Legislative Services, a description of the proposed project, a summary of the contract or agreement, and a financing plan that details:

(i) The estimated annual revenue from the issuance of bonds to finance the project; and

(ii) The estimated impact of the issuance of bonds to finance the project on the bonding capacity of the Authority.

[(3) (i) 1. In this paragraph the following words have the meanings indicated.

2. "Public notice of procurement" includes a request for proposals issued by the Authority.

3. "Public–private partnership arrangement" means a lease agreement between the Authority and a private entity under which the private entity assumes control of the operation and maintenance of an existing or future revenue–producing highway, bridge, tunnel, or transit facility.

(ii) Not less than 45 days before issuing a public notice of procurement related to a public–private partnership arrangement, subject to § 2–1246 of the State Government Article, the Authority shall provide, to the Senate Budget and Taxation Committee, the House Committee on Ways and Means, and the House Appropriations Committee, for review and comment, and to the Department of Legislative Services, a summary of the proposed procurement document to be used for solicitation of the public–private partnership arrangement.

(iii) Not less than 45 days before entering into any public–private partnership arrangement, subject to § 2–1246 of the State Government Article, the Authority shall provide, to the Senate Budget and Taxation Committee, the House Committee on Ways and Means, and the House Appropriations Committee, for review and comment, and to the Department of Legislative Services, a description of the proposed lease agreement and a financing plan, including:

1. The length of the proposed lease;

2. The scope of any toll–setting authority to be granted to the private entity;

3. The scope of payments to the Authority from the proposed public–private partnership arrangement;

4. A cost–benefit analysis of the proposed public–private partnership arrangement; and

5. Requirements pertaining to the ongoing operation and maintenance of the facility and contract oversight.**]**

4–406.

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

(2) "BUDGET COMMITTEES" MEANS THE SENATE BUDGET AND TAXATION COMMITTEE, THE HOUSE COMMITTEE ON WAYS AND MEANS, AND THE HOUSE APPROPRIATIONS COMMITTEE.

(3) "PRIVATE ENTITY" MEANS AN INDIVIDUAL, A CORPORATION, A GENERAL OR LIMITED PARTNERSHIP, A LIMITED LIABILITY COMPANY, A JOINT VENTURE, A BUSINESS TRUST, A PUBLIC BENEFIT CORPORATION, A NONPROFIT ENTITY, OR ANOTHER BUSINESS ENTITY.

(4) "PUBLIC NOTICE OF SOLICITATION" INCLUDES A REQUEST FOR EXPRESSIONS OF INTEREST, A REQUEST FOR PROPOSALS, A MEMORANDUM OF UNDERSTANDING, AN INTERIM DEVELOPMENT AGREEMENT, A LETTER OF INTENT, OR A PRELIMINARY DEVELOPMENT PLAN.

(5) (I) "PUBLIC–PRIVATE PARTNERSHIP" MEANS A SALE OR ~~LONG–TERM~~ LEASE AGREEMENT BETWEEN THE AUTHORITY AND A PRIVATE ENTITY UNDER WHICH:

1. THE PRIVATE ENTITY ASSUMES CONTROL OF THE OPERATION AND MAINTENANCE OF AN EXISTING STATE FACILITY; OR

2. THE PRIVATE ENTITY CONSTRUCTS, RECONSTRUCTS, FINANCES, OR OPERATES A STATE FACILITY ~~AND IS AUTHORIZED TO COLLECT~~ OR A FACILITY FOR STATE USE AND WILL COLLECT FEES, CHARGES, RENTS, OR TOLLS FOR THE USE OF THE FACILITY.

(II) "PUBLIC–PRIVATE PARTNERSHIP" DOES NOT INCLUDE:

1. A SHORT–TERM OPERATING SPACE LEASE ENTERED INTO IN THE ORDINARY COURSE OF BUSINESS BY THE AUTHORITY AND A PRIVATE ENTITY ~~IF~~ AND APPROVED UNDER § 10–305 OF THE STATE FINANCE AND PROCUREMENT ARTICLE; OR

2. A PROCUREMENT GOVERNED BY DIVISION II OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(B) FOLLOWING THE SUBMISSION OF EACH OF THE REPORTS REQUIRED UNDER THIS SECTION, THE BUDGET COMMITTEES SHALL HAVE 45 DAYS TO REVIEW AND COMMENT ON THE REPORTS.

(C) (1) NOT LESS THAN 45 DAYS BEFORE ISSUING A PUBLIC NOTICE OF SOLICITATION FOR A PUBLIC–PRIVATE PARTNERSHIP, THE AUTHORITY SHALL SUBMIT TO THE BUDGET COMMITTEES, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, A REPORT CONCERNING THE PROPOSED PUBLIC–PRIVATE PARTNERSHIP.

(2) BY ~~JULY~~ JANUARY 1 OF EACH YEAR, THE AUTHORITY SHALL SUBMIT TO THE BUDGET COMMITTEES, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, A REPORT CONCERNING EACH PUBLIC–PRIVATE PARTNERSHIP UNDER CONSIDERATION AT THAT TIME BY THE AUTHORITY THAT HAS NOT BEEN REVIEWED OR APPROVED PREVIOUSLY BY THE GENERAL ASSEMBLY.

(3) BY JANUARY 1 OF EACH YEAR, THE AUTHORITY SHALL SUBMIT TO THE BUDGET COMMITTEES, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, A STATUS REPORT CONCERNING EACH EXISTING PUBLIC–PRIVATE PARTNERSHIP IN WHICH THE AUTHORITY IS INVOLVED.

(D) BY ~~JULY~~ JANUARY 1 OF EACH YEAR, THE AUTHORITY SHALL SUBMIT TO THE BUDGET COMMITTEES, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, A REPORT CONCERNING EACH PUBLIC–PRIVATE PARTNERSHIP FOR WHICH THE AUTHORITY IS PROVIDING CONDUIT FINANCING.

(E) NOT LESS THAN 30 DAYS BEFORE ENTERING INTO A PUBLIC–PRIVATE PARTNERSHIP AGREEMENT, THE AUTHORITY SHALL SUBMIT TO THE BUDGET COMMITTEES, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, AN ANALYSIS OF THE IMPACT OF THE PROPOSED PUBLIC–PRIVATE PARTNERSHIP AGREEMENT ON THE AUTHORITY'S FINANCING PLAN, INCLUDING THE AUTHORITY'S OPERATING AND CAPITAL BUDGETS AND DEBT CAPACITY.

(F) THE BOARD OF PUBLIC WORKS MAY NOT APPROVE A PUBLIC–PRIVATE PARTNERSHIP AGREEMENT UNDER § 10–305 OR § 12–204 OF THE STATE FINANCE AND PROCUREMENT ARTICLE THAT THE AUTHORITY PROPOSES TO ENTER INTO UNTIL THE BUDGET COMMITTEES HAVE HAD 30 DAYS TO REVIEW AND COMMENT ON THE AUTHORITY'S ANALYSIS OF THE AGREEMENT REQUIRED UNDER SUBSECTION (E) OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) There is a Joint Legislative and Executive Commission on Oversight of Public–Private Partnerships.

(b) The Commission 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 Secretary of Budget and Management, or the Secretary's designee;

(4) the Secretary of General Services, or the Secretary's designee;

(5) the Secretary of Transportation, or the Secretary's designee;

(6) the Chancellor of the University System of Maryland, or the Chancellor's designee;

(7) the State Treasurer, or the State Treasurer's designee;

(8) the Executive Director of the Maryland Stadium Authority, or the Executive Director's designee;

(9) the Executive Director of the Maryland Economic Development Corporation, or the Executive Director's designee;

(10) the President of the Baltimore City Community College, or the President's designee;

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

(12) the President of St. Mary's College of Maryland, or the President's designee; and

(13) a representative of the private sector who has experience and expertise in developing public–private partnerships, appointed by the Governor in consultation with the President of the Senate and the Speaker of the House.

(c) The Governor shall designate the chair of the Commission.

(d) The Department of ~~Budget and Management~~ Transportation, Department of General Services, and the Department of Legislative Services shall provide staff for the Commission.

(e) A member of the Commission:

(1) may not receive compensation as a member of the Commission; but

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

(f) The Commission shall:

(1) assess the oversight, best practices, and approval processes for public–private partnerships in other states, including the Army Enhanced Use Lease Program;

(2) evaluate the statutory ~~definition of~~ definitions of "public notice of solicitation" and "public–private partnership", as enacted by Section 1 of this Act, and recommend any amendments to the ~~definition~~ definitions to enhance ~~its~~ their utility and refine ~~its~~ their scope;

(3) make recommendations concerning the appropriate manner of conducting ongoing legislative monitoring and oversight of public–private partnerships, including the following issues:

(i) the appropriate time for submission for legislative review of a proposed conceptual plan, a letter of intent, an interim development agreement, a master development agreement, and an operating lease for a public–private partnership;

(ii) the need for a State agency to state its justifications for seeking a public–private partnership before issuing a request for proposals or any other solicitation;

(iii) the appropriate way to assess the effects of a public–private partnership on the State budget, including the aggregate effect on spending by fund source and revenues;

(iv) the need for disclosure of all public–private partnership revenue and expenditure data and assumptions;

(v) the need for disclosure of all public–private partnership financing assumptions, including projected return on investment and a cost–benefit analysis; and

(vi) the appropriate periods for legislative review and comment; and

(4) make recommendations concerning broad policy parameters within which public–private partnerships should be negotiated, which may include the following issues:

(i) the processes for reviewing and approving a letter of intent, an interim development agreement, a master development agreement, an operating lease, and a request for qualifications;

(ii) the length of a public–private partnership agreement, including ground rent, operating leases, and renewal terms;

(iii) noncompete clauses and adverse action clauses;

(iv) revenue–sharing;

(v) limits on the timing and size of rent, toll, or other revenue source increases;

(vi) the use of proceeds from concession agreements;

(vii) guidelines on minority business enterprise involvement and goals;

(viii) performance measures that are linked to State payments;

(ix) the number and timing of appraisals of land and structures;

(x) green building requirements;

(xi) structuring public–private partnerships in a manner that preserves and promotes important State policy objectives;

(xii) contract oversight and remedies for default;

(xiii) police jurisdiction;

(xiv) eminent domain;

(xv) maintenance requirements;

(xvi) solicitation of public comment regarding proposed public–private partnerships and proposed toll rates or user rates;

(xvii) methods for developing competitive solicitations for public–private partnerships, including the advisability of establishing a special fund to reimburse a private entity for predevelopment expenses;

(xviii) the role of the Maryland Economic Development Corporation or other State entities in the issuance of tax increment financing bonds, tax–exempt financing, or other conduit financing;

(xix) the effect on the State workforce of requiring a private entity to give a hiring preference to State employees;

(xx) a policy on foreign ownership of State assets and requirements to meet conditions of the Committee on Foreign Investment in the United States;

(xxi) the transition and process for the return of assets to State control at the conclusion of a public–private partnership agreement;

(xxii) the time period for assignment of a lease or sale of facilities without requiring State consent or providing the State the right of first refusal; and

(xxiii) the advisability of considering unsolicited public–private partnership proposals.

(g) On or before December 1, 2011, the Commission shall report its findings and legislative recommendations concerning the issues outlined in subsection (f) of this section for consideration during the 2012 regular session of the General Assembly to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010. Section 2 of this Act shall remain effective for a period of 2 years and 1 month and, at the end of ~~May 31, 2012~~ June 30, 2012, with no further action required by the General Assembly, Section 2 of this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 20, 2010.

Chapter 642

(Senate Bill 994)

AN ACT concerning

Queen Anne's County – Annual Financial Report – Filing Date

FOR the purpose of altering the date by which Queen Anne's County may file its annual financial report for the fiscal year with the Department of Legislative Services; and generally relating to the annual financial report of Queen Anne's County.

BY repealing and reenacting, with amendments,
Article 19 – Comptroller
Section 37
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

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

Article 19 – Comptroller

37.

(a) (1) Except as provided in paragraph (2) of this subsection, each county, municipal corporation, and taxing district in the State shall by the first day of November after the close of the fiscal year file with the Department of Legislative Services its financial report covering the full period of that fiscal year.

(2) (i) Each county, municipal corporation, or taxing district with a population of more than 400,000 may by the first day of January after the close of the fiscal year file with the Department of Legislative Services its financial report covering the full period of that fiscal year.

(ii) Unless subparagraph (i) of this paragraph applies, Howard County may by the first day of December after the close of the fiscal year file with the Department of Legislative Services its financial report covering the full period of that fiscal year.

(iii) Frederick County may by the first day of January after the close of the fiscal year file with the Department of Legislative Services its financial report covering the full period of that fiscal year.

(iv) **QUEEN ANNE'S COUNTY MAY BY THE FIRST DAY OF JANUARY AFTER THE CLOSE OF THE FISCAL YEAR FILE WITH THE DEPARTMENT OF LEGISLATIVE SERVICES ITS FINANCIAL REPORT COVERING THE FULL PERIOD OF THAT FISCAL YEAR.**

(V) Wicomico County may by the first day of January after the close of the fiscal year file with the Department of Legislative Services its financial report covering the full period of that fiscal year.

(b) The reports required by subsection (a) of this section shall be:

(1) Properly filled in on the form or forms established by the Department as provided in this subtitle; and

(2) Verified by the chief executive officer of each county, municipal corporation, and taxing district.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 643

(Senate Bill 1000)

AN ACT concerning

State Employee and Retiree Health and Welfare Benefits Program – Baltimore Metropolitan Council – Eligibility

FOR the purpose of including certain employees of the Baltimore Metropolitan Council in the State Employee and Retiree Health and Welfare Benefits Program; providing that certain service accrued by certain employees of the Baltimore Metropolitan Council shall be included as part of the employee's State service; requiring the Baltimore Metropolitan Council to pay to the State a certain amount of money based on a certain subsidy; and generally relating to the employees of the Baltimore Metropolitan Council participating in the State Employee and Retiree Health and Welfare Benefits Program.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 2–511
Annotated Code of Maryland
(2009 Replacement Volume and 2009 Supplement)

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

Article – State Personnel and Pensions

2–511.

(a) This section applies to employees of**:**

(1) the Maryland Environmental Service **[**and**];**

(2) **THE** Northeast Maryland Waste Disposal Authority**; AND**

(3) THE BALTIMORE METROPOLITAN COUNCIL WHO WERE EMPLOYEES OF THE BALTIMORE REGIONAL COUNCIL OF GOVERNMENTS ON JUNE 30, 1992.

(b) Subject to the regulations adopted under § 2–503 of this subtitle, an employee or, while receiving an allowance under the Employees' Retirement System of the State of Maryland or the Employees' Pension System of the State of Maryland, an employee's surviving spouse:

(1) may enroll and participate in the health insurance or other benefit options established under the Program; and

(2) except as provided in subsection (d) of this section, is subject to the same terms and conditions as those provided under § 2–507 of this subtitle.

(c) While receiving an allowance under the Employees' Retirement System of the State of Maryland or the Employees' Pension System of the State of Maryland, a former employee or a former employee's surviving spouse or dependent child:

(1) may enroll and participate in the health insurance benefit options established under the Program; and

(2) except as provided in subsection (d) of this section, is subject to the same terms and conditions as those provided under § 2–508 of this subtitle, with the employee's service with the Maryland Environmental Service **[**and**]**, Northeast Maryland Waste Disposal Authority**, AND THE BALTIMORE METROPOLITAN COUNCIL** being included as part of the employee's State service.

(d) For each participant under this section, the Maryland Environmental Service, **[**and**]** the Northeast Maryland Waste Disposal Authority**, AND THE BALTIMORE METROPOLITAN COUNCIL** or any successor agency, shall pay to the State the respective employer share of the cost of the Program based on the State subsidy allowed under this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 644

(House Bill 1294)

AN ACT concerning

State Employee and Retiree Health and Welfare Benefits Program – Baltimore Metropolitan Council – Eligibility

FOR the purpose of including certain employees of the Baltimore Metropolitan Council in the State Employee and Retiree Health and Welfare Benefits Program; providing that certain service accrued by certain employees of the Baltimore Metropolitan Council shall be included as part of the employee's State service; requiring the Baltimore Metropolitan Council to pay to the State a certain amount of money based on a certain subsidy; and generally relating to the employees of the Baltimore Metropolitan Council participating in the State Employee and Retiree Health and Welfare Benefits Program.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 2–511
Annotated Code of Maryland
(2009 Replacement Volume and 2009 Supplement)

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

Article – State Personnel and Pensions

2–511.

(a) This section applies to employees of**:**

(1) the Maryland Environmental Service **[**and**];**

(2) **THE** Northeast Maryland Waste Disposal Authority**; AND**

(3) THE BALTIMORE METROPOLITAN COUNCIL WHO WERE EMPLOYEES OF THE BALTIMORE REGIONAL COUNCIL OF GOVERNMENTS ON JUNE 30, 1992.

(b) Subject to the regulations adopted under § 2–503 of this subtitle, an employee or, while receiving an allowance under the Employees' Retirement System of the State of Maryland or the Employees' Pension System of the State of Maryland, an employee's surviving spouse:

(1) may enroll and participate in the health insurance or other benefit options established under the Program; and

(2) except as provided in subsection (d) of this section, is subject to the same terms and conditions as those provided under § 2–507 of this subtitle.

(c) While receiving an allowance under the Employees' Retirement System of the State of Maryland or the Employees' Pension System of the State of Maryland, a former employee or a former employee's surviving spouse or dependent child:

(1) may enroll and participate in the health insurance benefit options established under the Program; and

(2) except as provided in subsection (d) of this section, is subject to the same terms and conditions as those provided under § 2–508 of this subtitle, with the employee's service with the Maryland Environmental Service **[**and**]**, Northeast Maryland Waste Disposal Authority**, AND THE BALTIMORE METROPOLITAN COUNCIL** being included as part of the employee's State service.

(d) For each participant under this section, the Maryland Environmental Service, **[**and**]** the Northeast Maryland Waste Disposal Authority**, AND THE BALTIMORE METROPOLITAN COUNCIL** or any successor agency, shall pay to the State the respective employer share of the cost of the Program based on the State subsidy allowed under this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 645

(Senate Bill 1022)

AN ACT concerning

Baltimore City Charter – Community Benefits District – East Baltimore

FOR the purpose of authorizing the Mayor and City Council of Baltimore to establish by ordinance a Community Benefits District in the East Baltimore section to be a special tax district and provide certain services; authorizing the Mayor and City Council to establish a Community Benefits District Authority to provide certain services; requiring a certain ordinance to include certain provisions; requiring the Authority to establish a certain financial plan for the District under certain circumstances; requiring a certain financial plan to be subject to approval by the Baltimore City Board of Estimates; requiring the Authority to hold a public hearing on a certain financial plan; providing that certain property

that is exempt from certain taxes be exempt from District taxes; authorizing the Authority to request that certain owners voluntarily contribute to the costs of the Authority; providing for a Board of Directors of the Authority; providing certain powers, duties, and limitations of the Community Benefits District Authority; providing that the District, Authority, Board of Directors, and District Administrator shall benefit from certain laws limiting liability under certain circumstances; providing that the Authority shall be subject to certain City ordinances and goals regarding minority and women's business enterprises; requiring the Mayor and City Council to take certain matters into consideration and make certain determinations when enacting certain ordinances; prohibiting the Mayor and City Council from authorizing certain reductions in services; providing for the reversion of unspent funds under a certain condition; placing a certain condition on a certain ordinance taking effect; defining certain terms; and generally relating to the establishment of a Community Benefits District in East Baltimore.

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 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 THE COMMUNITY BENEFITS DISTRICT AUTHORITY CREATED IN ACCORDANCE WITH THIS SECTION AND ANY ORDINANCE ENACTED UNDER THIS SECTION.

(3) "BOARD" MEANS THE BOARD OF DIRECTORS OF THE AUTHORITY.

(4) "DISTRICT" MEANS A COMMUNITY BENEFITS DISTRICT CREATED IN ACCORDANCE WITH THIS SECTION AND ANY ORDINANCE ENACTED IN ACCORDANCE WITH THIS SECTION.

(5) "DISTRICT TAXES" MEANS THE TAXES AND OTHER CHARGES IN THE NATURE OF PROPERTY TAXES THAT ARE AUTHORIZED IN ACCORDANCE WITH THIS SECTION AND ANY ORDINANCE ENACTED UNDER THIS SECTION.

(6) "EAST BALTIMORE SECTION" MEANS THAT PORTION OF BALTIMORE CITY GENERALLY BOUNDED:

(I) ON THE WEST, BY THE WESTERNMOST PROPERTY LINE OF THE PROPERTIES FACING BROADWAY;

(II) ON THE NORTH, BY THE RIGHT–OF–WAY OF THE RAILROAD CORRIDOR USED BY AMTRAK;

(III) ON THE EAST, BY THE EASTERNMOST PROPERTY LINE OF THE PROPERTIES FACING PATTERSON PARK AVENUE; AND

(IV) ON THE SOUTH, BY THE MIDDLE OF MADISON STREET.

(7) "PROPERTY TAX" HAS THE SAME MEANING AS STATED IN § 1–101 OF THE TAX – PROPERTY ARTICLE OF THE ANNOTATED CODE OF MARYLAND.

(B) SUBJECT TO SUBSECTION (N) OF THIS SECTION, THE CITY MAY:

(1) ESTABLISH, BY ORDINANCE, A DISTRICT WITHIN THE EAST BALTIMORE SECTION OF THE CITY OF BALTIMORE TO BE A SPECIAL TAX DISTRICT AND TO PROVIDE SERVICES CONSISTENT WITH ITEM (2) OF THIS SUBSECTION TO THE BUSINESSES AND RESIDENTS OF THE PROPOSED DISTRICT; AND

(2) ESTABLISH, BY ORDINANCE, AN AUTHORITY TO:

(I) ADMINISTER THE PROGRAMS AND ACTIVITIES TO BE CONDUCTED BY THE AUTHORITY;

(II) PROMOTE AND MARKET THE DISTRICT;

(III) PROVIDE SUPPLEMENTAL SECURITY AND MAINTENANCE SERVICES;

(IV) PROVIDE AMENITIES IN PUBLIC AREAS;

(V) PROVIDE PARK AND RECREATIONAL PROGRAMS AND FUNCTIONS; AND

(VI) PROVIDE OTHER SERVICES AND FUNCTIONS AS APPROVED BY AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF BALTIMORE, PROVIDED THAT THE SERVICES AND FUNCTIONS SHALL BE PROVIDED WITHIN THE DISTRICT, OR, TO THE EXTENT AUTHORIZED, WITHIN AREAS ADJACENT OR ADJOINING TO THE DISTRICT.

(C) THE ORDINANCE ESTABLISHING THE DISTRICT AND THE AUTHORITY SHALL:

(1) SPECIFY THE NAME FOR THE DISTRICT AND THE AUTHORITY;

(2) SPECIFY THE METHOD FOR ESTABLISHING AND MODIFYING THE BOUNDARIES OF THE DISTRICT, WHICH MAY INCLUDE METHODS BY WHICH:

(I) PROPERTY OWNERS MAY PETITION TO BE INCLUDED IN THE DISTRICT; AND

(II) PROPERTY OWNERS, TENANTS, OR RESIDENTS OF BLOCKS OR PORTIONS OF BLOCKS CONDUCT A REFERENDUM TO BE INCLUDED IN THE DISTRICT;

(3) SPECIFY THE POWERS AND FUNCTIONS WITHIN THE LIMITS OF THIS SECTION THAT MAY BE EXERCISED BY THE AUTHORITY;

(4) AUTHORIZE THE IMPOSITION OF DISTRICT TAXES AS THE PRIMARY MEANS OF SUPPORT FOR THE DISTRICT AND SPECIFY ANY LIMITS ON THE DISTRICT TAXES;

(5) SPECIFY THE DURATION OF THE DISTRICT AND THE AUTHORITY, OR THE MEANS BY WHICH THE CONTINUANCE OF THE DISTRICT AND THE AUTHORITY MAY BE THE SUBJECT OF A FURTHER ORDINANCE;

(6) PROVIDE FOR THE COLLECTION OF DISTRICT TAXES AND FOR THE PROMPT DISBURSEMENT OF THE REVENUE TO THE AUTHORITY SUBJECT TO SUBSECTION (E) OF THIS SECTION;

(7) DETERMINE WHETHER CLASSES AND SUBCLASSES OF PROPERTY IN THE DISTRICT MAY BE ESTABLISHED AND THE EXTENT TO WHICH EACH CLASS OR SUBCLASS SHALL BE SUBJECT TO OR EXEMPT FROM DISTRICT TAXES OR VARYING RATES OF DISTRICT TAXES AND THE EXTENT TO WHICH SPECIFIC AREAS OF THE DISTRICT MAY EXERCISE DISCRETION AS TO THE USE OF DISTRICT TAXES GENERATED BY THE AREAS;

(8) SPECIFY THE METHOD FOR DETERMINING DISTRICT TAXES TO BE IMPOSED ON CLASSES AND SUBCLASSES OF PROPERTY UNDER THIS SECTION, INCLUDING THE CREATION OF CREDITS AGAINST DISTRICT TAXES TO ASSIST LOW–INCOME FAMILIES;

(9) SPECIFY THE EXTENT TO WHICH THE AUTHORITY MAY PROVIDE ADDITIONAL SERVICES FOR A FEE EITHER WITHIN OR OUTSIDE THE DISTRICT; AND

(10) DETERMINE THE ORGANIZATION AND METHOD OF INITIAL APPOINTMENT OF OFFICERS AND BOARD MEMBERS OF THE AUTHORITY, SUBJECT TO SUBSECTION (F) OF THIS SECTION.

(D) (1) THE AUTHORITY SHALL ESTABLISH A FINANCIAL PLAN FOR THE DISTRICT WHEN REQUIRED BY AN ORDINANCE ENACTED UNDER THIS SECTION.

(2) THE FINANCIAL PLAN, INCLUDING ITS ANNUAL BUDGET, DISTRICT TAX RATES, AND SCHEDULE OF OTHER FEES AND CHARGES, SHALL BE SUBJECT TO APPROVAL BY THE BOARD OF ESTIMATES.

(3) THE FINANCIAL PLAN MAY INCLUDE PROVISIONS FOR ALLOCATING RESOURCES TO THE PARTICULAR NEEDS OF THE DISTRICT, INCLUDING ALLOCATIONS TO PARTICULAR SECTIONS OF THE DISTRICT OR TO PARTICULAR USES WITHIN THE DISTRICT.

(E) (1) BEFORE ADOPTING ITS PROPOSED BUDGET AND MAKING ITS RECOMMENDATIONS TO THE CITY, THE AUTHORITY SHALL HOLD A PUBLIC HEARING ON THE FINANCIAL PLAN PROPOSED FOR THE DISTRICT.

(2) THE AUTHORITY SHALL PUBLISH NOTICE OF THE HEARING UNDER PARAGRAPH (1) OF THIS SUBSECTION IN A NEWSPAPER OF GENERAL

CIRCULATION IN BALTIMORE CITY AT LEAST ONCE A WEEK FOR 3 CONSECUTIVE WEEKS BEFORE THE HEARING.

(3) PROPERTY IN THE DISTRICT THAT IS EXEMPT UNDER STATE LAW FROM ORDINARY PROPERTY TAXES SHALL BE EXEMPT FROM DISTRICT TAXES.

(4) THE AUTHORITY MAY REQUEST THE OWNERS OF PROPERTY EXEMPT FROM TAXES UNDER PARAGRAPH (3) OF THIS SUBSECTION TO VOLUNTARILY CONTRIBUTE TO THE COSTS OF THE AUTHORITY.

(F) (1) THE GOVERNING BODY OF THE AUTHORITY SHALL BE THE BOARD OF DIRECTORS.

(2) EACH VOTING MEMBER OF THE BOARD SHALL BE AN OWNER, OR, WHEN THE OWNER IS A CORPORATION, LIMITED LIABILITY COMPANY, PARTNERSHIP, TRUST, OR ANY OTHER LEGAL ENTITY, REPRESENTATIVES OF OWNERS OF PROPERTIES IN THE DISTRICT THAT ARE SUBJECT TO DISTRICT TAXES UNDER THIS SECTION.

(3) AN ORDINANCE ENACTED UNDER THIS SECTION MAY ESTABLISH TWO OR MORE CLASSES OF BOARD MEMBERS AND MAY REQUIRE CERTAIN ACTIONS TO BE MADE SUBJECT TO THE APPROVAL OF EACH CLASS OF BOARD MEMBERS.

(G) AS PROVIDED BY AN ORDINANCE ENACTED UNDER THIS SECTION, THE AUTHORITY MAY:

(1) CONDUCT THE FUNCTIONS THAT ARE ASSIGNED TO THE AUTHORITY BY THE ORDINANCE;

(2) ACQUIRE, HOLD, AND USE PROPERTY NECESSARY TO ACHIEVE THE AUTHORITY'S PURPOSES;

(3) ENTER INTO CONTRACTS;

(4) SUE AND BE SUED, SUBJECT TO SUBSECTION (H) OF THIS SECTION;

(5) BORROW AND ACCEPT GRANTS;

(6) EMPLOY AND DISCHARGE PERSONNEL;

(7) PROPOSE IN THE AUTHORITY'S ANNUAL BUDGET THE DISTRICT TAXES IN ACCORDANCE WITH SUBSECTION (E) OF THIS SECTION;

(8) ADOPT, AMEND, AND MODIFY BYLAWS, ALL OF WHICH SHALL BE SUBJECT TO THE APPROVAL OF THE BOARD OF ESTIMATES;

(9) ESTABLISH AND ELECT OFFICERS, AND PROVIDE FOR TERMS OF OFFICE AND THE DUTIES OF THE OFFICERS;

(10) CONTRACT FOR AND PURCHASE GOODS AND SERVICES IN ACCORDANCE WITH SUBSECTION (I) OF THIS SECTION; AND

(11) DO ALL THINGS NECESSARY OR CONVENIENT TO CARRY OUT THE AUTHORITY'S POWERS AND OBLIGATIONS UNDER THIS SECTION AND THE ORDINANCE ENACTED UNDER THIS SECTION.

(H) THE DISTRICT, THE AUTHORITY, THE BOARD, AND ANY ADMINISTRATOR OF THE DISTRICT SHALL BENEFIT, TO THE FULLEST EXTENT ALLOWABLE BY LAW, FROM ALL PROVISIONS OF FEDERAL, STATE, AND LOCAL LAW LIMITING THE LIABILITY OF EMPLOYEES, OFFICERS, AGENTS, AND OFFICIALS OF GOVERNMENTAL UNITS.

(I) THE AUTHORITY SHALL BE SUBJECT TO CITY ORDINANCES AND CITY POLICY REQUIRING ACHIEVEMENT OF GOALS REGARDING MINORITY AND WOMEN'S BUSINESS ENTERPRISES.

(J) THE AUTHORITY MAY NOT:

(1) EXERCISE ANY POLICE OR GENERAL POWERS OTHER THAN THOSE AUTHORIZED BY STATE LAW AND CITY ORDINANCE;

(2) PLEDGE THE FULL FAITH OR CREDIT OF THE CITY;

(3) IMPOSE TAXES OR CHARGES IN EXCESS OF THOSE APPROVED BY THE BOARD OF ESTIMATES;

(4) EXERCISE THE POWER OF EMINENT DOMAIN;

(5) ENGAGE IN COMPETITION WITH THE PRIVATE SECTOR, EXCEPT AS OTHERWISE PROVIDED BY LAW, AND AS NECESSARY TO EXERCISE THE POWERS PROVIDED FOR UNDER THIS SECTION AND IN ANY ORDINANCE ENACTED UNDER THIS SECTION;

(6) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (M) OF THIS SECTION, REVERT CHARGES OR TAXES COLLECTED IN ACCORDANCE WITH THIS SECTION TO THE GENERAL FUND OF THE CITY;

(7) BE AN AGENCY OF THE MAYOR AND CITY COUNCIL OF BALTIMORE OR THE STATE OF MARYLAND, AND ITS OFFICERS AND EMPLOYEES MAY NOT ACT AS AGENTS OR EMPLOYEES OF THE MAYOR AND CITY COUNCIL OF BALTIMORE OR THE STATE OF MARYLAND;

(8) EMPLOY INDIVIDUALS WHO RESIDE OUTSIDE THE CITY OF BALTIMORE; AND

(9) EXCEPT AS REQUIRED OR APPROPRIATE TO FACILITATE ITS NORMAL OPERATIONS OR TO THE EXTENT PERMITTED BY AN ORDINANCE ENACTED UNDER THIS SECTION, INCUR DEBT.

(K) BEFORE ENACTING AN ORDINANCE UNDER THIS SECTION, THE MAYOR AND CITY COUNCIL OF BALTIMORE SHALL:

(1) PROVIDE FOR PUBLIC HEARINGS DURING WHICH CONSIDERATION IS GIVEN TO THE VIEWS OF THE PROPERTY OWNERS, RETAIL MERCHANTS, PROPERTY TENANTS, AND OTHER MEMBERS OF THE BUSINESS AND RESIDENTIAL COMMUNITIES WITHIN THE PROPOSED DISTRICT;

(2) MAKE A DETERMINATION THAT THE PROPOSED DISTRICT CREATED REFLECTS A DIVERSE MIX OF BUSINESS AND RESIDENTIAL PROPERTIES; AND

(3) MAKE A DETERMINATION THAT THE PROPOSED DISTRICT REFLECTS A DIVERSE ECONOMIC, SOCIAL, AND RACIAL MIX AMONG ITS RESIDENTS AND WITHIN THE WORKING POPULATION EMPLOYED IN THE PROPOSED DISTRICT.

(L) THE MAYOR AND CITY COUNCIL OF BALTIMORE MAY NOT PERMIT A REDUCTION IN THE SERVICES PROVIDED BY THE CITY IN THE DISTRICT DUE TO THE ESTABLISHMENT OF THE DISTRICT OR THE AUTHORITY.

(M) IN THE EVENT OF A DISSOLUTION OF THE DISTRICT OR THE AUTHORITY, ANY UNSPENT FUNDS SHALL REVERT BACK TO THE CITY'S GENERAL FUND.

(N) (1) AN ORDINANCE ENACTED UNDER THIS SECTION SHALL:

(I) ESTABLISH THE PROCESS FOR THE APPROVAL OF THE CREATION OF THE DISTRICT AND THE AUTHORITY; AND

(II) PROVIDE THAT UNTIL THE APPROVAL PROCESS IS CONDUCTED AND APPROVAL IS ACHIEVED UNDER THE PROCESS THE DISTRICT AND THE AUTHORITY MAY NOT BE CREATED, AND THE ORDINANCE MAY NOT BECOME FULLY EFFECTIVE.

(2) THE ORDINANCE MAY PROVIDE:

(I) CRITERIA FOR THE ELIGIBILITY OF VOTERS FOR PURPOSES OF THE ELECTION REQUIRED BY THE ORDINANCE; AND

(II) PROCEDURES FOR A SPECIAL ELECTION REQUIRED IN THIS SUBSECTION, WHICH MAY BE ADMINISTERED BY WRITE–IN BALLOTS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 646

(Senate Bill 1031)

AN ACT concerning

Health Insurance – Surgical Treatment of Morbid Obesity – Repeal of Reporting Requirement

FOR the purpose of repealing a certain requirement that the Maryland Insurance Administration report annually to certain committees of the General Assembly on complaints relating to the denial of coverage for the surgical treatment of morbid obesity; and generally relating to the insurance coverage of the surgical treatment of morbid obesity.

BY repealing
Chapter 486 of the Acts of the General Assembly of 2004, as amended by Chapter 301 of the Acts of the General Assembly of 2005
Section 3

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

Chapter 486 of the Acts of 2004, as amended by Chapter 301 of the Acts of 2005

[SECTION 3. AND BE IT FURTHER ENACTED, That, on or before December 15, 2004 and annually thereafter, the Maryland Insurance Administration 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, for the 12–month period following the date the preceding report is provided, on:

(1) the number of complaints filed with the Administration relating to the denial of coverage for the surgical treatment of morbid obesity;

(2) the health insurance carrier that denied coverage and the reason given for the denial; and

(3) whether the Administration upheld or reversed the denial of coverage and the basis of the decision.**]**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 647

(Senate Bill 1041)

AN ACT concerning

State Board of Examiners of Psychologists – Criminal History Records Check

FOR the purpose of requiring applicants for a license to practice psychology to submit to a certain criminal history records check; requiring applicants to submit fingerprints and certain fees to the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services under certain circumstances; requiring the Central Repository to forward certain information to the State Board of Examiners of Psychologists and to certain applicants; providing that certain information is confidential and may be used only for certain purposes; authorizing certain subjects to contest the contents of certain statements; requiring applicants for licensure to submit certain evidence to the Board; requiring the Board to consider certain facts and circumstances in determining whether to grant a license; prohibiting the Board from issuing certain licenses if certain criminal history record information has not been received; authorizing the Board to deny certain applicants a license for failure to submit to a certain criminal history records check; and generally

relating to criminal history records checks and the State Board of Examiners of Psychologists.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 18–302, 18–303, 18–306, and 18–313
Annotated Code of Maryland
(2009 Replacement Volume)

BY adding to
Article – Health Occupations
Section 18–302.1
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – Health Occupations

18–302.

(a) To qualify for a license, an applicant shall be an individual who meets the requirements of this section.

(b) The applicant shall be of good moral character.

(c) The applicant shall be at least 18 years old.

(d) The applicant shall have a doctoral degree in psychology as defined in § 18–101(c) of this title.

(e) Except as otherwise provided in this subtitle, the applicant shall pass an examination given by the Board under this subtitle.

(f) The applicant shall have at least 2 years of professional supervised experience in psychology that is approved by the Board in accordance with regulations adopted by the Board.

(g) (1) Except as provided in this subsection, an applicant shall reside or practice, or intend to reside or practice, in this State.

(2) The Board may issue a license to an applicant who is neither a resident of this State nor practicing in this State if the applicant shows that issuing the license would be in the interest of the citizens or government of this State.

(H) THE APPLICANT SHALL SUBMIT TO A CRIMINAL HISTORY RECORDS CHECK IN ACCORDANCE WITH § 18–302.1 OF THIS SUBTITLE.

18–302.1.

(A) IN THIS SECTION, "CENTRAL REPOSITORY" MEANS THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.

(B) AS PART OF AN APPLICATION TO THE CENTRAL REPOSITORY FOR A STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECK, AN APPLICANT SHALL SUBMIT TO THE CENTRAL REPOSITORY:

(1) 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;

(2) THE FEE AUTHORIZED UNDER § 10–221(B)(7) OF THE CRIMINAL PROCEDURE ARTICLE FOR ACCESS TO STATE CRIMINAL HISTORY RECORDS; AND

(3) THE PROCESSING FEE REQUIRED BY THE FEDERAL BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORDS CHECK.

(C) IN ACCORDANCE WITH §§ 10–201 THROUGH 10–228 OF THE CRIMINAL PROCEDURE ARTICLE, THE CENTRAL REPOSITORY SHALL FORWARD TO THE BOARD AND THE APPLICANT THE CRIMINAL HISTORY RECORD INFORMATION OF THE APPLICANT.

(D) IF AN APPLICANT HAS MADE THREE OR MORE UNSUCCESSFUL ATTEMPTS AT SECURING LEGIBLE FINGERPRINTS, THE BOARD MAY ACCEPT AN ALTERNATE METHOD OF A CRIMINAL HISTORY RECORDS CHECK AS ALLOWED BY THE DIRECTOR OF THE CENTRAL REPOSITORY AND THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION.

(E) INFORMATION OBTAINED FROM THE CENTRAL REPOSITORY UNDER THIS SECTION:

(1) SHALL BE CONFIDENTIAL;

(2) MAY NOT BE REDISSEMINATED; AND

(3) SHALL BE USED ONLY FOR THE LICENSING PURPOSE AUTHORIZED BY THIS TITLE.

(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.

18–303.

To apply for a license **TO PRACTICE PSYCHOLOGY**, an applicant shall:

(1) Submit a verified application to the Board on the form that the Board requires; **[**and**]**

(2) Pay to the Board the application fee set by the Board**; AND**

(3) SUBMIT TO A CRIMINAL HISTORY RECORDS CHECK IN ACCORDANCE WITH § 18–302.1 OF THIS SUBTITLE.

18–306.

(a) The Board shall issue a license to any applicant who meets the requirements of this title.

(b) The Board shall include on each license that the Board issues:

(1) The full name of the licensed psychologist;

(2) The dates of issuance and expiration;

(3) A serial number;

(4) The signatures of the chairman and the vice chairman of the Board; and

(5) The seal of the Board.

(C) (1) ON RECEIPT OF THE CRIMINAL HISTORY RECORD INFORMATION OF AN APPLICANT FOR LICENSURE FORWARDED TO THE BOARD IN ACCORDANCE WITH § 18–302.1 OF THIS SUBTITLE, IN DETERMINING WHETHER TO GRANT A LICENSE OR CERTIFICATE, THE BOARD SHALL CONSIDER:

(I) THE AGE AT WHICH THE CRIME WAS COMMITTED;

(II) THE CIRCUMSTANCES SURROUNDING THE CRIME;

(III) THE LENGTH OF TIME THAT HAS PASSED SINCE THE CRIME;

(IV) SUBSEQUENT WORK HISTORY;

(V) EMPLOYMENT AND CHARACTER REFERENCES; AND

(VI) OTHER EVIDENCE THAT DEMONSTRATES WHETHER THE APPLICANT POSES A THREAT TO THE PUBLIC HEALTH OR SAFETY.

(2) THE BOARD MAY NOT ISSUE A LICENSE IF THE CRIMINAL HISTORY RECORD INFORMATION REQUIRED UNDER § 18–302.1 OF THIS SUBTITLE HAS NOT BEEN RECEIVED.

18–313.

Subject to the hearing provisions of § 18–315 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may deny a license to any applicant, reprimand any licensee, place any licensee on probation, or suspend or revoke a license of any licensee if the applicant or licensee:

(1) Fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another;

(2) Fraudulently or deceptively uses a license;

(3) Is convicted of or pleads guilty or nolo contendere to a felony or a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;

(4) Is or has been addicted to any narcotic or habitually intoxicated;

(5) Aids or abets an unauthorized person in practicing psychology or representing oneself to be a psychologist;

(6) Practices psychology fraudulently or deceitfully;

(7) Violates the code of ethics adopted by the Board under § 18–311 of this subtitle;

(8) 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;

(9) Submits a false statement to collect a fee;

(10) Willfully makes or files a false report or record in the practice of psychology;

(11) Is disciplined by a licensing or disciplinary authority of any state or country or convicted or disciplined by a court of any state or country or disciplined by any branch of the United States uniformed services or the United States Veterans Administration for an act that would be grounds for disciplinary action under the Board's disciplinary statutes;

(12) Violates any provision of this title or any regulation adopted by the Board;

(13) Uses or promotes or causes the use of any misleading, deceiving, or untruthful advertising matter, promotional literature, or testimonial;

(14) Is professionally, physically, or mentally incompetent;

(15) Promotes the sale of devices, appliances, or goods to a patient so as to exploit the patient for financial gain;

(16) Behaves immorally in the practice of psychology;

(17) Commits an act of unprofessional conduct in the practice of psychology;

(18) 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;

(19) Fails to cooperate with a lawful investigation conducted by the Board; **[**or**]**

(20) Does an act that is inconsistent with generally accepted professional standards in the practice of psychology**; OR**

(21) FAILS TO SUBMIT TO A CRIMINAL HISTORY RECORDS CHECK IN ACCORDANCE WITH § 18–302.1 OF THIS SUBTITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 648

(House Bill 1064)

AN ACT concerning

State Board of Examiners of Psychologists – Criminal History Records Check

FOR the purpose of requiring applicants for a license to practice psychology to submit to a certain criminal history records check; requiring applicants to submit fingerprints and certain fees to the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services under certain circumstances; requiring the Central Repository to forward certain information to the State Board of Examiners of Psychologists and to certain applicants; providing that certain information is confidential and may be used only for certain purposes; authorizing certain subjects to contest the contents of certain statements; requiring applicants for licensure to submit certain evidence to the Board; requiring the Board to consider certain facts and circumstances in determining whether to grant a license; prohibiting the Board from issuing certain licenses if certain criminal history record information has not been received; authorizing the Board to deny certain applicants a license for failure to submit to a certain criminal history records check; and generally relating to criminal history records checks and the State Board of Examiners of Psychologists.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 18–302, 18–303, 18–306, and 18–313
Annotated Code of Maryland
(2009 Replacement Volume)

BY adding to
Article – Health Occupations
Section 18–302.1
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – Health Occupations

18–302.

(a) To qualify for a license, an applicant shall be an individual who meets the requirements of this section.

(b) The applicant shall be of good moral character.

(c) The applicant shall be at least 18 years old.

(d) The applicant shall have a doctoral degree in psychology as defined in § 18–101(c) of this title.

(e) Except as otherwise provided in this subtitle, the applicant shall pass an examination given by the Board under this subtitle.

(f) The applicant shall have at least 2 years of professional supervised experience in psychology that is approved by the Board in accordance with regulations adopted by the Board.

(g) (1) Except as provided in this subsection, an applicant shall reside or practice, or intend to reside or practice, in this State.

(2) The Board may issue a license to an applicant who is neither a resident of this State nor practicing in this State if the applicant shows that issuing the license would be in the interest of the citizens or government of this State.

(H) THE APPLICANT SHALL SUBMIT TO A CRIMINAL HISTORY RECORDS CHECK IN ACCORDANCE WITH § 18–302.1 OF THIS SUBTITLE.

18–302.1.

(A) IN THIS SECTION, "CENTRAL REPOSITORY" MEANS THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.

(B) AS PART OF AN APPLICATION TO THE CENTRAL REPOSITORY FOR A STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECK, AN APPLICANT SHALL SUBMIT TO THE CENTRAL REPOSITORY:

(1) 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;

(2) THE FEE AUTHORIZED UNDER § 10–221(B)(7) OF THE CRIMINAL PROCEDURE ARTICLE FOR ACCESS TO STATE CRIMINAL HISTORY RECORDS; AND

(3) THE PROCESSING FEE REQUIRED BY THE FEDERAL BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORDS CHECK.

(C) IN ACCORDANCE WITH §§ 10–201 THROUGH 10–228 OF THE CRIMINAL PROCEDURE ARTICLE, THE CENTRAL REPOSITORY SHALL FORWARD TO THE BOARD AND THE APPLICANT THE CRIMINAL HISTORY RECORD INFORMATION OF THE APPLICANT.

(D) IF AN APPLICANT HAS MADE THREE OR MORE UNSUCCESSFUL ATTEMPTS AT SECURING LEGIBLE FINGERPRINTS, THE BOARD MAY ACCEPT AN ALTERNATE METHOD OF A CRIMINAL HISTORY RECORDS CHECK AS ALLOWED BY THE DIRECTOR OF THE CENTRAL REPOSITORY AND THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION.

(E) INFORMATION OBTAINED FROM THE CENTRAL REPOSITORY UNDER THIS SECTION:

(1) SHALL BE CONFIDENTIAL;

(2) MAY NOT BE REDISSEMINATED; AND

(3) SHALL BE USED ONLY FOR THE LICENSING PURPOSE AUTHORIZED BY THIS TITLE.

(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.

18–303.

To apply for a license **TO PRACTICE PSYCHOLOGY**, an applicant shall:

(1) Submit a verified application to the Board on the form that the Board requires; **[**and**]**

(2) Pay to the Board the application fee set by the Board**; AND**

(3) SUBMIT TO A CRIMINAL HISTORY RECORDS CHECK IN ACCORDANCE WITH § 18–302.1 OF THIS SUBTITLE.

18–306.

(a) The Board shall issue a license to any applicant who meets the requirements of this title.

(b) The Board shall include on each license that the Board issues:

(1) The full name of the licensed psychologist;

(2) The dates of issuance and expiration;

(3) A serial number;

(4) The signatures of the chairman and the vice chairman of the Board; and

(5) The seal of the Board.

(C) (1) ON RECEIPT OF THE CRIMINAL HISTORY RECORD INFORMATION OF AN APPLICANT FOR LICENSURE FORWARDED TO THE BOARD IN ACCORDANCE WITH § 18–302.1 OF THIS SUBTITLE, IN DETERMINING WHETHER TO GRANT A LICENSE OR CERTIFICATE, THE BOARD SHALL CONSIDER:

(I) THE AGE AT WHICH THE CRIME WAS COMMITTED;

(II) THE CIRCUMSTANCES SURROUNDING THE CRIME;

(III) THE LENGTH OF TIME THAT HAS PASSED SINCE THE CRIME;

(IV) SUBSEQUENT WORK HISTORY;

(V) EMPLOYMENT AND CHARACTER REFERENCES; AND

(VI) OTHER EVIDENCE THAT DEMONSTRATES WHETHER THE APPLICANT POSES A THREAT TO THE PUBLIC HEALTH OR SAFETY.

(2) THE BOARD MAY NOT ISSUE A LICENSE IF THE CRIMINAL HISTORY RECORD INFORMATION REQUIRED UNDER § 18–302.1 OF THIS SUBTITLE HAS NOT BEEN RECEIVED.

18–313.

Subject to the hearing provisions of § 18–315 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may deny a license to any applicant, reprimand any licensee, place any licensee on probation, or suspend or revoke a license of any licensee if the applicant or licensee:

(1) Fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another;

(2) Fraudulently or deceptively uses a license;

(3) Is convicted of or pleads guilty or nolo contendere to a felony or a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;

(4) Is or has been addicted to any narcotic or habitually intoxicated;

(5) Aids or abets an unauthorized person in practicing psychology or representing oneself to be a psychologist;

(6) Practices psychology fraudulently or deceitfully;

(7) Violates the code of ethics adopted by the Board under § 18–311 of this subtitle;

(8) 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;

(9) Submits a false statement to collect a fee;

(10) Willfully makes or files a false report or record in the practice of psychology;

(11) Is disciplined by a licensing or disciplinary authority of any state or country or convicted or disciplined by a court of any state or country or disciplined by any branch of the United States uniformed services or the United States Veterans Administration for an act that would be grounds for disciplinary action under the Board's disciplinary statutes;

(12) Violates any provision of this title or any regulation adopted by the Board;

(13) Uses or promotes or causes the use of any misleading, deceiving, or untruthful advertising matter, promotional literature, or testimonial;

(14) Is professionally, physically, or mentally incompetent;

(15) Promotes the sale of devices, appliances, or goods to a patient so as to exploit the patient for financial gain;

(16) Behaves immorally in the practice of psychology;

(17) Commits an act of unprofessional conduct in the practice of psychology;

(18) 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;

(19) Fails to cooperate with a lawful investigation conducted by the Board; **[**or**]**

(20) Does an act that is inconsistent with generally accepted professional standards in the practice of psychology**; OR**

(21) FAILS TO SUBMIT TO A CRIMINAL HISTORY RECORDS CHECK IN ACCORDANCE WITH § 18–302.1 OF THIS SUBTITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 649

(Senate Bill 1067)

AN ACT concerning

Task Force on Solar Hot Water Systems in Prince George's County

FOR the purpose of establishing a Task Force on Solar Hot Water Systems in Prince George's County; providing for the members of the Task Force; providing for the designation of a chair of the Task Force; requiring the Prince George's County government to provide staff for the Task Force; prohibiting a member of the Task Force from receiving certain compensation; providing that a member of the Task Force may receive reimbursement of certain expenses; requiring the Task Force to study certain matters and make certain findings and recommendations; requiring the Task Force to report its findings and recommendations to the Prince George's County Senators, the Prince George's County Delegation, ~~and~~ the Prince George's County Council, the Prince George's County Executive, and

certain committees of the General Assembly on or before a certain date; stating certain intent of the General Assembly; providing for the termination of this Act; and generally relating to the Task Force on Solar Hot Water Systems in Prince George's County.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(a) There is a Task Force on Solar Hot Water Systems in Prince George's County to develop a business plan to achieve substantial use of solar hot water systems over a relatively short period of time in a way that saves money for Prince George's County residents and businesses and that reduces carbon emissions.

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

(1) one member of the Senate who represents Prince George's County, appointed by the President of the Senate;

(2) one member of the House of Delegates who represents Prince George's County, appointed by the Speaker of the House;

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

(4) one member of the Prince George's County Council, appointed by the Council Chair;

(5) the Prince George's County Executive, or the County Executive's designee; and

(6) one representative from the Maryland Clean Energy Center.

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

(d) The Prince George's County government shall provide staff for the Task Force.

(e) The Maryland Energy Administration ~~shall~~ may provide ~~contracting for~~ technical assistance.

(f) A member of the Task Force:

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

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

(g) The Task Force shall:

(1) investigate and analyze the use of solar hot water systems in other states and countries to identify ways to support substantial use of solar hot water systems in Prince George's County;

(2) analyze current federal, state, and local incentives, and related existing and potential policy tools to support substantial use of solar hot water systems in Prince George's County;

(3) analyze policy, financial, market, and other obstacles to implementing solar hot water systems in Prince George's County and ways to overcome the obstacles;

(4) explore possibilities to use greenhouse gas markets or other market–based incentives to monetize emission reductions and thereby lower the cost of solar hot water systems;

(5) identify the best major markets for implementation of solar hot water systems, including:

(i) county buildings;

(ii) county schools;

(iii) hotels;

(iv) restaurants;

(v) churches;

(vi) commercial properties;

(vii) multifamily residential properties; and

(viii) single family residential properties; and

(6) develop a business plan to achieve substantial use of solar hot water systems in Prince George's County in a way that saves money for Prince George's County residents and businesses and that reduces carbon emissions.

(h) On or before December 31, 2010, the Task Force shall report its findings and recommendations to the Prince George's County Senators, the Prince George's County Delegation, ~~and~~ the Prince George's County Council, and the Prince George's County Executive, and, in accordance with § 2–1246 of the State Government Article, to the Senate Finance Committee and the House Economic Matters Committee.

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that any technical assistance provided by the Maryland Energy Administration under Section 1 of this Act shall be provided with the Maryland Energy Administration's existing resources.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010. It shall remain effective for a period of 7 months and, at the end of December 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 20, 2010.

Chapter 650

(Senate Bill 1081)

AN ACT concerning

Rebate Programs for Retail Sales – Collection of Sales and Use Tax

FOR the purpose of requiring a State agency ~~to verify whether certain sales or use tax has been collected by the vendor~~ or nongovernment entity to require a buyer of a household appliance to make a certain certification before issuing or ~~allowing~~ authorizing the issuance of certain rebates or similar instruments to reduce the cost of certain sales of household appliances under certain programs; ~~requiring certain State agencies to submit or require the submission of certain information under certain circumstances to the Comptroller to assist the Comptroller in the collection of a certain sales and use tax;~~ and generally relating to the collection of a sales or use tax on retail sales subject to certain rebates.

BY adding to
Article – Tax – General
Section 11–409
Annotated Code of Maryland
(2004 Replacement Volume and 2009 Supplement)

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

Article – Tax – General

11–409.

~~(A)~~ **NOTWITHSTANDING ANY OTHER PROVISIONS OF LAW, BEFORE A STATE AGENCY ISSUES A REBATE OR SIMILAR INSTRUMENT OR ~~ALLOWS~~ AUTHORIZES A REBATE OR SIMILAR INSTRUMENT TO BE ISSUED BY A NONGOVERNMENT ENTITY TO REDUCE THE COST OF A RETAIL SALE OF HOUSEHOLD APPLIANCES UNDER A PROGRAM TO PROMOTE ENERGY EFFICIENCY, THE STATE AGENCY ~~SHALL VERIFY WHETHER ANY APPLICABLE SALES OR USE TAX HAS BEEN COLLECTED ON THE SALE BY THE VENDOR~~ OR NONGOVERNMENT ENTITY SHALL REQUIRE THE BUYER OF A HOUSEHOLD APPLIANCE TO CERTIFY THAT:**

(1) THE HOUSEHOLD APPLIANCE WAS PURCHASED AT A RETAIL SALE IN THE STATE; OR

(2) THE BUYER PAID THE APPLICABLE STATE SALES AND USE TAX.

~~(B) IF THE STATE AGENCY DETERMINES THAT ANY APPLICABLE SALES OR USE TAX HAS NOT BEEN COLLECTED, THE STATE AGENCY SHALL SUBMIT OR REQUIRE THE SUBMISSION OF THE NECESSARY INFORMATION TO THE COMPTROLLER SO THAT THE SALES OR USE TAX MAY BE COLLECTED BY THE COMPTROLLER.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 651

(Senate Bill 1123)

AN ACT concerning

Political Subdivisions – Collective Bargaining Agreements – Binding Arbitration

FOR the purpose of authorizing retroactively a county or municipal corporation to adopt a certain local law or ordinance regarding binding arbitration in certain collective bargaining disputes; providing for the application of this Act; making this Act an emergency measure; and generally relating to collective bargaining agreements of political subdivisions.

~~BY adding to~~

~~Article 24 – Political Subdivisions – Miscellaneous Provisions~~
~~Section 24–101 to be under the new title "Title 24. Collective Bargaining"~~
~~Annotated Code of Maryland~~
~~(2005 Replacement Volume and 2009 Supplement)~~

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

~~**Article 24 – Political Subdivisions – Miscellaneous Provisions**~~

~~**TITLE 24. COLLECTIVE BARGAINING.**~~

~~**24–101.**~~

~~**A COUNTY OR MUNICIPAL CORPORATION MAY ADOPT A LOCAL LAW OR ORDINANCE THAT ALLOWS FOR BINDING ARBITRATION TO RESOLVE COLLECTIVE BARGAINING DISPUTES REGARDING NEGOTIATIONS FOR WAGES, BENEFITS, OR TERMS AND CONDITIONS OF EMPLOYMENT FOR EMPLOYEES OF THE COUNTY OR MUNICIPAL CORPORATION.**~~ a county or municipal corporation that has adopted a local law or ordinance that allows for binding arbitration to resolve collective bargaining disputes regarding negotiations for wages, benefits, or terms and conditions of employment for employees of the county or municipal corporation is retroactively authorized to adopt a local law or ordinance that allows for binding arbitration to resolve collective bargaining disputes regarding negotiations for wages, benefits, or terms and conditions of employment for employees of the county or municipal corporation.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply ~~retroactively and shall be applied to and interpreted to affect any local law or ordinance that allows for binding arbitration that was adopted prior to~~ only retroactively and may not be applied or interpreted to have any effect on or application to any local law or ordinance that allows for binding arbitration enacted after the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act ~~shall take effect October 1, 2010~~ 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 20, 2010.

Chapter 652

(Senate Bill 1124)

AN ACT concerning

~~University System of Maryland~~ *Public Senior Higher Education Institutions* – Audits – Communicating Preliminary Findings

FOR the purpose of requiring the Legislative Auditor to send ~~the Chancellor of the University System of Maryland and the University System of Maryland Board of Regents Audit Committee~~ a copy of certain discussion notes of a certain examination conducted by the Office of Legislative Audits of a ~~constituent institution of the University System of Maryland;~~ *public senior higher education institution to the appropriate governing board of the institution;* ~~requiring the Chancellor to send the Board of Regents of the University System of Maryland a copy of certain discussion notes at a certain time;~~ and generally relating to audits of ~~the constituent institutions of the University System of Maryland~~ *public senior higher education institutions*.

~~BY repealing and reenacting, with amendments,~~
~~Article – Education~~
~~Section 12–108~~
~~Annotated Code of Maryland~~
~~(2008 Replacement Volume and 2009 Supplement)~~

BY adding to
Article – State Government
Section 2–1223.1
Annotated Code of Maryland
(2009 Replacement Volume)

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

~~**Article – Education**~~

~~12–108.~~

~~(a) (1) The Board of Regents shall appoint a Chancellor of the University System of Maryland.~~

~~(2) The Chancellor is the Chief Executive Officer of the University System of Maryland and the Chief of Staff for the Board.~~

~~(b) (1) The Chancellor shall:~~

~~(i) Advise the Board of Regents on systemwide policy;~~

~~(ii) Conduct systemwide planning;~~

~~(iii) Coordinate and arbitrate among the institutions and centers of the University;~~

~~(iv) Assist the institutions in achieving performance goals in accordance with their adopted performance accountability plan;~~

~~(v) Provide technical assistance to institutions and centers such as legal and financial services;~~

~~**(VI) ON RECEIPT OF THE DISCUSSION NOTES OF AN EXAMINATION CONDUCTED BY THE OFFICE OF LEGISLATIVE AUDITS OF A CONSTITUENT INSTITUTION OF THE UNIVERSITY SYSTEM OF MARYLAND UNDER § 2-1223.1 OF THE STATE GOVERNMENT ARTICLE, SEND A COPY OF THE DISCUSSION NOTES TO THE BOARD OF REGENTS;**~~

~~**[**(vi)**] (VII)** Perform the duties the Board assigns; and~~

~~**[**(vii)**] (VIII)** See that the policies of the Board are carried out.~~

~~(2) The Chancellor serves at the pleasure of the Board.~~

~~(3) The Chancellor is entitled to the compensation established by the Board.~~

~~(c) The Chancellor may:~~

~~(1) Have the additional staff provided in the University budget; and~~

~~(2) (i) Create any position within the system administration office and within existing funds available to the system administration office, to the extent the cost of the position, including the cost of any fringe benefits, is funded from existing funds.~~

~~(ii) This paragraph may not be construed to require any additional State General Fund support.~~

~~(iii) The total number of positions authorized under this paragraph shall be limited as specified annually in the State budget bill.~~

~~(d) (1) Each employee of the Board shall join the Teachers' Pension System of the State of Maryland or the Employees' Pension System of the State of Maryland.~~

~~(2) As an alternative, any employee in a position determined by the Board to be a professional position may join the optional retirement program under Title 30 of the State Personnel and Pensions Article.~~

Article – State Government

2–1223.1.

ON THE PRELIMINARY COMPLETION OF AN EXAMINATION OF A ~~CONSTITUENT INSTITUTION OF THE UNIVERSITY SYSTEM OF MARYLAND~~ *PUBLIC SENIOR HIGHER EDUCATION INSTITUTION* BY THE OFFICE OF LEGISLATIVE AUDITS, THE LEGISLATIVE AUDITOR SHALL SEND ~~THE CHANCELLOR OF THE UNIVERSITY SYSTEM OF MARYLAND AND THE UNIVERSITY SYSTEM OF MARYLAND BOARD OF REGENTS AUDIT COMMITTEE~~ A COPY OF THE DISCUSSION NOTES OF THE EXAMINATION RELATING TO ANY PRELIMINARY FINDINGS OF SUBSTANTIAL FISCAL IMPROPRIETY *TO THE FOLLOWING INDIVIDUALS AND GOVERNING BOARDS OF THE RESPECTIVE INSTITUTIONS THAT WERE SUBJECT TO THE EXAMINATION:*

(1) THE CHANCELLOR OF THE UNIVERSITY SYSTEM OF MARYLAND AND THE UNIVERSITY SYSTEM OF MARYLAND BOARD OF REGENTS AUDIT COMMITTEE;

(2) THE PRESIDENT OF MORGAN STATE UNIVERSITY AND THE FINANCE AND FACILITIES COMMITTEE OF THE BOARD OF REGENTS OF MORGAN STATE UNIVERSITY; OR

***(3) THE PRESIDENT OF ST. MARY'S COLLEGE OF MARYLAND AND THE FINANCE, INVESTMENT, AND AUDIT COMMITTEE OF THE BOARD OF TRUSTEES OF ST. MARY'S COLLEGE OF MARYLAND*.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 653

(House Bill 68)

AN ACT concerning

Department of the Environment – Grants – Small Businesses and Certified Minority Business Enterprises

FOR the purpose of requiring applicants for certain financial assistance from the Chesapeake and Atlantic Coastal Bays Nonpoint Source Fund to demonstrate that certain steps were taken to include certain small businesses and certain certified minority business enterprises; authorizing the Department of the Environment to withhold certain financial assistance under certain circumstances; requiring the Department to consider the availability to grantees of certain small businesses and certain certified minority business enterprises when making a certain determination; establishing a threshold to require grantees that receive grants that exceed a certain amount from a certain fund to take steps to include certain small businesses and certain certified minority business enterprises; and generally relating to small businesses and certified minority business enterprise participation and the Chesapeake and Atlantic Coastal Bays Nonpoint Source Fund.

BY repealing and reenacting, with amendments,
Article – Environment
Section 9–1605.3
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

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

Article – Environment

9–1605.3.

(a) (1) There is a Chesapeake and Atlantic Coastal Bays Nonpoint Source Fund.

(2) The Chesapeake and Atlantic Coastal Bays Nonpoint Source Fund shall be maintained and administered by the Administration in accordance with the provisions of this subtitle and such rules or Program directives as the Secretary or the Board may from time to time prescribe.

(b) The purpose of the Chesapeake and Atlantic Coastal Bays Nonpoint Source Fund is to provide financial assistance for the implementation of urban and suburban stormwater management practices, and stream and wetland restoration.

(c) There shall be deposited in the Chesapeake and Atlantic Coastal Bays Nonpoint Source Fund:

(1) Money distributed to the Chesapeake and Atlantic Coastal Bays Nonpoint Source Fund under § 8–2A–04 of the Natural Resources Article and appropriated in the State budget for the Fund;

(2) Net proceeds of bonds issued by the Administration;

(3) Interest or other income earned on the investment of moneys in the Chesapeake and Atlantic Coastal Bays Nonpoint Source Fund; and

(4) Any other moneys from any other source accepted for the benefit of the Fund.

(d) (1) The Chesapeake and Atlantic Coastal Bays Nonpoint Source Fund is a special, continuing, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(2) Money in the Chesapeake and Atlantic Coastal Bays Nonpoint Source Fund may not revert or be transferred to the General Fund of the State.

(3) Subject to the provisions of any applicable bond resolution regarding the holding or application of amounts in the Chesapeake and Atlantic Coastal Bays Nonpoint Source Fund, the Treasurer shall separately hold, and the Comptroller shall account for, the Chesapeake and Atlantic Coastal Bays Nonpoint Source Fund.

(4) Subject to the provision of any applicable bond resolution governing the investment of amounts in the Chesapeake and Atlantic Coastal Bays Nonpoint Source Fund, the Chesapeake and Atlantic Coastal Bays Nonpoint Source Fund shall be invested and reinvested in the same manner as other State funds.

(5) Any investment earnings shall be retained to the credit of the Chesapeake and Atlantic Coastal Bays Nonpoint Source Fund.

(6) The Chesapeake and Atlantic Coastal Bays Nonpoint Source Fund shall be subject to audit by the Office of Legislative Audits as provided under § 2–1220 of the State Government Article.

(7) The Administration may from time to time establish accounts and subaccounts within the Chesapeake and Atlantic Coastal Bays Nonpoint Source Fund as may be deemed desirable to effectuate the purposes of this subtitle, to comply with the provisions of any bond resolution, or to meet any requirement or rules or program directives established by the Secretary or the Board.

(8) The Administration shall operate the Chesapeake and Atlantic Coastal Bays Nonpoint Source Fund in accordance with §§ 9–1607 through 9–1622 of this subtitle.

(e) The Chesapeake and Atlantic Coastal Bays Nonpoint Source Fund shall be used:

(1) To award grants for up to 100 percent of project costs relating to planning, design, and construction of urban and suburban stormwater management practices, and stream and wetland restoration;

(2) As a source of revenue or security for the payment of principal and interest on bonds issued by the Administration if the proceeds of the sale of such bonds will be deposited in the Chesapeake and Atlantic Coastal Bays Nonpoint Source Fund;

(3) For costs associated with the issuance of bonds;

(4) To earn interest on the Chesapeake and Atlantic Coastal Bays Nonpoint Source Fund accounts; and

(5) For the reasonable costs of administering the Chesapeake and Atlantic Coastal Bays Nonpoint Source Fund.

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

(II) "CERTIFIED MINORITY BUSINESS ENTERPRISE" HAS THE MEANING STATED IN § 14–301 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(III) "SMALL BUSINESS" HAS THE MEANING STATED IN § 14–501 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(2) FOR FINANCIAL ASSISTANCE OVER $500,000 AWARDED UNDER THE FUND, THE GRANTEE SHALL DEMONSTRATE, TO THE SATISFACTION OF THE DEPARTMENT, THAT STEPS WERE TAKEN TO INCLUDE SMALL BUSINESSES, CERTIFIED MINORITY BUSINESS ENTERPRISES, AND CERTIFIED MINORITY BUSINESS ENTERPRISES CLASSIFIED AS WOMEN–OWNED BUSINESSES BY:

(I) PLACING SMALL BUSINESSES, CERTIFIED MINORITY BUSINESS ENTERPRISES, AND CERTIFIED MINORITY BUSINESS ENTERPRISES CLASSIFIED AS WOMEN–OWNED BUSINESSES ON SOLICITATION LISTS;

(II) ASSURING THAT SMALL BUSINESSES, CERTIFIED MINORITY BUSINESS ENTERPRISES, AND CERTIFIED MINORITY BUSINESS ENTERPRISES CLASSIFIED AS WOMEN–OWNED BUSINESSES ARE SOLICITED WHENEVER THEY ARE POTENTIAL SOURCES;

(III) DIVIDING TOTAL REQUIREMENTS, WHEN ECONOMICALLY FEASIBLE, INTO SMALL TASKS OR QUANTITIES TO PERMIT MAXIMUM PARTICIPATION OF SMALL BUSINESSES, CERTIFIED MINORITY BUSINESS ENTERPRISES, AND CERTIFIED MINORITY BUSINESS ENTERPRISES CLASSIFIED AS WOMEN–OWNED BUSINESSES;

(IV) ESTABLISHING DELIVERY SCHEDULES, WHERE THE REQUIREMENT PERMITS, THAT ENCOURAGE PARTICIPATION BY SMALL BUSINESSES, CERTIFIED MINORITY BUSINESS ENTERPRISES, CLASSIFIED AS WOMEN–OWNED BUSINESSES; AND

(V) USING THE SERVICES AND ASSISTANCE OF THE DEPARTMENT OF TRANSPORTATION AND THE GOVERNOR'S OFFICE OF MINORITY AFFAIRS IN IDENTIFYING AND SOLICITING SMALL BUSINESSES, CERTIFIED MINORITY BUSINESS ENTERPRISES, AND CERTIFIED MINORITY BUSINESS ENTERPRISES CLASSIFIED AS WOMEN–OWNED BUSINESSES.

(3) IN DETERMINING WHETHER THE GRANTEE TOOK THE STEPS DESCRIBED IN PARAGRAPH (2) OF THIS SUBSECTION, THE DEPARTMENT SHALL CONSIDER THE AVAILABILITY TO THE GRANTEE OF SMALL BUSINESSES, CERTIFIED MINORITY BUSINESS ENTERPRISES, AND CERTIFIED MINORITY BUSINESS ENTERPRISES CLASSIFIED AS WOMEN–OWNED BUSINESSES THAT ARE CAPABLE OF COMPLETING ALL OR PART OF THE PROJECT.

(G) IF THE STEPS REQUIRED UNDER SUBSECTION (F) OF THIS SECTION ARE NOT DEMONSTRATED TO THE SATISFACTION OF THE DEPARTMENT, THE DEPARTMENT MAY WITHHOLD FINANCIAL ASSISTANCE FOR THE PROJECT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 654

(House Bill 111)

AN ACT concerning

~~Charter~~ Counties – Local Laws – ~~Digital~~ Copies for Legislative Delegations

FOR the purpose of ~~authorizing a charter county to make a digital copy of a certain compilation of laws available on the Internet as an alternative to a requirement~~

~~to provide certain copies to certain entities; altering a certain requirement that a charter county provide a copy of a certain compilation of laws to the Department of Legislative Services to authorize the copy to be in either a digital or printed form; authorizing a charter county under certain circumstances to make a digital copy of certain compilations or codes of local laws available on the Internet as an alternative to a requirement to deposit copies with certain State agencies~~ authorizing certain counties to provide a certain notice regarding a digital copy of the county's compilation of local laws to each member of the county's legislative delegation as an alternative to furnishing each member a printed copy of the compilation under certain circumstances; clarifying that copies of compilations of local laws and enactments of local laws furnished by certain counties to certain units of State government under certain circumstances shall be printed copies; making stylistic changes; and generally relating to copies of compilations and ~~codes~~ enactments of local laws of ~~charter~~ counties.

BY repealing and reenacting, with amendments,
Article 25 – County Commissioners
Section 32A
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article 25A – Chartered Counties of Maryland
Section 7
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article 25B – Home Rule for Code Counties
Section 12
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

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

Article 25 – County Commissioners

32A.

Whenever the board of county commissioners or county council of any county in this State publishes or issues in printed, mimeographed or similar duplicated form a code or compilation containing all or a portion of the public local laws of the county, the board or council shall deposit **PRINTED** copies free of charge with the following State agencies: State Archives, one copy; State Law Library, one copy; State Department of Legislative Services, five copies.

Article 25A – Chartered Counties of Maryland

7.

(a) **(1)** At the end of each calendar or fiscal year, each charter county shall furnish in a convenient and legible compilation a complete set of all laws enacted during that year under the "Express Powers Act" in § 5 of this article, whether to enact, amend, or repeal a local law.

(2) The laws in the compilation shall be in numerical sequence, beginning with No. 1, and in a separate series for each year.

(b) **(1)** Copies of this compilation shall be **[**made**]:**

(I) **MADE** available for inspection at the office of the county council, county executive, or county manager, during normal business hours; and

(II) **[**copies shall be kept**]** **KEPT** on permanent record in the same office.

(2) **[**Copies also shall be furnished**]** **EACH CHARTER COUNTY SHALL:**

(I) ~~**MAKE A DIGITAL COPY OF THE LAWS IN THE COMPILATION AVAILABLE TO THE PUBLIC ON THE INTERNET; OR**~~

~~**(II)**~~ **FURNISH PRINTED COPIES OF THE COMPILATION** to the State Archives~~,~~ **AND** the State Law Library~~, and to each member of the legislative delegation of the county~~**; AND**

(II) **ONCE EACH YEAR:**

1. **NOTIFY EACH MEMBER OF THE COUNTY'S LEGISLATIVE DELEGATION THAT A DIGITAL COPY OF THE COMPILATION IS AVAILABLE ON THE INTERNET; OR**

2. **FURNISH A PRINTED COPY OF THE COMPILATION TO EACH MEMBER OF THE COUNTY'S LEGISLATIVE DELEGATION**.

(3) **[**The foregoing copies**]** **COPIES UNDER PARAGRAPH** ~~**(2)(II)**~~ **(2) OF THIS SUBSECTION** shall be furnished without charge, and the county also may make other copies available at a reasonable cost to any person.

(c) Not later than March 1 of the next succeeding year, the charter county, without charge, shall furnish **[**4 **PRINTED** copies**]** ~~**A DIGITAL OR PRINTED COPY**~~ of the compilation to the State Department of Legislative Services.

(d) **(1)** **[**In addition to furnishing copies of the compilation to the State Department of Legislative Services, the**]** **EACH** charter county shall provide to the **STATE** Department **OF LEGISLATIVE SERVICES** a statement concerning any referendum on any proposed local law.

(2) The statement shall include information on the results of any referendum held during the year, and it shall include information as to any referendum pending actually or potentially, but not yet held, at the end of the year.

(e) **(1)** At the end of each calendar year the State Department of Legislative Services shall address an inquiry to each charter county inquiring whether or not during that calendar year or its latest fiscal year it has enacted, amended or repealed any portion of its laws under the "Express Powers Act".

(2) The charter county shall promptly answer the inquiry and shall verify that **PRINTED** **[**copies**]**~~:~~

~~**(I)** **THE TEXT OF ALL ENACTMENTS, AMENDMENTS, OR REPEALS HAVE BEEN POSTED ON THE INTERNET; OR**~~

~~**(II)** **COPIES**~~ of all such enactments, amendments, or repeals have already been sent to the Department.

(f) **(1)** If the charter county ~~**FAILS OR REFUSES TO POST THE COMPILATION ON THE INTERNET,**~~ fails or refuses to supply **PRINTED** copies of this compilation and of the results of any referenda thereon to the State Department of Legislative Services by March 1 of the next succeeding year, or fails or refuses to certify that there have been no such enactments, amendments, or repeals, or referenda, during the last calendar or fiscal year, the Department shall promptly certify that fact to the State Comptroller, who then may order the discontinuance of all funds, grants or State aid which the charter county is entitled to receive under State law.

(2) This section refers specifically to all funds, grants or State aid which the charter county is entitled to receive under applicable provisions of State law relating to the income tax, the tax on racing, the recordation tax, the admissions and amusement tax, and the license tax.

(g) **(1)** The State Department of Legislative Services shall receive the **[**several**]** compilations and statements **[**thus**]** delivered to it.

(2) The titles of the laws of the several charter counties which amend their codes of public local laws shall be arranged in a logical and convenient order and shall be delivered to the State printer for inclusion in the Session Laws of the General Assembly for its regular session in that year.

(3) The titles of the laws of the charter counties which amend their codes of public local laws shall be printed and identified as such, and they shall be indexed with or in a supplemental volume to the laws enacted by the General Assembly.

(h) Whenever the county council of any county in this State publishes or issues in printed, mimeographed, or similar duplicated form a code or compilation containing all or a portion of the public local laws of the county, the council shall **[**deposit**]:**

~~**(1) MAKE A DIGITAL COPY OF THE CODE OR COMPILATION ON THE INTERNET; OR**~~

~~**(2) DEPOSIT**~~ **PRINTED** copies free of charge with the following State agencies: State Archives, 1 copy; State Law Library, 1 copy; State Department of Legislative Services, 5 copies.

Article 25B – Home Rule for Code Counties

12.

(a) At the end of each calendar or fiscal year, each code county shall furnish in a convenient and legible compilation a complete set of all local laws enacted, amended, or repealed by the code county during that year.

(b) **(1)** Copies of this compilation shall be **[**made**]:**

(I) MADE available for inspection at the office of the board of county commissioners during normal business hours; and

(II) [copies shall be kept**] KEPT** on permanent record at the office of the board of county commissioners.

(2) [Copies also shall be furnished**] EACH CODE COUNTY SHALL:**

(I) FURNISH PRINTED COPIES to the State Archives**[**,**] AND** to the State Law Library**[**, and to each member of the legislative delegation of the county**]; AND**

(II) ONCE EACH YEAR:

1. NOTIFY EACH MEMBER OF THE COUNTY'S LEGISLATIVE DELEGATION THAT A DIGITAL COPY OF THE COMPILATION IS AVAILABLE ON THE INTERNET; OR

2. FURNISH A PRINTED COPY OF THE COMPILATION TO EACH MEMBER OF THE COUNTY'S LEGISLATIVE DELEGATION.

(3) **[**The foregoing copies**]** **COPIES UNDER PARAGRAPH (2) OF THIS SUBSECTION** shall be furnished without charge, and the county also may make other copies available at a reasonable cost to any person.

(c) Not later than March 1 of the next succeeding year, the code county, without charge, shall furnish 4 **PRINTED** copies of this compilation to the State Department of Legislative Services.

(d) **(1)** **[**In addition to furnishing copies of the compilation to the State Department of Legislative Services, the**]** **EACH** code county shall provide **TO** the **STATE** Department **OF LEGISLATIVE SERVICES** a statement concerning any referendum on any proposed local law.

(2) The statement shall include information on the results of any referendum held during the year, and it shall include information as to any referendum pending actually or potentially, but not yet held, at the end of the year.

(e) **(1)** At the end of each calendar year the State Department of Legislative Services shall address an inquiry to each code county inquiring whether or not during that calendar year or its latest fiscal year it has enacted, amended or repealed any portion of its public local laws.

(2) The code county shall promptly answer the inquiry and shall verify that **PRINTED** copies of all such enactments, amendments, or repeals have already been sent to the Department.

(f) **(1)** If the code county fails or refuses to supply **PRINTED** copies of this compilation and of the results of any referenda thereon to the State Department of Legislative Services by March 1 of the next succeeding year, or fails or refuses to certify that there have been no such enactments, amendments, or repeals, or referenda, during the last calendar or fiscal year, the Department shall promptly certify that fact to the State Comptroller, who then may order the discontinuance of all funds, grants or State aid which the code county is entitled to receive under State law.

(2) This section refers specifically to all funds, grants or State aid which the code county is entitled to receive under applicable provisions of State law relating to the income tax, the tax on racing, the recordation tax, the admissions and amusement tax, and the license tax.

(g) **(1)** The State Department of Legislative Services shall receive the **[**several**]** compilations and statements **[**thus**]** delivered to it.

(2) The titles of the laws of the several code counties which amend their codes of public local laws shall be arranged in a logical and convenient order and shall be delivered to the State printer for inclusion in the Session Laws of the General Assembly for its regular session in that year.

(3) The titles of the laws of the code counties which amend their codes of public local laws shall be printed and identified as such, and they shall be indexed with or in a supplemental volume to the laws enacted by the General Assembly.

(h) Whenever a code county in this State publishes or issues in printed, mimeographed, or similar duplicated form a code or compilation containing all or a portion of the public local laws of the county, the code county shall deposit **PRINTED** copies free of charge with the following State agencies: State Archives, 1 copy; State Law Library, 1 copy; State Department of Legislative Services, 5 copies.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 655

(House Bill 161)

AN ACT concerning

Family Law – ~~Permanency Planning and~~ Guardianship Review Hearings – Consultation with Child

FOR the purpose of requiring the juvenile court, in certain ~~permanency planning and~~ guardianship review hearings, to ~~place on the record a certain consultation with the child~~ consult on the record with the child in a certain manner at certain intervals; and generally relating to certain ~~permanency planning and~~ guardianship review hearings.

BY repealing and reenacting, without amendments,
Article – Courts and Judicial Proceedings
Section 3–823(b), (c), ~~and~~ (h)(1), and (k)
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

~~BY repealing and reenacting, with amendments,~~
~~Article – Courts and Judicial Proceedings~~
~~Section 3–823(k)~~
~~Annotated Code of Maryland~~
~~(2006 Replacement Volume and 2009 Supplement)~~

BY repealing and reenacting, without amendments,
Article – Family Law
Section 5–326(a)(1)
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

BY adding to
Article – Family Law
Section 5–326(c)
Annotated Code of Maryland
(2006 Replacement Volume and 2009 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

3–823.

(b) (1) The court shall hold a permanency planning hearing to determine the permanency plan for a child:

(i) No later than 11 months after a child committed under § 3–819 of this subtitle or continued in a voluntary placement under § 3–819.1(b) of this subtitle enters an out–of–home placement; or

(ii) Within 30 days after the court finds that reasonable efforts to reunify a child with the child's parent or guardian are not required based on a finding that a circumstance enumerated in § 3–812 of this subtitle has occurred.

(2) For purposes of this section, a child shall be considered to have entered an out–of–home placement 30 days after the child is placed into an out–of–home placement.

(3) If all parties agree, a permanency planning hearing may be held on the same day as the reasonable efforts hearing.

(c) (1) On the written request of a party or on its own motion, the court may schedule a hearing at any earlier time to determine a permanency plan or to

review the implementation of a permanency plan for any child committed under § 3–819 of this subtitle.

(2) A written request for review shall state the reason for the request and each issue to be raised.

(h) (1) (i) Except as provided in subparagraphs (ii) and (iii) of this paragraph, the court shall conduct a hearing to review the permanency plan at least every 6 months until commitment is rescinded or a voluntary placement is terminated.

(ii) The court shall conduct a review hearing every 12 months after the court determines that the child shall be continued in out–of–home placement with a specific caregiver who agrees to care for the child on a permanent basis.

(iii) 1. Unless the court finds good cause, a case shall be terminated after the court grants custody and guardianship of the child to a relative or other individual.

2. If the court finds good cause not to terminate a case, the court shall conduct a review hearing every 12 months until the case is terminated.

3. The court may not conclude a review hearing under subsubparagraph 2 of this subparagraph unless the court has seen the child in person.

(k) At least every 12 months at a hearing under this section, the court shall **[**consult**]** ~~PLACE~~ on the record ~~AN AGE–APPROPRIATE CONSULTATION~~ with the child **[**in an age–appropriate manner**]**.

Article – Family Law

5–326.

(a) (1) A juvenile court shall hold:

(i) an initial guardianship review hearing as scheduled under § 5–324(b)(1)(vi) of this subtitle to establish a permanency plan for the child; and

(ii) at least once each year after the initial guardianship review hearing until the juvenile court's jurisdiction terminates, a guardianship review hearing.

(C) AT LEAST EVERY 12 MONTHS AT A HEARING UNDER THIS SECTION, THE COURT SHALL ~~PLACE~~ CONSULT ON THE RECORD ~~AN AGE–APPROPRIATE CONSULTATION~~ WITH THE CHILD IN AN AGE–APPROPRIATE MANNER.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 656

(House Bill 168)

AN ACT concerning

Architectural ~~or~~, Engineering, Inspecting, or Surveying Services – ~~Construction Industry –~~ Indemnity Agreements – Void

FOR the purpose of providing that certain indemnity agreements relating to certain architectural ~~or~~, engineering, inspecting, or surveying services are against public policy and are void and unenforceable under certain circumstances; providing that certain provisions of law do not affect the validity of a certain indemnity agreement; clarifying language; making stylistic changes; providing for the application of this Act; and generally relating to certain ~~construction industry~~ indemnity agreements.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 5–401(a)
Annotated Code of Maryland
(2006 Replacement Volume and 2009 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

5–401.

(a) **(1)** A covenant, promise, agreement**,** or understanding in, or in connection with or collateral to, a contract or agreement relating to ~~the ARCHITECTURAL OR ENGINEERING SERVICES FOR~~ **ARCHITECTURAL, ENGINEERING, INSPECTING, OR SURVEYING SERVICES, OR THE** construction, alteration, repair, or maintenance of~~,~~ a building, structure, appurtenance or appliance, including ~~INSPECTING, SURVEYING,~~ moving, demolition**,** and excavating connected with **[**it**]** **THOSE SERVICES OR THAT WORK**, purporting to indemnify the promisee against liability for damages arising out of bodily injury to any person or damage to

property caused by or resulting from the sole negligence of the promisee or indemnitee, [his] **OR THE** agents or employees **OF THE PROMISEE OR INDEMNITEE**, is against public policy and is void and unenforceable.

(2) This [section] **SUBSECTION** does not affect the validity of any insurance contract, workers' compensation, **ANY GENERAL INDEMNITY AGREEMENT REQUIRED BY A SURETY AS A CONDITION OF EXECUTION OF A BOND FOR A CONSTRUCTION OR OTHER CONTRACT,** or any other agreement issued by an insurer.

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 cause of action arising before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 657

(House Bill 179)

AN ACT concerning

State Board of Nursing – Temporary License – Issuance

FOR the purpose of authorizing the State Board of Nursing to issue a temporary license to an individual who has taken and passed a certain examination, but is waiting for the completion of a certain records check; specifying the scope of temporary licenses issued to certain individuals; exempting certain individuals from a certain provision of law; and generally relating to the issuance of temporary nursing licenses.

BY repealing and reenacting, without amendments,
Article – Health Occupations
Section 8–301(a) and (b)
Annotated Code of Maryland
(2009 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 8–301(c) and 8–315(a) and (b)

Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – Health Occupations

8–301.

(a) Except as otherwise provided in this title, an individual shall be licensed by the Board before the individual may practice registered nursing in this State.

(b) Except as otherwise provided in this title, an individual shall be licensed by the Board before the individual may practice licensed practical nursing in this State.

(c) This section does not apply to:

(1) A student enrolled in an approved education program while practicing registered nursing or licensed practical nursing in that program;

(2) An individual employed by the federal government to practice registered nursing or licensed practical nursing while practicing within the scope of that employment, if the individual is authorized by any state to practice registered nursing or licensed practical nursing;

(3) An individual permitted to practice registered nursing or licensed practical nursing under rules and regulations adopted by the Board, if the individual:

(i) Otherwise has qualified to practice registered nursing or licensed practical nursing in any other state or country and is in this State temporarily; or

(ii) Has an application for a license pending before the Board:

1. But has not taken the examination required under this title; **[**or**]**

2. Has taken an examination under this title, but the results of the examination are not yet known; **[**and**]** **OR**

3. HAS TAKEN AND PASSED AN EXAMINATION UNDER THIS TITLE, BUT IS WAITING FOR THE COMPLETION OF THE CRIMINAL HISTORY RECORDS CHECK; AND

(4) An individual who is assigned by the American Red Cross to a disaster situation in this State to practice registered nursing or licensed practical nursing, if the individual is licensed to practice registered nursing or licensed practical nursing in another state.

8–315.

(a) The Board may issue a temporary license to any applicant who:

(1) Submits to a criminal history records check in accordance with § 8–303 of this subtitle;

(2) **(I)** Is licensed by any other state; **OR**

(II) HAS TAKEN AND PASSED AN EXAMINATION UNDER THIS TITLE, BUT IS WAITING FOR THE COMPLETION OF THE CRIMINAL HISTORY RECORDS CHECK;

(3) Submits to the Board:

(i) An application on the form required by the Board;

(ii) Written, verified evidence that the requirement of item (1) of this subsection is being met; and

(iii) Any other document required by the Board; and

(4) Pays the fee required by the Board.

(b) (1) A temporary license issued to an individual who is authorized to practice registered nursing in another state **OR WHO HAS TAKEN AND PASSED AN EXAMINATION UNDER THIS TITLE** authorizes the holder to practice registered nursing in this State while the temporary license is effective.

(2) A temporary license issued to an individual who is authorized to practice licensed practical nursing in another state **OR WHO HAS TAKEN AND PASSED AN EXAMINATION UNDER THIS TITLE** authorizes the holder to practice licensed practical nursing in this State while the temporary license is effective.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 658

(House Bill 193)

AN ACT concerning

Civil Proceedings – Foreign Defamation Judgments – ~~Enforceability~~ Recognition, Enforceability, and Bases of Personal Jurisdiction

FOR the purpose of authorizing a court in this State to exercise personal jurisdiction for certain purposes and under certain circumstances over a certain person who obtains a certain foreign defamation judgment; ~~prohibiting recognition of certain foreign judgments;~~ establishing that certain foreign defamation judgments may not be recognized in this State unless a certain court makes a certain determination; ~~authorizing a court to award costs and reasonable attorney's fees to a party opposing recognition or enforcement of a certain foreign judgment;~~ defining a certain term; providing for the application of this Act; and generally relating to recognition and enforceability of certain foreign defamation judgments and personal jurisdiction over certain persons who obtain certain foreign defamation judgments.

BY adding to
Article – Courts and Judicial Proceedings
Section 6–103.3 and 10–704(c)
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

~~BY repealing and reenacting, with amendments,~~
~~Article – Courts and Judicial Proceedings~~
~~Section 10–704~~
~~Annotated Code of Maryland~~
~~(2006 Replacement Volume and 2009 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

6–103.3.

(A) IN THIS SECTION, "DEFAMATION" INCLUDES INVASION OF PRIVACY BY FALSE FACTS.

(B) A COURT MAY EXERCISE PERSONAL JURISDICTION, TO THE FULLEST EXTENT PERMITTED BY THE UNITED STATES CONSTITUTION, OVER ANY PERSON WHO OBTAINS A JUDGMENT IN A DEFAMATION PROCEEDING

OUTSIDE THE UNITED STATES AGAINST ANY PERSON WHO IS A RESIDENT OF THIS STATE OR IS OTHERWISE SUBJECT TO JURISDICTION IN THIS STATE FOR THE PURPOSE OF PROVIDING DECLARATORY RELIEF WITH RESPECT TO THAT PERSON'S LIABILITY FOR THE JUDGMENT OR DETERMINING WHETHER THE JUDGMENT ~~SHOULD~~ MAY NOT BE RECOGNIZED UNDER § 10–704 OF THIS ARTICLE IF THE RESIDENT OR PERSON SUBJECT TO JURISDICTION IN THIS STATE:

(1) HAS ASSETS IN THIS STATE THAT MIGHT BE USED TO SATISFY THE FOREIGN DEFAMATION JUDGMENT; OR

(2) MAY HAVE TO TAKE ACTIONS IN THIS STATE TO COMPLY WITH THE FOREIGN DEFAMATION JUDGMENT.

10–704.

~~**(A) IN THIS SECTION, "DEFAMATION" INCLUDES INVASION OF PRIVACY BY FALSE FACTS.**~~

~~**[**(a)**] (B)** A foreign judgment is not conclusive if:~~

~~(1) The judgment was rendered under a system which does not provide impartial tribunals or procedures compatible with the requirements of due process of law;~~

~~(2) The foreign court did not have personal jurisdiction over the defendant;~~

~~(3) The foreign court did not have jurisdiction over the subject matter; or~~

~~(4) The judgment was obtained by fraud.~~

~~(b) A foreign judgment **[**need**] MAY** not be recognized if:~~

~~(1) The defendant in the proceedings in the foreign court did not receive notice of the proceedings in sufficient time to enable him to defend;~~

~~(2) The cause of action on which the judgment is based is repugnant to the public policy of the State;~~

~~(3) The judgment conflicts with another final and conclusive judgment;~~

~~(4) The proceeding in the foreign court was contrary to an agreement between the parties under which the dispute was to be settled out of court; **[**or**]**~~

~~(5) In the case of jurisdiction based only on personal service, the foreign court was a seriously inconvenient forum for the trial of the action;~~

(C) (1) IN THIS SUBSECTION, "DEFAMATION" INCLUDES INVASION OF PRIVACY BY FALSE FACTS.

(2) A FOREIGN JUDGMENT MAY NOT BE RECOGNIZED IF:

~~(6)~~ (I) THE CAUSE OF ACTION RESULTED IN A DEFAMATION JUDGMENT OBTAINED IN A JURISDICTION OUTSIDE THE UNITED STATES, UNLESS THE COURT BEFORE WHICH THE MATTER IS BROUGHT IN THIS STATE FIRST DETERMINES THAT THE DEFAMATION LAW APPLIED IN THE FOREIGN JURISDICTION PROVIDES FOR AT LEAST AS MUCH PROTECTION FOR FREEDOM OF SPEECH AND THE PRESS AS IS PROVIDED BY BOTH THE UNITED STATES CONSTITUTION AND THE MARYLAND CONSTITUTION; OR

~~(7)~~ (II) THE CAUSE OF ACTION RESULTED IN A DEFAMATION JUDGMENT ENTERED AGAINST THE PROVIDER OF AN INTERACTIVE COMPUTER SERVICE, AS DEFINED IN 47 U.S.C. § 230, UNLESS THE COURT BEFORE WHICH THE MATTER IS BROUGHT IN THIS STATE DETERMINES THAT THE JUDGMENT IS CONSISTENT WITH 47 U.S.C. § 230.

~~(C) IN ANY ACTION BROUGHT IN A COURT OF THIS STATE UNDER § 6–103.3 OF THIS ARTICLE OR TO ENFORCE A FOREIGN JUDGMENT, THE COURT MAY AWARD THE PARTY OPPOSING RECOGNITION OR ENFORCEMENT OF THE FOREIGN JUDGMENT, IF THE PARTY PREVAILS IN THE ACTION ON A GROUND SPECIFIED IN 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 case filed in a court of this State before the effective date of this Act.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 659

(Senate Bill 13)

AN ACT concerning

Civil Proceedings – Foreign Defamation Judgments – ~~Enforceability~~ *Recognition, Enforceability,* and Bases of Personal Jurisdiction

FOR the purpose of authorizing a court in this State to exercise personal jurisdiction for certain purposes and under certain circumstances over a certain person who obtains a certain foreign defamation judgment; ~~prohibiting recognition of certain foreign judgments;~~ establishing that ~~a~~ certain foreign defamation ~~judgment need~~ judgments may not be recognized in this State unless a certain court makes a certain ~~finding~~ determination; ~~authorizing a court to award costs and reasonable attorney's fees to a party opposing recognition or enforcement of a certain foreign judgment;~~ defining a certain term; *providing for the application of this Act;* and generally relating to *the recognition and* enforceability of certain foreign *defamation* judgments and personal jurisdiction over certain persons who obtain certain foreign *defamation* judgments.

BY adding to
Article – Courts and Judicial Proceedings
Section 6–103.3 *and 10–704(c)*
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

~~BY repealing and reenacting, with amendments,~~
~~Article – Courts and Judicial Proceedings~~
~~Section 10–704~~
~~Annotated Code of Maryland~~
~~(2006 Replacement Volume and 2009 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

6–103.3.

(A) IN THIS SECTION, "DEFAMATION" INCLUDES INVASION OF PRIVACY BY FALSE FACTS.

(B) A COURT MAY EXERCISE PERSONAL JURISDICTION, TO THE FULLEST EXTENT PERMITTED BY THE UNITED STATES CONSTITUTION, OVER ANY PERSON WHO OBTAINS A JUDGMENT IN A DEFAMATION PROCEEDING OUTSIDE THE UNITED STATES AGAINST ANY PERSON WHO IS A RESIDENT OF THIS STATE ~~OR IS OTHERWISE SUBJECT TO JURISDICTION IN THIS STATE~~ *OR HAS ASSETS IN THIS STATE* FOR THE PURPOSE OF PROVIDING DECLARATORY RELIEF WITH RESPECT TO THAT PERSON'S LIABILITY FOR THE JUDGMENT OR

DETERMINING WHETHER THE JUDGMENT ~~SHOULD~~ *MAY* NOT BE RECOGNIZED UNDER § 10–704 OF THIS ARTICLE IF~~:~~

~~**(1) THE PUBLICATION AT ISSUE WAS PUBLISHED IN THIS STATE; AND**~~

~~**(2) THE**~~ **THE *MARYLAND* RESIDENT OR ~~PERSON SUBJECT TO JURISDICTION~~ *PERSON WHO HAS ASSETS* IN THIS STATE~~:~~**

~~**(I) (1) HAS ASSETS IN THIS STATE THAT MIGHT BE USED TO SATISFY THE FOREIGN DEFAMATION JUDGMENT; OR**~~

~~**(II) (2) MAY**~~ ***MAY* HAVE TO TAKE ACTIONS IN ~~THIS STATE~~ *MARYLAND* TO COMPLY WITH THE FOREIGN DEFAMATION JUDGMENT.**

10–704.

~~**(A) IN THIS SECTION, "DEFAMATION" INCLUDES INVASION OF PRIVACY BY FALSE FACTS.**~~

~~(a) **(B)** A foreign judgment is not conclusive if:~~

~~(1) The judgment was rendered under a system which does not provide impartial tribunals or procedures compatible with the requirements of due process of law;~~

~~(2) The foreign court did not have personal jurisdiction over the defendant;~~

~~(3) The foreign court did not have jurisdiction over the subject matter; or~~

~~(4) The judgment was obtained by fraud.~~

~~(b) **(C)** A foreign judgment need **MAY** not be recognized if:~~

~~(1) The defendant in the proceedings in the foreign court did not receive notice of the proceedings in sufficient time to enable him to defend;~~

~~(2) The cause of action on which the judgment is based is repugnant to the public policy of the State;~~

~~(3) The judgment conflicts with another final and conclusive judgment;~~

~~(4) The proceeding in the foreign court was contrary to an agreement between the parties under which the dispute was to be settled out of court; [or]~~

~~(5) In the case of jurisdiction based only on personal service, the foreign court was a seriously inconvenient forum for the trial of the action; OR~~

(C) (1) IN THIS SUBSECTION, "DEFAMATION" INCLUDES INVASION OF PRIVACY BY FALSE FACTS.

(2) A FOREIGN JUDGMENT AGAINST ANY PERSON WHO IS A RESIDENT OF THIS STATE OR WHO HAS ASSETS IN THIS STATE MAY NOT BE RECOGNIZED IF:

~~(6)~~ *(I)* THE CAUSE OF ACTION RESULTED IN A DEFAMATION JUDGMENT OBTAINED IN A JURISDICTION OUTSIDE THE UNITED STATES, UNLESS THE COURT BEFORE WHICH THE MATTER IS BROUGHT IN THIS STATE FIRST DETERMINES THAT THE DEFAMATION LAW *AS* APPLIED IN THE FOREIGN JURISDICTION PROVIDES FOR AT LEAST AS MUCH PROTECTION FOR FREEDOM OF SPEECH AND THE PRESS AS IS PROVIDED BY BOTH THE UNITED STATES CONSTITUTION AND THE MARYLAND CONSTITUTION; OR

~~(7)~~ *(II)* THE CAUSE OF ACTION RESULTED IN A DEFAMATION JUDGMENT ENTERED AGAINST THE PROVIDER OF AN INTERACTIVE COMPUTER SERVICE, AS DEFINED IN 47 U.S.C. § 230, UNLESS THE COURT BEFORE WHICH THE MATTER IS BROUGHT IN THIS STATE DETERMINES THAT THE JUDGMENT IS CONSISTENT WITH 47 U.S.C. § 230.

~~**(D) IN ANY ACTION BROUGHT IN A COURT OF THIS STATE UNDER § 6–103.3 OF THIS ARTICLE OR TO ENFORCE A FOREIGN JUDGMENT, THE COURT MAY AWARD THE PARTY OPPOSING RECOGNITION OR ENFORCEMENT OF THE FOREIGN JUDGMENT REASONABLE ATTORNEY'S FEES AND COSTS, IF THE PARTY PREVAILS IN THE ACTION ON A GROUND SPECIFIED IN 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 case filed in a court before the effective date of this Act.

SECTION ~~2.~~ *3.* AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 660

(House Bill 218)

AN ACT concerning

Natural Resources – Oysters – Dredge Devices

FOR the purpose of repealing a prohibition on a person on a dredge boat possessing or using certain dredge devices; and generally relating to oyster dredge devices.

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 4–1013(f)
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

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

Article – Natural Resources

4–1013.

(f) A person may not catch oysters in the waters of the State or possess any scoop, dredge, handscrape, or similar instrument having a tooth bar more than 42 inches in length measuring from the outside teeth on dredges used in dredging on rock bottoms or 44 inches in length measuring from the outside teeth on dredges used in dredging on mud bottoms, or of a weight exceeding 200 pounds. **[**The captain or any other person may not possess or use a "devil catcher" or "devil diver", or similar device on any dredge boat to be attached to the dredge for steering it to the bottom.**]**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 661

(House Bill 219)

AN ACT concerning

Office of the Governor – State Drug and Alcohol Abuse Council

FOR the purpose of establishing the State Drug and Alcohol Abuse Council in the Office of the Governor; providing for the membership of the Council; requiring the Governor to designate the chair of the Council; providing for the terms of the members of the Council; authorizing members of the Council to receive a certain reimbursement; providing that a majority of the voting members of the Council is a quorum; authorizing the Council to adopt certain procedures and consult with State agencies; authorizing the chair to designate certain individuals to serve on a committee or task force of the Council; requiring the Council to meet at least four times a year; providing for the purposes and duties of the Council; requiring the ~~Office of the Governor to designate~~ Alcohol and Drug Abuse Administration to provide staff for the Council; specifying the terms of certain initial members of the Council; and generally relating to the State Drug and Alcohol Abuse Council.

BY adding to
Article – State Government
Section 9–2801 through 9–2806 to be under the new subtitle "Subtitle 28. State Drug and Alcohol Abuse Council"
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – State Government

SUBTITLE 28. STATE DRUG AND ALCOHOL ABUSE COUNCIL.

9–2801.

THERE IS A STATE DRUG AND ALCOHOL ABUSE COUNCIL IN THE OFFICE OF THE GOVERNOR.

9–2802.

(A) (1) THE COUNCIL CONSISTS OF THE FOLLOWING VOTING MEMBERS:

(I) ONE MEMBER OF THE SENATE OF MARYLAND, APPOINTED BY THE PRESIDENT OF THE SENATE;

(II) ONE MEMBER OF THE MARYLAND HOUSE OF DELEGATES, APPOINTED BY THE SPEAKER OF THE HOUSE;

(III) THE SECRETARY OF HEALTH AND MENTAL HYGIENE, OR THE SECRETARY'S DESIGNEE;

(IV) THE SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL SERVICES, OR THE SECRETARY'S DESIGNEE;

(V) THE SECRETARY OF JUVENILE SERVICES, OR THE SECRETARY'S DESIGNEE;

(VI) THE SECRETARY OF HUMAN RESOURCES, OR THE SECRETARY'S DESIGNEE;

(VII) THE SECRETARY OF BUDGET AND MANAGEMENT, OR THE SECRETARY'S DESIGNEE;

(VIII) THE SECRETARY OF HOUSING AND COMMUNITY DEVELOPMENT, OR THE SECRETARY'S DESIGNEE;

(IX) THE SECRETARY OF TRANSPORTATION, OR THE SECRETARY'S DESIGNEE;

(X) THE STATE SUPERINTENDENT OF SCHOOLS, OR THE SUPERINTENDENT'S DESIGNEE;

(XI) THE EXECUTIVE DIRECTOR OF THE GOVERNOR'S OFFICE FOR CHILDREN, OR THE EXECUTIVE DIRECTOR'S DESIGNEE;

(XII) THE EXECUTIVE DIRECTOR OF THE GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION, OR THE EXECUTIVE DIRECTOR'S DESIGNEE;

(XIII) THE PUBLIC DEFENDER OF MARYLAND, OR THE PUBLIC DEFENDER'S DESIGNEE;

~~(XIII)~~ (XIV) TWO REPRESENTATIVES OF THE MARYLAND JUDICIARY, A DISTRICT COURT JUDGE AND A CIRCUIT COURT JUDGE, APPOINTED BY THE GOVERNOR AFTER NOMINATION OF THE CHIEF JUDGE OF THE COURT OF APPEALS; AND

~~(XIV)~~ (XV) EIGHT MEMBERS APPOINTED BY THE GOVERNOR WHO ARE REPRESENTATIVE TO THE EXTENT PRACTICABLE OF:

1. GEOGRAPHIC REGIONS OF THE STATE;

2. AT–RISK POPULATIONS;

3. KNOWLEDGEABLE PROFESSIONALS;

4. CURRENT OR FORMER CONSUMERS OF SUBSTANCE ABUSE PREVENTION, INTERVENTION, AND TREATMENT SERVICES;

5. FAMILY MEMBERS OF SUBSTANCE ABUSERS;

6. PREVENTION AND TREATMENT PROVIDERS; AND

7. INDIVIDUALS WHO ARE ACTIVE ON SUBSTANCE ABUSE ISSUES IN THEIR COMMUNITIES.

(2) THE COUNCIL CONSISTS OF THE FOLLOWING NONVOTING MEMBERS:

(I) THE DIRECTOR OF THE ALCOHOL AND DRUG ABUSE ADMINISTRATION OF THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE;

(II) THE DIRECTOR OF MENTAL HYGIENE OF THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE;

(III) THE DIRECTOR OF THE DIVISION OF PAROLE AND PROBATION OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES;

(IV) THE ASSISTANT SECRETARY FOR TREATMENT SERVICES OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES; AND

(V) THE PRESIDENT OF THE MARYLAND ADDICTION DIRECTORS' COUNCIL.

(B) THE GOVERNOR SHALL APPOINT A CHAIR FROM AMONG THE VOTING MEMBERS OF THE COUNCIL.

9–2803.

(A) (1) MEMBERS APPOINTED BY THE GOVERNOR UNDER § 9–2802(A)(1)~~(XIII) AND~~ (XIV) AND (XV) OF THIS SUBTITLE:

(I) SERVE FOR A 3–YEAR TERM;

(II) MAY SERVE FOR A MAXIMUM OF TWO CONSECUTIVE TERMS; AND

(III) SERVE AT THE PLEASURE OF THE GOVERNOR.

(2) THE TERMS OF MEMBERS APPOINTED BY THE GOVERNOR UNDER § 9–2802(A)(1)~~(XIV)~~ (XV) OF THIS SUBTITLE ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE COUNCIL ON OCTOBER 1, 2010.

(3) A MEMBER APPOINTED UNDER § 9–2802(A)(1)(I) THROUGH ~~(XIII)~~ (XIV) AND (2) OF THIS SUBTITLE SERVES AS LONG AS THE MEMBER HOLDS THE SPECIFIED OFFICE OR DESIGNATION.

(B) A MEMBER OF THE COUNCIL:

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

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

(C) (1) A MAJORITY OF THE VOTING MEMBERS OF THE COUNCIL IS A QUORUM.

(2) (I) THE COUNCIL MAY ADOPT PROCEDURES NECESSARY TO DO BUSINESS, INCLUDING THE CREATION OF COMMITTEES OR TASK FORCES.

(II) WITH THE CONSENT OF THE COUNCIL, THE CHAIR MAY DESIGNATE ADDITIONAL INDIVIDUALS WITH RELEVANT EXPERTISE TO SERVE ON A COMMITTEE OR TASK FORCE.

(3) THE COUNCIL MAY CONSULT WITH STATE AGENCIES TO COMPLETE THE DUTIES OF THE COUNCIL.

(4) THE COUNCIL SHALL MEET AT LEAST FOUR TIMES A YEAR.

9–2804.

THE PURPOSES OF THE COUNCIL ARE TO:

(1) DEVELOP A COMPREHENSIVE, COORDINATED, AND STRATEGIC APPROACH TO THE USE OF STATE AND LOCAL RESOURCES FOR

PREVENTION, INTERVENTION, AND TREATMENT OF DRUG AND ALCOHOL ABUSE AMONG THE RESIDENTS OF THE STATE;

(2) PROMOTE A COORDINATED, COLLABORATIVE, AND COMPREHENSIVE EFFORT BY STATE EXECUTIVE BRANCH AGENCIES TO ENSURE THE EFFICIENT AND EFFECTIVE USE OF STATE RESOURCES FOR THE DELIVERY OF A FULL CONTINUUM OF DRUG AND ALCOHOL ABUSE PREVENTION, INTERVENTION, AND TREATMENT SERVICES FOR ALL RESIDENTS WITHIN THEIR JURISDICTION;

(3) PROMOTE A COORDINATED, COLLABORATIVE, AND COMPREHENSIVE EFFORT BY LOCAL ALCOHOL AND DRUG ABUSE COUNCILS AND STATE SERVICE AGENCIES TO ENSURE EFFECTIVE AND EFFICIENT USE OF STATE RESOURCES FOR THE DELIVERY OF A FULL CONTINUUM OF DRUG AND ALCOHOL ABUSE PREVENTION, INTERVENTION, AND TREATMENT SERVICES FOR ALL RESIDENTS WITHIN THEIR JURISDICTION;

(4) PROMOTE A COORDINATED, COLLABORATIVE, AND COMPREHENSIVE EFFORT BY STATE AND LOCAL AGENCIES TO ALLOCATE ADEQUATE RESOURCES TO ADDRESS THE DRUG AND ALCOHOL ABUSE PREVENTION, INTERVENTION, AND TREATMENT SERVICES NEEDS OF INDIVIDUALS INVOLVED IN THE CRIMINAL JUSTICE SYSTEM AT ALL STAGES OF THE PROCESS, INCLUDING:

(I) SERVICES WHILE INCARCERATED;

(II) RE–ENTRY SERVICES;

(III) PAROLE AND PROBATION SERVICES; AND

(IV) COURT MANDATED SERVICES; AND

(5) PROMOTE A COORDINATED, COLLABORATIVE, AND COMPREHENSIVE EFFORT BY STATE AND LOCAL AGENCIES TO ALLOCATE ADEQUATE RESOURCES TO ADDRESS THE DRUG AND ALCOHOL ABUSE PREVENTION, INTERVENTION, AND TREATMENT SERVICES NEEDS OF INDIVIDUALS WITH CO–OCCURRING PROBLEMS REQUIRING SPECIALIZED SERVICES, INCLUDING:

(I) MENTAL HEALTH DISORDERS;

(II) HOMELESSNESS;

(III) SOMATIC HEALTH PROBLEMS;

(IV) PHYSICAL AND COGNITIVE DIFFICULTIES; AND

(V) CHILD WELFARE INVOLVEMENT.

9–2805.

THE COUNCIL SHALL:

(1) IDENTIFY, DEVELOP, AND RECOMMEND THE IMPLEMENTATION OF COMPREHENSIVE SYSTEM IMPROVEMENTS IN ALCOHOL AND DRUG ABUSE PREVENTION, INTERVENTION, AND TREATMENT SERVICES IN THE STATE IN COORDINATION WITH STATE AND LOCAL CRIME PREVENTION AND HEALTH PROGRAMS;

(2) PREPARE AND ANNUALLY UPDATE A 2–YEAR PLAN ESTABLISHING PRIORITIES AND STRATEGIES FOR THE ORGANIZATION, DELIVERY, AND FUNDING OF STATE DRUG AND ALCOHOL ABUSE PREVENTION, INTERVENTION, AND TREATMENT SERVICES IN COORDINATION WITH THE IDENTIFIED NEEDS OF THE RESIDENTS OF THE STATE, INCLUDING THE GENERAL PUBLIC AND THE CRIMINAL JUSTICE POPULATION, AND THE STRATEGIES AND PRIORITIES IDENTIFIED IN LOCAL DRUG AND ALCOHOL ABUSE COUNCIL PLANS;

(3) SUBMIT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY, ON OR BEFORE AUGUST 1 OF EACH YEAR THE 2–YEAR PLAN AND ALL UPDATES AND INCLUDE RECOMMENDATIONS FOR THE COORDINATION AND COLLABORATION AMONG STATE AGENCIES IN THE FUNDING OF DRUG AND ALCOHOL ABUSE PREVENTION, INTERVENTION, AND TREATMENT SERVICES, PROMISING PRACTICES AND PROGRAMS, AND EMERGING NEEDS FOR STATE SUBSTANCE ABUSE PREVENTION, INTERVENTION, AND TREATMENT SERVICES;

(4) SUPPORT THE WORK OF THE LOCAL DRUG AND ALCOHOL ABUSE COUNCILS THROUGH FACILITATING COORDINATION AND COMMUNICATION AMONG THE COUNCILS, LOCAL STATE AGENCIES AND DEPARTMENTS, AND PUBLIC AND PRIVATE PROVIDERS AND PROVIDE TECHNICAL ASSISTANCE AS NEEDED;

(5) PREPARE ANNUAL SURVEYS OF ALL FEDERAL AND STATE RESOURCES USED TO FUND SUBSTANCE ABUSE PREVENTION, INTERVENTION, AND TREATMENT SERVICES AND REVIEW THE ALLOCATION OF THE FUNDS BY RELEVANT STATE AGENCIES FOR THE PURPOSE OF IDENTIFYING GAPS IN SERVICE DELIVERY, DUPLICATION OF SERVICES, AND OPPORTUNITIES FOR

IMPROVED COORDINATION AND COLLABORATION TO ENSURE COST–EFFECTIVE AND QUALITY SERVICES AND CONSISTENCY WITH POLICY PRIORITIES ESTABLISHED IN THE STATE PLAN; AND

(6) FACILITATE IMPROVED LINKAGES OF THE COURT, CRIMINAL JUSTICE, AND CORRECTIONAL SYSTEMS WITH EXISTING DRUG AND ALCOHOL ABUSE SERVICES.

9–2806.

THE ~~OFFICE OF THE GOVERNOR SHALL DESIGNATE THE~~ ALCOHOL AND DRUG ABUSE ADMINISTRATION SHALL PROVIDE STAFF FOR THE COUNCIL.

SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the appointed members of the State Drug and Alcohol Abuse Council established under Section 1 of this Act shall expire as follows:

(1) Five in 2013; and

(2) Five in 2014.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 662

(House Bill 226)

AN ACT concerning

Baltimore City Police Department Death Relief Fund – Procedures and Benefit Amount

FOR the purpose of altering the amount of benefit payable from the Baltimore City Police Department Death Relief Fund because of the death of an officer or civilian employee under certain circumstances; changing certain references to the rank of "captain" to be references to the rank of "deputy major"; ~~requiring a certain oath of office taken by a certain trustee to be administered by the Police Commissioner of Baltimore City or the Police Commissioner's designee and requiring the oath to be filed in the Police Commissioner's office;~~ repealing a requirement that copies of a certain report of the board of trustees of the Fund be submitted for posting at certain facilities; requiring a certain report of the

board of trustees of the Fund to be provided to all members of the board by electronic mail; requiring the board of trustees of the Fund to post copies of a certain report on the Baltimore City Police Department's Intranet; and generally relating to the Baltimore City Police Department Death Relief Fund.

BY repealing and reenacting, without amendments,
Article 24 – Political Subdivisions – Miscellaneous Provisions
Section 16–101
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article 24 – Political Subdivisions – Miscellaneous Provisions
Section 16–103(a), 16–105(a)(1) ~~and (d)~~, and 16–106(d)
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

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

Article 24 – Political Subdivisions – Miscellaneous Provisions

16–101.

There is hereby established, as an instrumentality of the State, the Baltimore City Police Department Death Relief Fund, which shall be the successor of the relief fund heretofore administered by the Police Commissioner of Baltimore City.

16–103.

(a) The amount of benefit payable on account of the death of an officer or a civilian employee whose death is proximately caused by injuries sustained or by harm inflicted upon the body in the course of the performance of their duty shall be **[**$5,000**]** **$10,000** or such greater amount as may be prospectively and uniformly established by resolution adopted by the board. The amount of benefit payable on account of the death of an officer or a civilian employee whose death is not proximately caused by injuries sustained or by harm inflicted upon the body in the course of the performance of their duty shall be $500 or such greater amount as may be prospectively and uniformly established by resolution adopted by the board. The benefits under this title shall be in addition to all other benefits provided by law or by voluntary action of any person or persons.

16–105.

(a) (1) The board of trustees shall consist of nine members; one member of the rank of major or higher, one **[**captain**]** **DEPUTY MAJOR**, one lieutenant, one sergeant, three patrolmen, one civilian employee of the Department, and the Director

of Fiscal Affairs Division. With the exception of the Director of Fiscal Affairs, members of the board of trustees shall be elected at large, and shall serve a term of 4 years. Elections will be held biannually with the terms of the major or higher rank, sergeant and two patrolmen terminating at alternate 2–year periods with those of the **[**captain**]** **DEPUTY MAJOR**, lieutenant, one patrolman and civilian representative. The first election will be held during the year of enactment of this title, at which time the **[**captain**]** **DEPUTY MAJOR**, lieutenant, and one patrolman (the patrolman member of the board of trustees having held office the longest period of time will stand for election) and the civilian member will be elected.

~~(d) Each trustee, within 10 days after the commencement of the trustee's term, shall take an oath of office that the trustee will diligently and faithfully perform the duties of trustee in accordance with law. Such oath shall be administered by the **[**Clerk of the Circuit Court for**]** **POLICE COMMISSIONER OF** Baltimore City**, OR THE POLICE COMMISSIONER'S DESIGNEE**, subscribed by the member making it, and filed in **[**said Clerk's**]** **THE POLICE COMMISSIONER'S** office.~~

16–106.

(d) The accounts of the Fund shall be regularly audited by the Legislative Auditor, and from time to time by such independent certified public accountant that the board of trustees may engage. On or before May 1 in each year, the board of trustees shall publish annually a report including the fiscal transactions of the Fund for the year ending the preceding December 31, and a detailed balance sheet as of the said preceding December 31. The board shall **[**submit copies of said report for posting at all the headquarters and all other buildings, facilities, and installations of the Department**]** **PROVIDE COPIES OF THE REPORT TO ALL MEMBERS OF THE BOARD BY ELECTRONIC MAIL, POST COPIES OF THE REPORT ON THE BALTIMORE CITY POLICE DEPARTMENT'S INTRANET**, and **[**shall**]** file with its own records one or more copies, which shall be made available to any officer or civilian employee of the Department or potential beneficiary of any deceased officer or civilian employee wishing to inspect the same.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 663

(House Bill 249)

AN ACT concerning

Insurance – Premium Increase for Commercial and Workers' Compensation Insurance – Notice

FOR the purpose of requiring an insurer to provide certain notice to an independent insurance producer of a premium increase for certain types of insurance in a certain manner; and generally relating to notice for premium increases for commercial and workers' compensation insurance.

BY repealing and reenacting, without amendments,
Article – Insurance
Section 27–608(a) and (b)
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Insurance
Section 27–608(g)
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

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

Article – Insurance

27–608.

(a) (1) This section applies to:

(i) policies of commercial insurance; and

(ii) policies of workers' compensation insurance.

(2) This section does not apply to policies issued to exempt commercial policyholders, as defined in § 11–206(j) of this article.

(b) Unless an insurer has given notice of its intention not to renew a policy subject to this section, if the insurer seeks to increase the renewal policy premium, the insurer shall send a notice to the named insured and insurance producer, if any, not less than 45 days prior to the renewal date of the policy.

(g) An insurer shall be considered to have met the notice requirement of this section if, not less than 45 days before the effective date of the renewal policy, the insurer has sent:

(1) **(I)** to the named insured ~~**AND INSURANCE PRODUCER, IF ANY**~~, a renewal policy that includes the renewal policy premium; **AND**

(II) TO THE INDEPENDENT INSURANCE PRODUCER, IF ANY:

1. A COPY OF THE RENEWAL POLICY THAT INCLUDES THE RENEWAL POLICY PREMIUM THROUGH POSTAL OR ELECTRONIC MAIL; OR

2. AT THE SAME TIME AS THE INSURER SENDS THE RENEWAL POLICY TO THE INSURED, A NOTICE OF THE AVAILABILITY OF THE RENEWAL POLICY THROUGH THE INSURER'S ONLINE ELECTRONIC SYSTEM;

(2) to the named insured and insurance producer, if any, a written notice of renewal or continuation of coverage that includes the renewal or continuation premium; or

(3) to the named insured and insurance producer, if any, a renewal offer that includes a reasonable estimate of the renewal policy premium.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 664

(House Bill 269)

AN ACT concerning

Child with a Disability – Individualized Education Program

FOR the purpose of requiring appropriate school personnel to provide a copy of certain documents relating to the development of an individualized education program for a child with a disability to the parents of the child within a certain period before a certain meeting, subject to a certain exception; authorizing certain school personnel to provide the parents of a child with a disability a summary of certain information in a certain manner under certain circumstances; requiring certain school personnel to document certain failures and to communicate certain information to the parents of a child with a disability under certain circumstances; requiring appropriate school personnel to provide a copy of a completed individualized education program to the parents of a child with a disability within a certain period after a certain meeting; requiring the parents to be provided with a draft copy of the individualized education program under certain circumstances; requiring the documents to be in an accessible format;

providing that failure to comply with this Act does not constitute a certain violation of the requirement to provide certain students a free appropriate public education; and generally relating to individualized education programs for children with disabilities.

BY repealing and reenacting, with amendments,
Article – Education
Section 8–405
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

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

Article – Education

8–405.

(a) When a team of qualified professionals and the parents meet for the purpose of discussing the identification, evaluation, educational program, or the provision of a free appropriate public education of a child with a disability:

(1) The parents of the child shall be afforded the opportunity to participate and shall be provided reasonable notice in advance of the meeting; and

(2) Reasonable notice shall be at least 10 calendar days in advance of the meeting, unless an expedited meeting is being conducted to:

(i) Address disciplinary issues;

(ii) Determine the placement of the child with a disability not currently receiving educational services; or

(iii) Meet other urgent needs of a child with a disability to ensure the provision of a free appropriate public education.

(b) The individualized education program team shall determine, on at least an annual basis, whether the child requires extended year services in order to ensure that the child is not deprived of a free appropriate public education by virtue of the normal break in the regular school year.

(C) (1) (I) ~~AT~~ EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, AND SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, AT LEAST ~~5~~ ~~3~~ *5* BUSINESS DAYS BEFORE A SCHEDULED MEETING OF THE INDIVIDUALIZED EDUCATION PROGRAM TEAM OR OTHER MULTIDISCIPLINARY EDUCATION TEAM FOR ANY PURPOSE FOR A CHILD WITH A DISABILITY,

APPROPRIATE SCHOOL PERSONNEL SHALL PROVIDE THE PARENTS OF THE CHILD WITH ~~A~~ AN ACCESSIBLE COPY OF EACH ASSESSMENT, REPORT, DATA CHART, DRAFT INDIVIDUALIZED EDUCATION PROGRAM, OR OTHER DOCUMENT THAT EITHER TEAM PLANS TO DISCUSS AT THE MEETING.

(II) AN ASSESSMENT, REPORT, DATA CHART, OR OTHER DOCUMENT PREPARED BY A SCHOOL PSYCHOLOGIST OR OTHER MEDICAL PROFESSIONAL THAT EITHER TEAM PLANS TO DISCUSS AT THE MEETING MAY BE PROVIDED TO THE PARENTS OF THE CHILD ORALLY AND IN WRITING PRIOR TO THE MEETING.

(2) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, APPROPRIATE SCHOOL PERSONNEL ARE NOT REQUIRED TO COMPLY WITH PARAGRAPH (1) OF THIS SUBSECTION IN THE EVENT OF AN EXTENUATING CIRCUMSTANCE.

(II) IN THE EVENT OF AN EXTENUATING CIRCUMSTANCE, APPROPRIATE SCHOOL PERSONNEL WHO FAIL TO COMPLY WITH PARAGRAPH (1) OF THIS SUBSECTION SHALL DOCUMENT THE EXTENUATING CIRCUMSTANCE AND COMMUNICATE THAT INFORMATION TO THE PARENTS OF THE CHILD.

(D) (1) NOT LATER THAN 5 BUSINESS DAYS AFTER A SCHEDULED MEETING OF THE INDIVIDUALIZED EDUCATION PROGRAM TEAM OR OTHER MULTIDISCIPLINARY TEAM FOR A CHILD WITH A DISABILITY, APPROPRIATE SCHOOL PERSONNEL SHALL PROVIDE THE PARENTS OF THE CHILD WITH A COPY OF THE COMPLETED INDIVIDUALIZED EDUCATION PROGRAM.

(2) IF THE INDIVIDUALIZED EDUCATION PROGRAM HAS NOT BEEN COMPLETED BY THE 5TH BUSINESS DAY AFTER THE MEETING, THE PARENTS SHALL BE PROVIDED WITH THE DRAFT COPY OF THE INDIVIDUALIZED EDUCATION PROGRAM.

(3) THE COMPLETED OR DRAFT INDIVIDUALIZED EDUCATION PROGRAM SHALL BE PROVIDED TO THE PARENTS IN AN ACCESSIBLE FORMAT.

(E) FAILURE TO COMPLY WITH THIS SECTION DOES NOT CONSTITUTE A SUBSTANTIVE VIOLATION OF THE REQUIREMENT TO PROVIDE A STUDENT WITH A FREE APPROPRIATE PUBLIC EDUCATION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 665

(Senate Bill 540)

AN ACT concerning

Child with a Disability – Individualized Education Program

FOR the purpose of requiring appropriate school personnel to provide a copy of certain documents relating to the development of an individualized education program for a child with a disability to the parents of the child within a certain period before a certain meeting, subject to a certain exception; *authorizing certain school personnel to provide the parents of a child with a disability a summary of certain information in a certain manner under certain circumstances;* requiring certain school personnel to document certain failures and to ~~include certain documentation in certain records~~ *communicate certain information to the parents of a child with a disability* under certain circumstances; requiring appropriate school personnel to provide a copy of a completed individualized education program to the parents of a child with a disability within a certain period after a certain meeting; requiring the parents to be provided with a draft copy of the individualized education program under certain circumstances; requiring the documents to be in an accessible format; providing that failure to comply with this Act does not constitute a certain violation of the requirement to provide certain students a free appropriate public education; and generally relating to individualized education programs for children with disabilities.

BY repealing and reenacting, with amendments,
Article – Education
Section 8–405
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

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

Article – Education

8–405.

(a) When a team of qualified professionals and the parents meet for the purpose of discussing the identification, evaluation, educational program, or the provision of a free appropriate public education of a child with a disability:

(1) The parents of the child shall be afforded the opportunity to participate and shall be provided reasonable notice in advance of the meeting; and

(2) Reasonable notice shall be at least 10 calendar days in advance of the meeting, unless an expedited meeting is being conducted to:

(i) Address disciplinary issues;

(ii) Determine the placement of the child with a disability not currently receiving educational services; or

(iii) Meet other urgent needs of a child with a disability to ensure the provision of a free appropriate public education.

(b) The individualized education program team shall determine, on at least an annual basis, whether the child requires extended year services in order to ensure that the child is not deprived of a free appropriate public education by virtue of the normal break in the regular school year.

(C) (1) *(I)* ~~AT~~ EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, *AND SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH,* AT LEAST ~~5~~ ~~*3*~~ *5* BUSINESS DAYS BEFORE A SCHEDULED MEETING OF THE INDIVIDUALIZED EDUCATION PROGRAM TEAM OR OTHER MULTIDISCIPLINARY EDUCATION TEAM FOR ANY PURPOSE FOR A CHILD WITH A DISABILITY, APPROPRIATE SCHOOL PERSONNEL SHALL PROVIDE THE PARENTS OF THE CHILD WITH ~~A~~ *AN ACCESSIBLE* COPY OF EACH ASSESSMENT, REPORT, DATA CHART, DRAFT INDIVIDUALIZED EDUCATION PROGRAM, OR OTHER DOCUMENT THAT EITHER TEAM PLANS TO DISCUSS AT THE MEETING.

(II) SUBJECT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH, AN ASSESSMENT, REPORT, DATA CHART, OR OTHER DOCUMENT PREPARED BY A SCHOOL PSYCHOLOGIST OR OTHER MEDICAL PROFESSIONAL THAT EITHER TEAM PLANS TO DISCUSS AT THE MEETING MAY BE PROVIDED TO THE PARENTS OF THE CHILD ORALLY AND IN WRITING PRIOR TO THE MEETING.

(2) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, APPROPRIATE SCHOOL PERSONNEL ARE NOT REQUIRED TO COMPLY WITH PARAGRAPH (1) OF THIS SUBSECTION IN THE EVENT OF AN EXTENUATING CIRCUMSTANCE.

(II) IN THE EVENT OF AN EXTENUATING CIRCUMSTANCE, APPROPRIATE SCHOOL PERSONNEL WHO FAIL TO COMPLY WITH PARAGRAPH (1) OF THIS SUBSECTION SHALL~~:~~

~~1.~~ ~~DOCUMENT~~ *DOCUMENT* THE EXTENUATING CIRCUMSTANCE~~; AND~~

~~2. INCLUDE WRITTEN DOCUMENTATION RELATING TO THE EXTENUATING CIRCUMSTANCE IN THE STUDENT'S PERMANENT RECORD~~ ***AND COMMUNICATE THAT INFORMATION TO THE PARENTS OF THE CHILD.***

(D) (1) NOT LATER THAN 5 BUSINESS DAYS AFTER A SCHEDULED MEETING OF THE INDIVIDUALIZED EDUCATION PROGRAM TEAM OR OTHER MULTIDISCIPLINARY TEAM FOR A CHILD WITH A DISABILITY, APPROPRIATE SCHOOL PERSONNEL SHALL PROVIDE THE PARENTS OF THE CHILD WITH A COPY OF THE COMPLETED INDIVIDUALIZED EDUCATION PROGRAM.

(2) IF THE INDIVIDUALIZED EDUCATION PROGRAM HAS NOT BEEN COMPLETED BY THE 5TH BUSINESS DAY AFTER THE MEETING, THE PARENTS SHALL BE PROVIDED WITH THE DRAFT COPY OF THE INDIVIDUALIZED EDUCATION PROGRAM.

(3) THE COMPLETED OR DRAFT INDIVIDUALIZED EDUCATION PROGRAM SHALL BE PROVIDED TO THE PARENTS IN AN ACCESSIBLE FORMAT.

(E) FAILURE TO COMPLY WITH THIS SECTION DOES NOT CONSTITUTE A SUBSTANTIVE VIOLATION OF THE REQUIREMENT TO PROVIDE A STUDENT WITH A FREE APPROPRIATE PUBLIC EDUCATION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 666

(House Bill 301)

AN ACT concerning

Calvert County, *Charles County,* and St. Mary's County – Deer Hunting on Private Property – Sundays

FOR the purpose of authorizing a person in Calvert County *and Charles County* to hunt deer on private property on certain Sundays with a bow and arrow; *authorizing a person in Calvert County, Charles County, and St. Mary's County to hunt deer on private property with a crossbow;* authorizing a person in Calvert County, *Charles County,* and St. Mary's County to hunt deer on private property on certain Sundays in the deer firearms season; and generally relating

to deer hunting on private property on Sundays in Calvert County, *Charles County,* and St. Mary's County.

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 10–410(a)
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

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

Article – Natural Resources

10–410.

(a) (1) Except as provided in paragraphs (2)**, [**and**]** (3)**, AND (4)** of this subsection, a person may not hunt any game bird or mammal on Sundays.

(2) The following persons may hunt the specified game birds and mammals on Sundays:

(i) A person using State certified raptors to hunt game birds or mammals during open season;

(ii) An unarmed person participating in an organized fox chase to chase foxes;

(iii) Provided that the provisions of § 10–906(b)(3) of this title are met, a person:

1. Using a regulated shooting ground under § 10–906 of this title to hunt the following pen–reared game birds:

A. Pheasants;

B. Bobwhite quail;

C. Chukar partridge;

D. Hungarian partridge;

E. Tower released flighted mallard ducks; and

F. Turkey on a regulated shooting ground that was permitted to release turkey before September 1, 1992; and

2. Having the written permission of the owner of the land or other person designated by the owner of the land, if the land is owned or leased by a person other than the person hunting on Sundays; and

(iv) Subject to the provisions of § 10–411 of this subtitle, in **CALVERT,** ***CHARLES,*** Dorchester, Frederick, St. Mary's, Somerset, Washington, Wicomico, and Worcester counties, a person hunting deer on private property with a bow and arrow ***OR CROSSBOW*** during open season on the last three Sundays in October and the second Sunday in November.

(3) **SUBJECT TO THE PROVISIONS OF § 10–415 OF THIS SUBTITLE, IN CALVERT COUNTY,** ***CHARLES COUNTY,*** **AND ST. MARY'S COUNTY, A PERSON MAY HUNT DEER ON PRIVATE PROPERTY ON:**

(I) THE FIRST SUNDAY OF THE BOW HUNTING SEASON IN NOVEMBER; AND

(II) EACH SUNDAY IN THE DEER FIREARMS SEASON.

(4) Provided that the provisions of § 10–415 of this subtitle are met and subject to paragraph **[**(4)**] (5)** of this subsection, the Department may allow a person to hunt deer on private property on the first Sunday of:

(i) The bow hunting season in November; and

(ii) The deer firearms season.

[(4)**] (5)** The Sunday deer hunting provisions under paragraph **[**(3)**] (4)** of this subsection do not apply:

(i) In Baltimore, Carroll, Howard, and Prince George's counties; and

(ii) In Baltimore City.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 667

(House Bill 327)

AN ACT concerning

Estates – Disqualification – Conviction for Unlawfully Obtaining Property of Vulnerable Adult or Elderly Individual

FOR the purpose of altering the extent to which a person convicted of a certain prohibition against unlawfully obtaining property from a certain victim shall be disqualified from inheriting, taking, enjoying, receiving, or otherwise benefitting from the estate, insurance proceeds, or property of the victim; providing that a certain person be treated as if the person predeceased a certain victim under certain circumstances; requiring a certain person to make full restitution for a certain erroneously made distribution to another certain person; *prohibiting certain persons from being held personally liable under certain circumstances;* providing that a certain defendant has a certain burden of proof; making a clarifying change; providing for the application of this Act; and generally relating to a certain disqualification concerning the estate, insurance proceeds, or property of a certain victim under certain circumstances.

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 8–801
Annotated Code of Maryland
(2002 Volume and 2009 Supplement)

BY adding to
Article – Estates and Trusts
Section ~~9–113~~ 11–110
Annotated Code of Maryland
(2001 Replacement Volume and 2009 Supplement)

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

Article – Criminal Law

8–801.

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

(2) "Deception" has the meaning stated in § 7–101 of this article.

(3) "Deprive" has the meaning stated in § 7–101 of this article.

(4) "Obtain" has the meaning stated in § 7–101 of this article.

(5) "Property" has the meaning stated in § 7–101 of this article.

(6) "Value" has the meaning stated in § 7–103 of this article.

(7) (i) "Undue influence" means domination and influence amounting to force and coercion exercised by another person to such an extent that a vulnerable adult or an individual at least 68 years old was prevented from exercising free judgment and choice.

(ii) "Undue influence" does not include the normal influence that one member of a family has over another member of the family.

(8) "Vulnerable adult" has the meaning stated in § 3–604 of this article.

(b) (1) A person may not knowingly and willfully obtain by deception, intimidation, or undue influence the property of an individual that the person knows or reasonably should know is a vulnerable adult with intent to deprive the vulnerable adult of the vulnerable adult's property.

(2) A person may not knowingly and willfully obtain by deception, intimidation, or undue influence the property of an individual that the person knows or reasonably should know is at least 68 years old, with intent to deprive the individual of the individual's property.

(c) (1) A person convicted of a violation of this section when the value of the property is $500 or more is guilty of a felony and:

(i) is subject to imprisonment not exceeding 15 years or a fine not exceeding $10,000 or both; and

(ii) shall restore the property taken or its value to the owner, or, if the owner is deceased, restore the property or its value to the owner's estate.

(2) A person convicted of a violation of this section when the value of the property is less than $500 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 or its value to the owner, or, if the owner is deceased, restore the property or its value to the owner's estate.

(d) A sentence imposed under this section may be separate from and consecutive to or concurrent with a sentence for any crime based on the act or acts establishing the violation of this section.

(e) **(1)** **[**A conviction under this section shall disqualify the defendant**]** **IF A DEFENDANT FAILS TO RESTORE FULLY THE PROPERTY TAKEN OR ITS VALUE**

AS ORDERED UNDER SUBSECTION (C) OF THIS SECTION, THE DEFENDANT IS DISQUALIFIED, TO THE EXTENT OF THE DEFENDANT'S FAILURE TO RESTORE THE PROPERTY OR ITS VALUE, from inheriting, taking, enjoying, receiving, or otherwise benefiting from the estate, insurance proceeds, or property of the victim of the offense, whether by operation of law or pursuant to a legal document executed or entered into by the victim before the defendant shall have been convicted under this section **[**and shall have made full restoration of the property taken or of its value to the victim**]**.

(2) THE DEFENDANT HAS THE BURDEN OF PROOF WITH RESPECT TO ESTABLISHING UNDER PARAGRAPH (1) OF THIS SUBSECTION THAT THE DEFENDANT HAS FULLY RESTORED THE PROPERTY TAKEN OR ITS VALUE.

(f) This section may not be construed to impose criminal liability on a person who, at the request of the victim of the offense, the victim's family, or the court appointed guardian of the victim, has made a good faith effort to assist the victim in the management of or transfer of the victim's property.

Article – Estates and Trusts

~~9–113~~ 11–110.

(A) A PERSON CONVICTED OF UNLAWFULLY OBTAINING PROPERTY FROM A VICTIM IN VIOLATION OF § 8–801(B) OF THE CRIMINAL LAW ARTICLE SHALL BE DISQUALIFIED FROM INHERITING, TAKING, ENJOYING, RECEIVING, OR OTHERWISE BENEFITTING FROM THE ESTATE, INSURANCE PROCEEDS, OR PROPERTY OF THE VICTIM, TO THE EXTENT PROVIDED IN § 8–801(E) OF THE CRIMINAL LAW ARTICLE.

(B) A PERSON DISQUALIFIED FROM INHERITING, TAKING, ENJOYING, RECEIVING, OR OTHERWISE BENEFITTING FROM THE ESTATE, INSURANCE PROCEEDS, OR PROPERTY OF THE VICTIM IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION SHALL BE TREATED AS IF THE PERSON PREDECEASED THE VICTIM.

(C) IN THE EVENT A DISTRIBUTION IS ERRONEOUSLY MADE TO A PERSON DISQUALIFIED FROM INHERITING, TAKING, ENJOYING, RECEIVING, OR OTHERWISE BENEFITTING FROM THE ESTATE, INSURANCE PROCEEDS, OR PROPERTY OF THE VICTIM IN VIOLATION OF SUBSECTION (A) OF THIS SECTION, THE DISQUALIFIED PERSON SHALL MAKE FULL RESTITUTION TO THE HEIR, LEGATEE, OR BENEFICIARY WHO SHOULD HAVE RECEIVED THE DISTRIBUTION IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION.

(D) A FIDUCIARY OR OTHER PERSON WHO DISTRIBUTES PROPERTY IN GOOD FAITH AND WITHOUT ACTUAL KNOWLEDGE OF A CONVICTION UNDER § 8–801 OF THE CRIMINAL LAW ARTICLE IS NOT PERSONALLY LIABLE FOR THE DISTRIBUTION.

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 civil action or proceeding to determine a benefit from the estate, insurance proceeds, or property of a victim that is pending before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 668

(House Bill 340)

AN ACT concerning

Cecil County – Board of Electrical Examiners and Licensing of Electricians

FOR the purpose of repealing certain provisions of the Cecil County Code of Public Local Laws relating to the appointment of the Board of Electrical Examiners, the adoption of rules and bylaws for the Board, the compensation of Board members, the meetings of the Board, the licensing and supervision of electricians by the Board, the reports and fees of the Board, penalties, and the electrical standards; and generally relating to the Cecil County Board of Electrical Examiners and the licensing of electricians in Cecil County.

BY repealing
The Public Local Laws of Cecil County
Section 99–1 through 99–22
Article 8 – Public Local Laws of Maryland
(1989 Edition and July 2009 Supplement, as amended)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 99–1 through 99–22 of Article 8 – Cecil County of the Code of Public Local Laws of Maryland be repealed.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 669

(House Bill 405)

AN ACT concerning

Workers' Compensation – Covered Employees and Employers – Corporate or Limited Liability Company Officer

FOR the purpose of authorizing an officer of a close corporation, as defined under the laws of the jurisdiction where the corporation is incorporated, to elect to be exempt from workers' compensation coverage; *authorizing an officer of a corporation, other than a close corporation, to elect to be exempt from workers' compensation coverage; limiting the number of officers of a corporation, other than a close corporation, who may elect to be exempt from workers' compensation coverage;* clarifying that members of certain limited liability companies may elect to be exempt from workers' compensation coverage; ~~limiting the number of officers of a close corporation who may elect to be exempt from workers' compensation coverage;~~ requiring the State Workers' Compensation Commission to adopt certain regulations; and generally relating to exemptions from workers' compensation coverage requirements.

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 9–206
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

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

Article – Labor and Employment

9–206.

(a) Subject to subsection (b) of this section, an officer of a corporation or a member of a limited liability company is a covered employee if the officer or member provides a service for the corporation or limited liability company for monetary compensation.

(b) An individual who otherwise would be a covered employee under this section may elect to be exempt from coverage if:

(1) ~~**SUBJECT TO SUBSECTION (C)(3) OF THIS SECTION,**~~ the individual **[**is an officer of a close corporation, as defined in § 4–101(b) of the Corporations and Associations Article;**]:**

(I) IS AN OFFICER OF A CLOSE CORPORATION, AS DEFINED IN § 4–101(B) OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE; OR

(II) IS AN OFFICER OF A CLOSE CORPORATION, AS DEFINED UNDER THE LAWS OF THE JURISDICTION IN WHICH THE CORPORATION IS INCORPORATED;

(2) SUBJECT TO SUBSECTION (C)(3) OF THIS SECTION, THE INDIVIDUAL IS AN OFFICER OF A CORPORATION, OTHER THAN A CLOSE CORPORATION;

~~(2)~~ ***(3)*** the individual:

(i) is an officer of a corporation that earns at least 75% of its income from farm operations; and

(ii) owns at least 20% of the outstanding capital stock of the corporation;

~~(3)~~ ***(4)*** the individual:

(i) is an officer of a professional corporation, as defined in § 5–101**(C) OR** (f) of the Corporations and Associations Article;

(ii) owns at least 20% of the outstanding capital stock of the corporation; and

(iii) performs for the corporation a professional service, as defined in § 5–101(g) of the Corporations and Associations Article; or

~~(4)~~ ***(5)*** the individual:

(i) is a member of a limited liability company**, AS DEFINED IN § 4A–101(J) OR (L) OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE**; and

(ii) owns at least 20% of the outstanding interests in profits of the limited liability company.

(c) (1) A corporation or limited liability company shall submit to the Commission and to the insurer of the corporation or limited liability company a written notice that names the individual who has **[**elected to be excluded from

coverage] **MADE AN ELECTION TO BE EXEMPT UNDER SUBSECTION (B) OF THIS SECTION**.

(2) An election under subsection (b)(1) or (b)(4) of this section is not effective until a corporation or limited liability company complies with this subsection.

(3) NO MORE THAN FIVE OFFICERS OF A ~~CLOSE~~ CORPORATION DESCRIBED IN SUBSECTION (B)~~(1)(I) OR (II)~~ *(2)* OF THIS SECTION MAY ELECT TO BE EXEMPT UNDER SUBSECTION (B)~~(1)~~ *(2)* OF THIS SECTION.

(D) THE COMMISSION SHALL ADOPT REGULATIONS TO CARRY OUT THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 670

(House Bill 406)

AN ACT concerning

Real Estate Licensees – Services Provided Through Teams

FOR the purpose of requiring a team of licensed associate real estate brokers and licensed real estate salespersons that provides real estate brokerage services to designate a team leader; establishing qualifications for the team leader; establishing certain duties of the team leader, the team members, the real estate broker, and the branch office manager; authorizing the designation of intracompany agents under certain circumstances; prohibiting the name of a team from containing certain terms; regulating the contents of certain advertising; requiring team members to conduct business from certain offices; defining a certain term; and generally relating to the provision of real estate brokerage services.

BY adding to
Article – Business Occupations and Professions
Section 17–543 through 17–548 to be under the new part "Part V. Provision of Real Estate Brokerage Services Through a Team"
Annotated Code of Maryland
(2004 Replacement Volume and 2009 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

17–541. RESERVED.

17–542. RESERVED.

PART V. PROVISION OF REAL ESTATE BROKERAGE SERVICES THROUGH A TEAM.

17–543.

IN THIS PART V OF THIS SUBTITLE, "TEAM" MEANS TWO OR MORE LICENSED ASSOCIATE REAL ESTATE BROKERS OR LICENSED REAL ESTATE SALESPERSONS, OR ANY COMBINATION OF LICENSED ASSOCIATE REAL ESTATE BROKERS OR LICENSED REAL ESTATE SALESPERSONS, WHO:

(1) WORK TOGETHER ON A REGULAR BASIS TO PROVIDE REAL ESTATE BROKERAGE SERVICES;

(2) REPRESENT THEMSELVES TO THE PUBLIC AS BEING PART OF ONE ENTITY; AND

(3) DESIGNATE THEMSELVES BY A COLLECTIVE NAME SUCH AS TEAM OR GROUP.

17–544.

(A) EACH TEAM SHALL DESIGNATE A TEAM LEADER WHO SHALL BE:

(1) A LICENSED ASSOCIATE REAL ESTATE BROKER; OR

(2) A LICENSED REAL ESTATE SALESPERSON WHO HAS AT LEAST 3 YEARS OF EXPERIENCE IN PROVIDING REAL ESTATE BROKERAGE SERVICES.

(B) THE TEAM LEADER SHALL:

(1) MAINTAIN A CURRENT LIST OF ALL MEMBERS AND EMPLOYEES OF THE TEAM; AND

(2) PROVIDE THE LIST AND ANY REVISIONS OF THE LIST TO THE BROKER OR THE BRANCH OFFICE MANAGER OF THE BROKERAGE WITH WHICH THE LICENSEES ARE AFFILIATED.

(C) THE REAL ESTATE BROKER OR BRANCH OFFICE MANAGER OF A REAL ESTATE BROKER SHALL:

(1) MAINTAIN COPIES OF THE LISTS; AND

(2) MAKE THE COPIES AVAILABLE TO THE COMMISSION ON REQUEST.

17–545.

(A) THE TEAM LEADER SHALL EXERCISE REASONABLE AND ADEQUATE SUPERVISION OVER THE PROVISION OF REAL ESTATE BROKERAGE SERVICES BY MEMBERS OF THE TEAM.

(B) THE RESPONSIBILITY OF THE TEAM LEADER TO SUPERVISE THE ASSOCIATE REAL ESTATE BROKERS AND REAL ESTATE SALESPERSONS ON THE TEAM SHALL BE IN ADDITION TO THE SUPERVISION RESPONSIBILITIES OF THE REAL ESTATE BROKER AND BRANCH OFFICE MANAGER OF THE REAL ESTATE BROKER PROVIDED FOR IN § 17–320 OF THIS TITLE.

(C) THE TEAM LEADER AND THE MEMBERS OF THE TEAM SHALL ADHERE TO ALL OFFICE RULES, PRACTICES, AND PROCEDURES ESTABLISHED BY THE REAL ESTATE BROKER AND THE BRANCH OFFICE MANAGER OF THE REAL ESTATE BROKER.

17–546.

A REAL ESTATE BROKER MAY DESIGNATE TWO MEMBERS OF A TEAM AS INTRACOMPANY AGENTS FOR THE SELLER AND THE BUYER IN THE SAME TRANSACTION IF THE PARTIES HAVE FIRST BEEN ADVISED IN WRITING THAT THE LICENSEES ARE PART OF THE SAME TEAM AND THE TEAM COULD HAVE A FINANCIAL INTEREST IN THE OUTCOME OF THE TRANSACTION.

17–547.

(A) THE NAME OF THE TEAM MAY NOT CONTAIN THE TERMS "REAL ESTATE", "REAL ESTATE BROKERAGE", OR ANY OTHER TERM THAT WOULD LEAD THE PUBLIC TO BELIEVE THAT THE TEAM IS OFFERING REAL ESTATE BROKERAGE SERVICES INDEPENDENT OF THE REAL ESTATE BROKER.

(B) ALL ADVERTISING BY THE TEAM MUST CONTAIN:

(1) THE NAME OF THE BROKERAGE DISPLAYED IN A MEANINGFUL AND CONSPICUOUS WAY;

(2) THE NAME OF AT LEAST ONE OF THE LICENSEE MEMBERS OF THE TEAM; AND

(3) THE TELEPHONE NUMBER OF THE REAL ESTATE BROKER OR BRANCH OFFICE MANAGER OF THE REAL ESTATE BROKER.

(C) THE TEAM NAME IN THE ADVERTISEMENT MUST BE DIRECTLY CONNECTED TO THE NAME OF THE BROKERAGE.

17–548.

TEAM MEMBERS MUST CONDUCT ALL REAL ESTATE BROKERAGE ACTIVITIES FROM THE OFFICE OR BRANCH OFFICE WHERE THEIR LICENSES ARE DISPLAYED AS PROVIDED IN § 17–317 OF THIS TITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 671

(House Bill 409)

AN ACT concerning

Home Improvement Commission – Guaranty Fund Jurisdiction

FOR the purpose of prohibiting the Maryland Home Improvement Commission from making an award from the Home Improvement Guaranty Fund in excess of a certain amount paid to the contractor against whom the claim is filed; ~~altering the conditions under which a claim against the Fund can be made so as to authorize an owner to make a claim only if the owner or an immediate relative of the owner resides, as a principal or vacation residence, in the home as to which the claim is made;~~ and generally relating to the Home Improvement Guaranty Fund.

BY repealing and reenacting, with amendments,
Article – Business Regulation
Section 8–405(e) ~~and (f)(2)~~
Annotated Code of Maryland
(2004 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,
Article – Business Regulation
Section 8–405(f)(2)
Annotated Code of Maryland
(2004 Replacement Volume and 2009 Supplement)

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

Article – Business Regulation

8–405.

(e) The Commission may not award from the Fund:

(1) more than $20,000 to one claimant for acts or omissions of one contractor;

(2) more than $100,000 to all claimants for acts or omissions of one contractor unless, after the Commission has paid out $100,000 on account of acts or omissions of the contractor, the contractor reimburses $100,000 to the Fund;

(3) an amount for attorney fees, consequential damages, court costs, interest, personal injury damages, or punitive damages; **[**or**]**

(4) an amount as a result of a default judgment in court**; OR**

(5) AN AMOUNT IN EXCESS OF THE AMOUNT PAID BY OR ON BEHALF OF THE CLAIMANT TO THE CONTRACTOR AGAINST WHOM THE CLAIM IS FILED.

(f) (2) An owner may make a claim against the Fund only if the owner~~.~~**[**:

(i) resides in the home as to which the claim is made; or

(ii) does not own more than three residences or dwelling places~~.~~**]** ~~**OR IMMEDIATE RELATIVE OF THE OWNER RESIDES, EITHER AS A PRINCIPAL OR VACATION RESIDENCE, IN THE HOME AS TO WHICH THE CLAIM IS MADE**~~.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 672

(House Bill 411)

AN ACT concerning

Statewide Advisory Commission on Immunizations – Membership, ~~Sunset Extension, and Study of HPV Vaccine~~ Duties, and Sunset Repeal

FOR the purpose of adding a consumer member and a pharmacist to the Statewide Advisory Commission on Immunizations; ~~extending~~ repealing the termination date of the Commission; ~~requiring the Commission to study the safety of the human papillomavirus (HPV) vaccine; requiring the Commission to include certain components in the study, determine the need for certain information and certain communication, make certain recommendations, and report the results of its study;~~ requiring the Secretary of Health and Mental Hygiene, in consultation with MedChi, The Maryland State Medical Society, to appoint the chair of the Commission; establishing the terms of the appointed members of the Commission; specifying when the terms of certain members of the Commission expire; requiring the Commission to review certain factors and make recommendations on how to increase immunizations among certain individuals; repealing a provision that requires the Commission to study and make recommendations about immunizations required by children entering schools in times of vaccine shortage; requiring the Commission to study and make recommendations about a public campaign in the event of a public health emergency involving immunizations; requiring the Commission to study and make recommendations about the availability and affordability of adolescent vaccines; authorizing the Commission to recommend to the Department of Health and Mental Hygiene that certain information be communicated to health care providers; making certain technical corrections and stylistic changes; and generally relating to the Statewide Advisory Commission on Immunizations.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 18–214
Annotated Code of Maryland
(2009 Replacement Volume)

BY repealing and reenacting, with amendments,

Chapter 337 of the Acts of the General Assembly of 2002, as amended by Chapter 200 of the Acts of the General Assembly of 2005~~, as amended by~~ and Chapter 504 of the Acts of the General Assembly of 2007
Section 2

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

Article – Health – General

18–214.

(a) In this section, "vaccine" means a product intended to elicit, in humans, active or passive immunity against an infectious agent or product of an infectious agent.

(b) There is a Statewide Advisory Commission on Immunizations.

(c) The Commission consists of ~~at least~~ the following members:

(1) One physician member of ~~the Medical and Chirurgical Faculty Public Health Council~~ **MEDCHI, THE MARYLAND STATE MEDICAL SOCIETY**;

(2) The ~~chairperson~~ **CHAIR** of the Maryland Childhood Immunization Partnership;

(3) Two physician members of the Maryland Chapter of the American Academy of Pediatrics with experience in private practice and infectious diseases;

(4) One physician member of the Maryland Academy of Family Physicians;

(5) One physician member of the American College of Physicians – Internal Medicine Society of Maryland;

(6) The executive director of the Maryland Partnership for Prevention;

(7) One local health officer;

(8) One representative from the Department's Vaccines for Children Program;

(9) One representative ~~of~~ **FROM** the Maryland school system with knowledge of the immunizations required of children entering schools;

(10) The Maryland State Epidemiologist;

(11) One representative from a public health consumer advocacy group;

(12) One nurse practitioner; **[**and**]**

(13) One representative from a health insurance carrier**;** ~~AND~~

(14) ONE CONSUMER; AND

(15) ONE PHARMACIST.

(d) The Secretary ~~of the Department of Health and Mental Hygiene~~ shall appoint the membership of the Commission, based on the recommendation of the appropriate medical society or agency.

(e) **(1)** The ~~physician member of the Medical and Chirurgical Faculty Public Health Council~~ **SECRETARY, IN CONSULTATION WITH MEDCHI, THE MARYLAND STATE MEDICAL SOCIETY,** shall~~:~~

~~(1)~~ ~~Chair~~ **APPOINT THE CHAIR OF** the Commission~~;~~ **.**

(2) **THE CHAIR OF THE COMMISSION SHALL:**

(I) Establish subcommittees to facilitate the work of the Commission; and

~~(3)~~ **(II)** Appoint subcommittee chairs from among the Commission members.

(F) (1) THE TERM OF AN APPOINTED MEMBER IS 3 YEARS.

(2) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(4) A MEMBER MAY BE APPOINTED FOR MORE THAN ONE TERM.

(5) THE TERMS OF THE MEMBERS OF THE COMMISSION ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR THE MEMBERS OF THE COMMISSION ON JUNE 1, 2010.

~~(f)~~ **(G)** A member of the Commission may not receive compensation but is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

~~(g)~~ **(H)** The Department ~~of Health and Mental Hygiene~~ shall provide the staffing for the Commission.

~~(h)~~ **(I)** The Commission shall:

(1) Determine where community vaccine shortages exist and which vaccines are in short supply;

(2) Develop a recommendation for a plan to effectuate the equitable distribution of vaccines;

(3) REVIEW:

(I) POTENTIAL PROVIDER REIMBURSEMENT BARRIERS TO INCREASING IMMUNIZATIONS;

(II) THE RELATIVE EFFECTIVENESS OF OUTREACH PROGRAMS THAT EDUCATE THE PUBLIC ABOUT THE BENEFITS OF IMMUNIZATIONS;

(III) POTENTIAL COST–SHIFTING OF IMMUNIZATION EXPENSES FOR PRIVATELY INSURED PATIENTS WHO RECEIVE IMMUNIZATIONS AT LOCAL HEALTH DEPARTMENTS; AND

(IV) POTENTIAL ADMINISTRATIVE BURDENS ASSOCIATED WITH STATE PURCHASING OF VACCINES;

(4) BASED ON THE REVIEW REQUIRED UNDER ITEM (3) OF THIS SUBSECTION, MAKE RECOMMENDATIONS ON HOW TO INCREASE IMMUNIZATIONS, INCLUDING CATCH–UP IMMUNIZATIONS, AMONG ADULTS, ADOLESCENTS, AND CHILDREN WHO ARE RECOMMENDED TO RECEIVE IMMUNIZATIONS; and

~~(3)~~ **(5)** Study and make recommendations about other related issues as determined by the Commission, including ~~but not limited to~~:

(i) Immunizations required of children entering schools ~~in times of vaccine shortage~~;

(ii) All available options for the purchasing of vaccines, including the development of a Universal Vaccine Purchasing System, or a similar program to increase access to necessary vaccines, for the State;

(iii) An update on the status of the use of thimerosal in vaccines, including the availability and affordability of thimerosal–free vaccines, and any other issue related to the use of thimerosal in vaccines that is identified by the Commission;

(iv) Elimination of any vaccine distribution disparities;

(v) A public education campaign in the event of a vaccine shortage~~;~~ **OR PUBLIC HEALTH EMERGENCY INVOLVING IMMUNIZATIONS; AND**

(vi) The availability and affordability of adult**, ADOLESCENT,** and childhood vaccines~~; and~~**.**

~~(vii) Strategies to increase immunizations among those adults and children recommended to receive immunizations, including catch–up immunizations.~~

(J) THE COMMISSION MAY RECOMMEND TO THE DEPARTMENT THAT INFORMATION ON VACCINE SAFETY BE COMMUNICATED TO HEALTH CARE PROVIDERS.

~~(i)~~ **(K)** On or before December 15 of each year, the Commission shall submit a report on its findings and recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, to the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee.

Chapter 337 of the Acts of 2002, as amended by Chapter 200 of the Acts of 2005~~, as amended by~~ and Chapter 504 of the Acts of 2007

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2002. ~~It shall remain effective for a period of~~ **[**8**] 10** ~~years and, at the end of May 31,~~ **[**2010**] 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:~~

~~(a) The Statewide Advisory Commission on Immunizations shall study the safety of the human papillomavirus (HPV) vaccine.~~

~~(b) As part of its study, the Commission shall:~~

~~(1) review the medical literature regarding the safety of the HPV vaccine;~~

~~(2) review all information available from the federal Centers for Disease Control and Prevention and Food and Drug Administration regarding the safety of the HPV vaccine, including information reported through the Vaccine Adverse Event Reporting System, the Vaccine Safety Datalink Project, and the Clinical Immunization Safety Assessment Network;~~

~~(3) review the information that health care providers communicate to their patients and family members of patients regarding the benefits and risks of the HPV vaccine; and~~

~~(4) hold at least two public hearings, advertised to the public, on the safety of the HPV vaccine, during which members of the public each receive a reasonable amount of time to adequately describe their experience with and perspective on the HPV vaccine.~~

~~(c) (1) Based on its study, the Commission shall determine whether there is a need for better information or better communication of information on the safety of the HPV vaccine.~~

~~(2) If the Commission determines that there is a need for better information or better communication of information on the safety of the HPV vaccine, the Commission shall make recommendations for meeting the need, such as:~~

~~(i) continuing education for health care providers;~~

~~(ii) educational materials for patients and the public; or~~

~~(iii) actions by regulatory agencies.~~

~~(d) (1) On or before January 1, 2011, the Commission shall report the findings and recommendations resulting from its HPV vaccine study to the Governor and, in accordance with § 2–1246 of the State Government Article, to the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee.~~

~~(2) Instead of issuing a separate report on its HPV vaccine study, the Commission may incorporate its HPV vaccine report in the annual report that is due on December 15, 2010.~~

SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the appointed members of the Statewide Advisory Commission serving on June 1, 2010, shall expire as follows:

(1) three members in 2011;

(2) four members in 2012; and

(3) four members in 2013.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 673

(House Bill 435)

AN ACT concerning

Health Insurance – Reimbursement of ~~Physicians – Services Outside of Office Hours, by Telephone, or Online~~ Primary Care Providers – Bonus Payments

FOR the purpose of requiring certain health insurance carriers to ~~reimburse physicians a bonus payment~~ pay a bonus to primary care providers for services provided in the office at certain times; requiring certain health insurance carriers to ~~reimburse physicians a separate payment for an evaluation and management service delivered in a certain manner under certain circumstances~~ include certain items in their contracts with primary care providers; specifying the contracts and policies to which this Act applies; making certain provisions of this Act applicable to health maintenance organizations; *providing for a certain exception;* defining ~~a certain term~~ *certain terms*; and generally relating to reimbursement of ~~physicians~~ primary care providers by health insurance carriers.

BY adding to
Article – Health – General
Section 19–706(cccc)
Annotated Code of Maryland
(2009 Replacement Volume)

BY adding to
Article – Insurance
Section 15–134
Annotated Code of Maryland
(2006 Replacement Volume and 2009 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.

(CCCC) THE PROVISIONS OF § 15–134 OF THE INSURANCE ARTICLE APPLY TO HEALTH MAINTENANCE ORGANIZATIONS.

Article – Insurance

15–134.

(A) *(1)* IN THIS SECTION~~, "CARRIER" MEANS:~~

~~(1)~~ *THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.*

(2) "CARRIER" MEANS:

***(I)* AN INSURER;**

~~(2)~~ *(II)* A NONPROFIT HEALTH SERVICE PLAN;

~~(3)~~ *(III)* A HEALTH MAINTENANCE ORGANIZATION; OR

~~(4)~~ *(IV)* ~~A DENTAL PLAN ORGANIZATION; OR~~

~~(5)~~ ANY OTHER PERSON THAT PROVIDES HEALTH BENEFIT PLANS SUBJECT TO REGULATION BY THE STATE.

(3) "GROUP MODEL HEALTH MAINTENANCE ORGANIZATION" HAS THE MEANING STATED IN § 19–713.6(A) OF THE HEALTH – GENERAL ARTICLE.

(B) THIS SECTION APPLIES ONLY TO CONTRACTS OR POLICIES THAT:

(1) ARE ISSUED OR DELIVERED BY A CARRIER; AND

(2) PROVIDE HOSPITAL, MEDICAL, OR SURGICAL BENEFITS TO INDIVIDUALS OR GROUPS ON AN EXPENSE–INCURRED BASIS.

~~(B)~~ (C) (1) ~~EACH~~ *EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, EACH* CARRIER SHALL ~~REIMBURSE PHYSICIANS:~~

~~(1) A BONUS PAYMENT~~ PAY A BONUS TO PRIMARY CARE PROVIDERS FOR SERVICES PROVIDED IN THE OFFICE:

(I) ~~AT TIMES OTHER THAN REGULARLY SCHEDULED OFFICE HOURS~~ AFTER 6 P.M. AND BEFORE 8 A.M.; OR

(II) ~~ON DAYS WHEN THE OFFICE IS NORMALLY CLOSED; AND~~ ON WEEKENDS AND NATIONAL HOLIDAYS.

(2) ~~A SEPARATE PAYMENT FOR AN EVALUATION AND MANAGEMENT SERVICE DELIVERED BY TELEPHONE OR ONLINE IF THE COMMUNICATION:~~

~~(I) IS NOT PART OF AN IN–PERSON VISIT THAT TOOK PLACE WITHIN 48 HOURS BEFORE THE COMMUNICATION; OR~~

~~(II) DOES NOT LEAD TO AN IN–PERSON VISIT THAT TAKES PLACE WITHIN 24 HOURS AFTER THE COMMUNICATION~~ A CARRIER SHALL PROVIDE FOR AND DESCRIBE THE TERMS OF THE BONUS PAYMENT REQUIRED IN PARAGRAPH (1) OF ~~THE~~ *THIS* SUBSECTION IN A SEPARATE CLAUSE IN THE CARRIER'S CONTRACT WITH THE PRIMARY CARE PROVIDER.

(D) A GROUP MODEL HEALTH MAINTENANCE ORGANIZATION IS NOT REQUIRED TO MAKE ANY BONUS PAYMENTS DESCRIBED IN SUBSECTION (C) OF THIS SECTION TO PHYSICIANS THAT ARE EMPLOYED BY THE PHYSICIAN GROUP UNDER CONTRACT WITH THE GROUP MODEL HEALTH MAINTENANCE ORGANIZATION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 674

(House Bill 443)

AN ACT concerning

Inheritance Tax – Exemption – Surviving Spouses of Predeceasing Descendants

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 surviving spouse of a deceased child or of a deceased lineal descendant of a child of the decedent

under certain circumstances; altering a certain definition; 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 surviving spouse of a deceased child or a deceased lineal descendant of a child of the decedent.

BY repealing and reenacting, with amendments,
Article – Tax – General
Section 7–203(b)
Annotated Code of Maryland
(2004 Replacement Volume and 2009 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.

(b) (1) (i) In this subsection the following words have the meanings indicated.

(ii) "Child" includes a stepchild or former stepchild.

(iii) "Parent" includes a stepparent or former stepparent.

(IV) "SURVIVING SPOUSE" MEANS A SURVIVING SPOUSE WHO HAS NOT REMARRIED.

(2) The inheritance tax does not apply to the receipt of property that passes from a decedent to or for the use of:

(i) a grandparent of the decedent;

(ii) a parent of the decedent;

(iii) a spouse of the decedent;

(iv) a child of the decedent or a lineal descendant of a child of the decedent;

(v) a spouse of a child of the decedent or a spouse of a lineal descendant of a child of the decedent;

(VI) A SURVIVING SPOUSE OF A DECEASED CHILD OF THE DECEDENT OR OF A DECEASED LINEAL DESCENDANT OF A CHILD OF THE

DECEDENT WHO WAS MARRIED TO THE CHILD OR LINEAL DESCENDANT OF THE CHILD AT THE TIME OF THE CHILD'S OR LINEAL DESCENDANT'S DEATH;

[(vi)**] (VII)** a brother or sister of the decedent; or

[(vii)**] (VIII)** a corporation, partnership, or limited liability company if all of its stockholders, partners, or members consist of individuals specified in items (i) through **[**(vi)**] (VII)** of this paragraph.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010, and shall be applicable to all decedents dying on or after July 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 675

(House Bill 451)

AN ACT concerning

Somerset County – Alcoholic Beverages – Sales to Underage Drinkers – Local Caterer's License Created

FOR the purpose of authorizing the Somerset County Board of License Commissioners to issue a local caterer's license in the county only to the holders of certain Class B restaurant or hotel (on–sale) licenses; providing that a caterer's license issued under this Act authorizes the holder to provide certain alcoholic beverages at catered events held off the premises of the restaurant or hotel; requiring the holder of a local caterer's license to provide food as well as alcoholic beverages; authorizing the holder of a caterer's license issued under this Act to exercise the privileges of the license that are allowed for the underlying Class B license; adding Somerset County to the list of counties that do not bar the Board of License Commissioners from proceeding administratively against the holder of any alcoholic beverages license in the county for selling or providing alcoholic beverages to a person under the age of 21 or to a person who was visibly under the influence of alcoholic beverages, even though the holder of the license had been granted probation before judgment for either of those violations; and generally relating to alcoholic beverages in Somerset County.

BY adding to
Article 2B – Alcoholic Beverages
Section 6–714
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 12–108(a)
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 12–108(f)
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

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

Article 2B – Alcoholic Beverages

6–714.

(A) (1) THIS SECTION APPLIES ONLY IN SOMERSET COUNTY.

(2) IN THIS SECTION, "BOARD" MEANS THE BOARD OF LICENSE COMMISSIONERS.

(B) THE ANNUAL LICENSE FEE IS $550.

(C) (1) THE BOARD MAY ISSUE A CATERER'S LICENSE.

(2) IF A CATERER'S LICENSE IS ISSUED, IT SHALL BE ISSUED ONLY TO A HOLDER OF:

(I) A CLASS B RESTAURANT OR HOTEL (ON–SALE) BEER AND LIGHT WINE LICENSE; OR

(II) A CLASS B RESTAURANT OR HOTEL (ON–SALE) BEER, WINE AND LIQUOR LICENSE.

(D) A CATERER'S LICENSE ISSUED UNDER THIS SECTION AUTHORIZES:

(1) THE HOLDER OF A CLASS B BEER AND LIGHT WINE LICENSE TO PROVIDE BEER AND LIGHT WINE AT EVENTS THAT ARE HELD OFF THE CLASS B RESTAURANT OR HOTEL (ON–SALE) BEER AND LIGHT WINE LICENSED PREMISES; AND

(2) THE HOLDER OF A CLASS B BEER, WINE AND LIQUOR LICENSE TO PROVIDE ALCOHOLIC BEVERAGES AT EVENTS THAT ARE HELD OFF THE CLASS B RESTAURANT OR HOTEL (ON–SALE) BEER, WINE AND LIQUOR LICENSED PREMISES.

(E) THE HOLDER SHALL PROVIDE FOOD AS WELL AS ALCOHOLIC BEVERAGES FOR CONSUMPTION AT THE CATERED EVENT.

(F) A HOLDER MAY EXERCISE THE PRIVILEGES UNDER THIS LICENSE ONLY DURING THE HOURS AND DAYS THAT ARE ALLOWED UNDER THIS ARTICLE FOR THE UNDERLYING CLASS B LICENSE.

(G) THIS SECTION DOES NOT REQUIRE A HOLDER OF AN EXISTING CLASS B RESTAURANT OR HOTEL (ON–SALE) BEER AND LIGHT WINE LICENSE OR A CLASS B RESTAURANT OR HOTEL (ON–SALE) BEER, WINE AND LIQUOR LICENSE TO HAVE A CATERER'S LICENSE FOR CATERING ON THE PREMISES THAT IS COVERED BY THE CLASS B LICENSE.

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, 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.

(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) City of Annapolis;

(ii) Cecil County;

(iii) Charles County;

(iv) Dorchester County;

(v) Garrett County;

(vi) Howard County;

(vii) Kent County;

(viii) Montgomery County;

(ix) St. Mary's County;

(X) SOMERSET COUNTY;

[(x)**] (XI)** Washington County; and

[(xi)**] (XII)** 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 July 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 676

(House Bill 452)

AN ACT concerning

Washington County – Office of the County Attorney

FOR the purpose of authorizing the County Commissioners of Washington County to employ one or more County Attorneys; requiring the salaries for a County Attorney to be set in the annual county budget; authorizing the County Commissioners to employ attorneys; authorizing the Office of the County Attorney to perform certain duties; authorizing the Office of the County Attorney, under certain circumstances, to hire temporarily special counsel to perform certain duties; repealing language made obsolete by this Act; and generally relating to legal services for the County Commissioners of Washington County.

BY adding to
The Public Local Laws of Washington County
Section 1–113
Article 22 – The Public Local Laws of Maryland
(2007 Edition and January 2009 Supplement, as amended)

BY repealing and reenacting, with amendments,
The Public Local Laws of Washington County
Section 1–204
Article 22 – The Public Local Laws of Maryland
(2007 Edition and January 2009 Supplement, as amended)

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

Article 22 – Washington County

1–113.

(A) (1) THE COUNTY COMMISSIONERS MAY EMPLOY ONE OR MORE COUNTY ATTORNEYS TO ASSIST IN THE TRANSACTION OF PUBLIC BUSINESS.

(2) THE SALARY FOR A COUNTY ATTORNEY SHALL BE PROVIDED FOR IN THE BUDGET.

(B) A COUNTY ATTORNEY MAY BE EMPLOYED BY THE COUNTY COMMISSIONERS TO:

(1) ADVISE AND COUNSEL THE COUNTY COMMISSIONERS, COUNTY OFFICIALS, AND COUNTY STAFF IN CONDUCTING THE BUSINESS OF THE COUNTY;

(2) RENDER ANY LEGAL OPINIONS NECESSARY TO CONDUCT THE BUSINESS OF THE COUNTY;

(3) INSTITUTE, PROSECUTE, AND DEFEND LAWSUITS TO WHICH THE COUNTY MAY BE A PARTY; OR

(4) PERFORM ANY OTHER DUTIES AS PROVIDED BY LAW.

(C) THE OFFICE OF THE COUNTY ATTORNEY MAY EMPLOY TEMPORARILY SPECIAL LEGAL COUNSEL TO WORK ON PROBLEMS OF AN EXTRAORDINARY NATURE WHEN THE WORK TO BE DONE IS OF SUCH CHARACTER OR MAGNITUDE AS TO REQUIRE SERVICES IN ADDITION TO THOSE REGULARLY PROVIDED BY THE COUNTY ATTORNEY.

1–204.

(a) The County Clerk shall receive an annual salary as provided in the budget.

(b) The County Commissioners may employ**[**:

(1) An**]** **AN** assistant to the County Clerk at an annual salary as provided in the budget**[**; and

(2) Attorneys for the County Commissioners at annual salaries as provided in the budget**]**.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 677

(House Bill 453)

AN ACT concerning

Washington County – Emergency Communications Center – Polygraph Examinations

FOR the purpose of exempting from the prohibition against an employer requiring or demanding, as a condition of employment, that an individual submit to or take a lie detector or similar test, individuals who apply for employment with the Washington County Emergency Communications Center; and generally relating to the Washington County Emergency Communications Center.

BY repealing and reenacting, without amendments,
Article – Labor and Employment
Section 3–702(a) and (c)
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 3–702(b)
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

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

Article – Labor and Employment

3–702.

(a) In this section, "employer" means:

(1) a person engaged in a business, industry, profession, trade, or other enterprise in the State;

(2) the State;

(3) a county; and

(4) a municipal corporation in the State.

(b) (1) This section does not apply to the federal government or any of its units.

(2) This section does not apply to an individual who is an employee of or applies for assignment to the Internal Investigative Unit of the Department of Public Safety and Correctional Services.

(3) This section does not apply to an individual who applies for employment or is employed:

(i) as a law enforcement officer, as defined in § 3–101 of the Public Safety Article;

(ii) as an employee of a law enforcement agency of the State, a county, or a municipal corporation;

(iii) as a communications officer of the Calvert County Control Center;

(iv) as a correctional officer of the Calvert County Detention Center or in any other capacity that involves direct personal contact with an inmate in the Detention Center;

(v) as a correctional officer of the Washington County Detention Center or in any other capacity that involves direct personal contact with an inmate in the Center; or

(vi) as a correctional officer of:

1. the Baltimore City Jail;

2. the Baltimore County Detention Center;

3. the Cecil County Detention Center;

4. the Charles County Detention Center;

5. the Frederick County Adult Detention Center;

6. the Harford County Detention Center; or

7. the St. Mary's County Detention Center.

(4) This section does not apply to an applicant for employment as a correctional officer with the Department of Corrections for Prince George's County.

(5) This section does not apply to an applicant for employment with either the Anne Arundel County Department of Detention Facilities or the Caroline County Department of Corrections:

(i) as a correctional officer; or

(ii) in any other capacity that involves direct contact with an inmate in either the Anne Arundel County Department of Detention Facilities or the Caroline County Department of Corrections.

(6) THIS SECTION DOES NOT APPLY TO AN APPLICANT FOR EMPLOYMENT WITH THE WASHINGTON COUNTY EMERGENCY COMMUNICATIONS CENTER.

(c) An employer may not require or demand, as a condition of employment, prospective employment, or continued employment, that an individual submit to or take a lie detector or similar test.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 678

(House Bill 454)

AN ACT concerning

Washington County – Aid to Manufactories

FOR the purpose of repealing obsolete provisions of law pertaining to limitations on the authority of the County Commissioners of Washington County to provide aid to certain factory businesses in Washington County; and generally relating to aid to factories in Washington County.

BY repealing
The Public Local Laws of Washington County
Section 1–107
Article 22 – Public Local Laws of Maryland
(2007 Edition and January 2009 Supplement, as amended)

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

Article 22 – Washington County

[1–107.

(a) Subject to the qualifications set forth in this section, the County Commissioners may not spend not more than $35,000 annually for the following purposes:

(1) To aid and assist any factory in Washington County engaged in the production of goods essential to the defense of the State or nation;

(2) To prevent any factory now located in Washington County from moving elsewhere because of inducements offered by any other state, county, or municipality; or

(3) To aid and assist any factory to become established in Washington County.

(b) All money spent under this section shall be spent only on property which is either owned in fee by the county, or leased by the county for a term of at least 15 years.

(c) The County Commissioners shall provide in each annual levy an amount equal to the sum to be spent in each year under this section.**]**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 679

(House Bill 458)

AN ACT concerning

Washington County – County Contributions to Private or Cooperative Public Improvement Projects

FOR the purpose of increasing the maximum amount of certain contracts for certain public improvements into which the County Commissioners of Washington

County are authorized to enter without advertising for bids; and generally relating to contracts for public improvements in Washington County.

BY repealing and reenacting, with amendments,
The Public Local Laws of Washington County
Section 1–106.1
Article 22 – Public Local Laws of Maryland
(2007 Edition and January 2009 Supplement, as amended)

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

Article 22 – Washington County

1–106.1.

(a) Notwithstanding § 1–106 of this subtitle and subject to subsection (b) of this section, the County Commissioners may contract, without advertising for bids, for a part of any public improvement if responsibility for the majority of the public improvement is with another public entity or a private entity.

(b) (1) The costs to the county under a contract adopted under this section may not exceed **[**$50,000**] $100,000**.

(2) Any action by the County Commissioners to participate in a public improvement in accordance with this section shall be:

(i) Taken at a regularly scheduled meeting of the County Commissioners; and

(ii) Based on written price quotations from at least three contractors.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 680

(House Bill 484)

AN ACT concerning

Property Tax – Semiannual Payment Schedule – Small Business Property

FOR the purpose of requiring the governing body of a county or the governing body of a municipal corporation to provide a semiannual payment schedule for State, county, municipal corporation, and special taxing district property taxes on certain real property; defining a certain term; providing for the application of this Act; and generally relating to a semiannual property tax payment schedule for certain real property.

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 10–204.3
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

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

Article – Tax – Property

10–204.3.

(a) **(1)** In this **[**section, "owner–occupied**]** **SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

(2) **"OWNER–OCCUPIED** residential property" means the principal residence of a homeowner as defined in § 9–105 of this article.

(3) **"SMALL BUSINESS PROPERTY" MEANS REAL PROPERTY:**

(I) **THAT HAS BEEN ASSIGNED A COMMERCIAL USE CODE BY THE DEPARTMENT; AND**

(II) **FOR WHICH THE TOTAL STATE, COUNTY, MUNICIPAL CORPORATION, AND SPECIAL TAXING DISTRICT PROPERTY TAXES FOR THE TAXABLE YEAR DO NOT EXCEED $50,000.**

(b) Notwithstanding Subtitle 1 of this title:

(1) the governing body of a county shall provide a semiannual payment schedule for State, county, and special taxing district property taxes due on owner–occupied residential property **OR SMALL BUSINESS PROPERTY**; and

(2) the governing body of a municipal corporation shall provide a semiannual payment schedule for municipal corporation and special taxing district property taxes due on owner–occupied residential property **OR SMALL BUSINESS PROPERTY**.

(c) A semiannual payment schedule under this section shall apply:

(1) at the time of the transfer of property purchased on or after July 1, 2000; and

(2) to any current or future owner of owner–occupied residential property **OR SMALL BUSINESS PROPERTY**, regardless of whether the property was purchased before July 1, 2000.

(d) (1) The semiannual payment schedule under this section shall apply to:

(i) the property tax due for the tax year following transfer of the property; and

(ii) the property tax due and not in arrears for the current tax year for any transfer occurring on or after July 1 but on or before September 30.

(2) The first installment of a semiannual payment shall be paid on or before September 30.

(e) A semiannual payment schedule may include a service charge to be paid with the second installment.

(f) A service charge:

(1) shall be:

(i) adopted by the taxing authority that collects the property taxes after obtaining the prior approval of the amount of the service charge from the Department, as part of adoption of the property tax rate under §§ 6–301 through 6–303 of this article;

(ii) applicable to all property tax being collected by the taxing authority on the semiannual payment schedule for itself and for any other taxing authority;

(iii) expressed as a percent of the amount of tax due at the second installment and shown on the tax bill as a percent and actual dollar amount charged; and

(iv) calculated in an amount:

1. reasonably equivalent to the anticipated lost interest income associated with the 3–month delay in payment of the second installment by multiplying the amount of the second installment by a rate not exceeding 1.5%; and

2. covering administrative expenses associated with the semiannual payment not exceeding the lesser of the actual expenses incurred in the preceding fiscal year per semiannual tax account as approved by the State Department of Assessments and Taxation or 10% of the charge for the anticipated lost interest income as calculated in item 1 of this item;

(2) does not apply if both installments of property tax are paid on or before September 30 of the taxable year; and

(3) may not be considered to be a property tax for the purposes of any provision of a local law or charter that limits the property tax rate or property tax revenues.

(g) The local taxing authority shall provide to the Department by May 1 of each year, information that substantiates that the proposed service charge for the anticipated lost interest is reasonably equivalent to the amount of interest that will be lost as a result of the semiannual payment.

(h) (1) The property tax bill under a semiannual payment schedule:

(i) shall state:

1. the amount of the tax due if paid in full, including any applicable discounts for early payment;

2. the amount of the tax due if paid in semiannual installments, including any applicable discounts for early payment of the first installment;

3. the amount of any service charge to be paid with the second installment unless the second installment is paid on or before September 30 of the taxable year;

4. that the service charge does not apply if both installments are paid on or before September 30 of the taxable year; and

5. the date the tax payment is due; and

(ii) shall be subject to approval by the Department of Assessments and Taxation.

(2) The Department shall approve any local semiannual payment schedule collection that:

(i) provides efficient and cost–effective collection of taxes; and

(ii) provides two semiannual coupons, two semiannual billing forms, or a similar method that allows taxpayers to pay on a semiannual basis.

(3) Local semiannual payment schedule collection systems that are not approved by the Department shall utilize 2 semiannual payment coupons that shall be submitted with the appropriate payment.

(i) A payment under a semiannual schedule:

(1) for the first installment:

(i) is due on July 1 of the tax year; and

(ii) may be paid without interest on or before September 30 of the tax year; and

(2) for the second installment:

(i) is due on December 1 of the tax year;

(ii) except for the service charge, may be paid without interest on or before December 31 of the tax year; and

(iii) may be prepaid without the service charge or interest on or before September 30 of the tax year.

(j) (1) If an escrow account is established for the payment of the property tax, the escrow account servicer shall pay tax in semiannual installments unless the escrow account servicer has received written direction from the property owner or borrower to pay property tax in annual payments.

(2) If a taxpayer provides written direction to an escrow account servicer at least 60 days prior to the beginning of the tax year, property taxes shall be paid on an annual payment basis on behalf of that taxpayer by the escrow account servicer in the tax year that begins immediately following the year in which the written direction was received.

(3) If a taxpayer provides written direction to an escrow account servicer less than 60 days prior to the beginning of the tax year, property taxes may be paid on an annual payment basis on behalf of that taxpayer by the escrow account servicer in the tax year that begins immediately following the year in which the written direction was received.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010, and shall be applicable to all taxable years beginning after June 30, 2011.

Approved by the Governor, May 20, 2010.

Chapter 681

(House Bill 485)

AN ACT concerning

Motor Vehicle Equipment – Spare Tire Requirement – Application

FOR the purpose of expanding the requirement that a motor vehicle manufacturer equip certain motor vehicles with a spare tire that conforms with State law to apply to ~~all~~ certain additional new motor vehicles sold in the State; creating an exception to the spare tire equipment standard for a motor vehicle equipped with a factory installed temporary tire repair and inflation system; making a stylistic change; and generally relating to motor vehicle spare tire equipment standards in the State.

BY repealing and reenacting, without amendments,
Article – Transportation
Section 22–405
Annotated Code of Maryland
(2009 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Transportation
Section 22–405.3
Annotated Code of Maryland
(2009 Replacement Volume and 2009 Supplement)

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

Article – Transportation

22–405.

(a) A person may not drive a motor vehicle on any highway unless the motor vehicle is equipped with tires in safe operating condition, in accordance with requirements approved by the Administrator.

(b) A person may not drive a trailer on any highway unless the trailer is equipped with tires in safe operating condition, in accordance with requirements approved by the Administrator.

(c) The Administrator shall adopt rules of safe operating conditions capable of being employed by a police officer for visual inspection of tires maintained on vehicles, including visual comparisons with simple measuring devices. The requirements shall encompass effects on tread wear and depth of tread.

(d) If a police officer, at any time, has reasonable cause to believe that a vehicle is unsafe or equipped with tires in violation of the provisions of this section, the police officer may require the driver of the vehicle to stop and submit the vehicle tire to an inspection. If the inspection discloses the vehicle to be in violation, the officer may issue a summons for the violation.

22–405.3.

If a new **[**Class A ~~passenger~~ **(PASSENGER) OR CLASS M (MULTIPURPOSE)]** **MOTOR** vehicle is sold in this State, the manufacturer shall equip the **MOTOR** vehicle with a spare tire that conforms with the requirements in § 22–405 of this subtitle, unless:

(1) The tire–wheel system of the **MOTOR** vehicle provides a run–flat capability by which a partially inflated driving surface becomes available in the event of a tire failure; **[**or**]**

(2) **THE MOTOR VEHICLE IS EQUIPPED WITH A FACTORY–INSTALLED TEMPORARY TIRE REPAIR AND INFLATION SYSTEM; OR**

(3) Technological improvements, consistent with applicable federal motor vehicle safety standards, become available.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 682

(House Bill 511)

AN ACT concerning

St. Mary's County – Annual Financial Report – Filing Date

FOR the purpose of altering the date by which St. Mary's County may file its annual financial report for the fiscal year with the Department of Legislative Services; and generally relating to the annual financial report of St. Mary's County.

BY repealing and reenacting, with amendments,
Article 19 – Comptroller
Section 37
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

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

Article 19 – Comptroller

37.

(a) (1) Except as provided in paragraph (2) of this subsection, each county, municipal corporation, and taxing district in the State shall by the first day of November after the close of the fiscal year file with the Department of Legislative Services its financial report covering the full period of that fiscal year.

(2) (i) Each county, municipal corporation, or taxing district with a population of more than 400,000 may by the first day of January after the close of the fiscal year file with the Department of Legislative Services its financial report covering the full period of that fiscal year.

(ii) Unless subparagraph (i) of this paragraph applies, Howard County may by the first day of December after the close of the fiscal year file with the Department of Legislative Services its financial report covering the full period of that fiscal year.

(iii) Frederick County may by the first day of January after the close of the fiscal year file with the Department of Legislative Services its financial report covering the full period of that fiscal year.

(iv) **ST. MARY'S COUNTY MAY BY THE FIRST DAY OF JANUARY AFTER THE CLOSE OF THE FISCAL YEAR FILE WITH THE DEPARTMENT OF LEGISLATIVE SERVICES ITS FINANCIAL REPORT COVERING THE FULL PERIOD OF THAT FISCAL YEAR.**

(V) Wicomico County may by the first day of January after the close of the fiscal year file with the Department of Legislative Services its financial report covering the full period of that fiscal year.

(b) The reports required by subsection (a) of this section shall be:

(1) Properly filled in on the form or forms established by the Department as provided in this subtitle; and

(2) Verified by the chief executive officer of each county, municipal corporation, and taxing district.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 683

(House Bill 531)

AN ACT concerning

Task Force to Study the Procurement of Health, Education, and Social Services by State Agencies – Extension

FOR the purpose of altering the membership of the Task Force to Study the Procurement of Health and Social Services by State Agencies; altering the appointment process for certain members of the Task Force; altering the staffing requirements for the Task Force; expanding the scope of the Task Force to include education and renaming the Task Force; extending certain reporting and termination provisions relating to the Task Force; and generally relating to the Task Force to Study the Procurement of Health, Education, and Social Services by State Agencies.

BY repealing and reenacting, with amendments,
Chapter 438 of the Acts of the General Assembly of 2008
Section 1 and 2

BY repealing and reenacting, with amendments,
Chapter 439 of the Acts of the General Assembly of 2008
Section 1 and 2

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

Chapter 438 of the Acts of 2008

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(a) There is a Task Force to Study the Procurement of Health**, EDUCATION,** and Social Services by State Agencies.

(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 State Treasurer, or the Treasurer's designee;

(4) the Secretary of Budget and Management, or the Secretary's designee;

(5) the **[**Secretary of General Services**] DIRECTOR OF THE GOVERNOR'S GRANTS OFFICE**, or the **[**Secretary's**] DIRECTOR'S** designee;

(6) the Secretary of Health and Mental Hygiene, or the Secretary's designee;

(7) the Secretary of Human Resources, or the Secretary's designee;

(8) the Secretary of Juvenile Services, or the Secretary's designee;

(9) the State Superintendent of Schools, or the Superintendent's designee;

(10) the Special Secretary of the Governor's Office of Minority Affairs, or the Special Secretary's designee;

(11) THE ATTORNEY GENERAL, OR THE ATTORNEY GENERAL'S DESIGNEE;

[(11)**] (12)** the following two faculty members **OR REPRESENTATIVES** of universities or colleges in the State, ~~jointly appointed by the President of the Senate and the Speaker of the House~~ **APPOINTED BY THE GOVERNOR**:

(i) one member **OR REPRESENTATIVE** who has special expertise in government administration; and

(ii) one member **OR REPRESENTATIVE** who has special expertise in business management; and

[(12)**] (13)** three representatives of organizations currently contracting with the State to provide health**, EDUCATION,** or social services, appointed by the Governor.

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

(d) The Task Force may establish subcommittees as it determines necessary to fulfill its duties.

(e) The ~~departments represented on the Task Force~~ **BOARD OF PUBLIC WORKS** shall provide staff for the Task Force.

(f) A member of the Task Force:

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

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

(g) The Task Force shall:

(1) evaluate and make recommendations regarding the methods used by State agencies to procure the delivery of health**, EDUCATION,** and social services;

(2) examine and make recommendations regarding State agencies' timeliness in preparing and issuing requests for proposals for the delivery of health**, EDUCATION,** and human services;

(3) examine and make recommendations regarding the timeliness of payments to contractors;

(4) examine and make recommendations regarding possible standardization of contracting processes among and within State agencies, including standardization of related documents and documentation required of contractors; and

(5) identify and make recommendations regarding any other issues, including current State laws or regulations affecting the efficiency and cost of procuring health**, EDUCATION,** and social services.

(h) In evaluating processes and formulating recommendations, the Task Force shall especially consider:

(1) the effect of procurement processes on quality and continuity of services;

(2) the costs and benefits of existing procurement procedures; and

(3) the effects of procurement requirements on the number and diversity of potential providers of services contracted by the State.

(i) The Task Force shall report its preliminary findings and recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly on or before November 30, **[**2008**] 2010**.

(j) The Task Force shall report its final findings and recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly on or before November 30, **[**2009**] 2011**.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008. It shall remain effective for a period of **[**2**] 4** years and, at the end of June 30, **[**2010**] 2012**, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Chapter 439 of the Acts of 2008

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(a) There is a Task Force to Study the Procurement of Health**, EDUCATION,** and Social Services by State Agencies.

(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 State Treasurer, or the Treasurer's designee;

(4) the Secretary of Budget and Management, or the Secretary's designee;

(5) the **[**Secretary of General Services**] DIRECTOR OF THE GOVERNOR'S GRANTS OFFICE**, or the **[**Secretary's**] DIRECTOR'S** designee;

(6) the Secretary of Health and Mental Hygiene, or the Secretary's designee;

(7) the Secretary of Human Resources, or the Secretary's designee;

(8) the Secretary of Juvenile Services, or the Secretary's designee;

(9) the State Superintendent of Schools, or the Superintendent's designee;

(10) the Special Secretary of the Governor's Office of Minority Affairs, or the Special Secretary's designee;

(11) THE ATTORNEY GENERAL, OR THE ATTORNEY GENERAL'S DESIGNEE;

[(11)**] (12)** the following two faculty members **OR REPRESENTATIVES** of universities or colleges in the State, ~~jointly appointed by the President of the Senate and the Speaker of the House~~ **APPOINTED BY THE GOVERNOR**:

(i) one member **OR REPRESENTATIVE** who has special expertise in government administration; and

(ii) one member **OR REPRESENTATIVE** who has special expertise in business management; and

[(12)**] (13)** three representatives of organizations currently contracting with the State to provide health**, EDUCATION,** or social services, appointed by the Governor.

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

(d) The Task Force may establish subcommittees as it determines necessary to fulfill its duties.

(e) The ~~departments represented on the Task Force~~ **BOARD OF PUBLIC WORKS** shall provide staff for the Task Force.

(f) A member of the Task Force:

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

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

(g) The Task Force shall:

(1) evaluate and make recommendations regarding the methods used by State agencies to procure the delivery of health**, EDUCATION,** and social services;

(2) examine and make recommendations regarding State agencies' timeliness in preparing and issuing requests for proposals for the delivery of health**, EDUCATION,** and human services;

(3) examine and make recommendations regarding the timeliness of payments to contractors;

(4) examine and make recommendations regarding possible standardization of contracting processes among and within State agencies, including standardization of related documents and documentation required of contractors; and

(5) identify and make recommendations regarding any other issues, including current State laws or regulations affecting the efficiency and cost of procuring health**, EDUCATION,** and social services.

(h) In evaluating processes and formulating recommendations, the Task Force shall especially consider:

(1) the effect of procurement processes on quality and continuity of services;

(2) the costs and benefits of existing procurement procedures; and

(3) the effects of procurement requirements on the number and diversity of potential providers of services contracted by the State.

(i) The Task Force shall report its preliminary findings and recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly on or before November 30, **[**2008**] 2010**.

(j) The Task Force shall report its final findings and recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly on or before November 30, **[**2009**] 2011**.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008. It shall remain effective for a period of **[**2**] 4** years and, at the end of June 30, **[**2010**] 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, 2010.

Approved by the Governor, May 20, 2010.

Chapter 684

(House Bill 558)

AN ACT concerning

Prince George's County – Alcoholic Beverages – Entertainment Permit

PG 315–10

FOR the purpose of authorizing the Board of License Commissioners for Prince George's County to issue a certain entertainment permit to holders of Class B licenses; requiring the Board, before approving and issuing an entertainment permit under this Act, to consider certain factors and circumstances; requiring the Board to hold certain public hearings under certain circumstances; specifying that the permit allows the holder to impose a cover charge, offer facilities for patron dancing, and provide entertainment during a certain period; requiring an applicant for a permit to submit certain evidence to the Board; requiring an applicant to develop a certain security plan and submit the plan to the Chief of the Prince George's County Police Department for review; authorizing the Chief to submit comments to the Board; requiring the Board to take certain actions under certain circumstances; requiring each permit holder to take a certain action; requiring a holder of a permit to implement a certain security plan and prohibit underage individuals on the premises; authorizing the Board to prohibit, condition, or restrict the type of entertainment offered by a holder of the permit under certain circumstances; providing for an annual permit fee; specifying that a permit holder may employ sworn security personnel under certain circumstances; authorizing the circuit court to issue a temporary restraining order under certain circumstances; authorizing the Board to immediately suspend a permit under certain circumstances; imposing certain penalties; requiring the Board to take certain actions if it immediately suspends a permit; requiring the Board to revoke the permit of a person under certain circumstances; prohibiting the Board from considering, at least for a certain period of time, an application for a new permit from the person whose permit was revoked; requiring the Board to reinstate, under certain circumstances, a permit that has been suspended or revoked; prohibiting a license holder from taking certain actions unless the license holder meets certain conditions; requiring the Board to adopt certain regulations; requiring the Board to report to the Prince George's County House and Senate Delegations of the Maryland General Assembly on certain matters on or before a certain date; and generally relating to entertainment permits in Prince George's County.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 6–201(r)(1)(i)
Annotated Code of Maryland

(2005 Replacement Volume and 2009 Supplement)

BY adding to
Article 2B – Alcoholic Beverages
Section 6–201(r)(18) and 9–217(n)
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

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

Article 2B – Alcoholic Beverages

6–201.

(r) (1) (i) This subsection applies only in Prince George's County.

(18) (I) THERE IS A ~~7 DAY~~ SPECIAL ENTERTAINMENT PERMIT THAT THE BOARD OF LICENSE COMMISSIONERS MAY ISSUE TO A HOLDER OF ANY CLASS B (ON–SALE) LICENSE IN ACCORDANCE WITH THIS PARAGRAPH.

(II) THE BOARD SHALL DETERMINE THE NUMBER OF DAYS IN A WEEK THAT A PERMIT HOLDER MAY EXERCISE THE PRIVILEGES OF THE PERMIT.

(III) 1. BEFORE APPROVING AN APPLICATION FOR AND ISSUING A PERMIT UNDER THIS PARAGRAPH, THE BOARD SHALL HOLD A PUBLIC HEARING IN ACCORDANCE WITH THE REQUIREMENTS FOR A PUBLIC HEARING ON AN APPLICATION FOR A LICENSE UNDER § 10–202(I) OF THIS ARTICLE.

2. AT THE PUBLIC HEARING, THE BOARD SHALL GIVE THE APPLICANT, SUPPORTERS OF THE APPLICANT, AND OPPONENTS OF THE APPLICANT AN OPPORTUNITY TO BE HEARD.

3. IN MAKING ITS DETERMINATION WHETHER TO APPROVE THE APPLICATION AND ISSUE THE PERMIT, THE BOARD SHALL CONSIDER WHETHER:

A. APPROVAL AND ISSUANCE OF THE PERMIT IS NECESSARY FOR THE ACCOMMODATION OF THE PUBLIC;

B. THE APPLICANT IS A FIT PERSON TO RECEIVE THE PERMIT;

C. THE APPLICANT HAS MADE ANY MATERIAL FALSE STATEMENT IN THE APPLICATION;

D. THE APPLICANT HAS COMMITTED ANY FRAUDULENT ACT IN CONNECTION WITH THE APPLICATION;

E. THE OPERATION OF THE BUSINESS, IF THE PERMIT IS ISSUED, WILL UNDULY DISTURB THE PEACE OF THE RESIDENTS OF THE NEIGHBORHOOD WHERE THE PLACE OF BUSINESS IS LOCATED OR TO BE LOCATED; AND

F. THERE ARE ANY OTHER REASONS THAT JUSTIFY THE DISAPPROVAL OF THE APPLICATION OR THE REFUSAL TO ISSUE THE PERMIT.

4. THE BOARD SHALL HOLD A SIMILAR PUBLIC HEARING ON RECEIPT OF A PETITION TO:

A. REVOKE AN ENTERTAINMENT PERMIT; OR

B. PROTEST THE RENEWAL OF AN ENTERTAINMENT PERMIT.

~~(II)~~ (IV) THE PERMIT AUTHORIZES THE HOLDER AFTER 9 P.M. AND UNTIL 2 A.M. THE FOLLOWING DAY TO IMPOSE A COVER CHARGE, OFFER FACILITIES FOR PATRON DANCING, AND PROVIDE ENTERTAINMENT.

~~(III)~~ (V) BEFORE BEING ISSUED A PERMIT, AN APPLICANT SHALL ~~SUBMIT~~:

1. SUBMIT EVIDENCE TO THE SATISFACTION OF THE BOARD THAT THE APPLICANT:

~~1.~~ A. HOLDS A CLASS B (ON–SALE) LICENSE; AND

~~2. HAS DEVELOPED AN ADEQUATE SECURITY PLAN TO PREVENT THE PREMISES FOR WHICH THE PERMIT IS SOUGHT TO POSE A THREAT TO THE PEACE AND SAFETY OF THE SURROUNDING AREA; AND~~

~~3.~~ B. MEETS ALL OTHER ~~PRINCE GEORGE'S COUNTY~~ ENTERTAINMENT PERMIT REQUIREMENTS~~.~~ ; AND

2. A. DEVELOP A SECURITY PLAN TO PREVENT THE PREMISES FOR WHICH THE PERMIT IS SOUGHT FROM POSING A THREAT TO THE PEACE AND SAFETY OF THE SURROUNDING AREA; AND

B. SUBMIT THE PLAN FOR REVIEW TO THE BOARD AND THE CHIEF OF THE PRINCE GEORGE'S COUNTY POLICE DEPARTMENT.

(VI) 1. THE CHIEF OF THE PRINCE GEORGE'S COUNTY POLICE DEPARTMENT MAY SUBMIT COMMENTS TO THE BOARD ON THE ADEQUACY OF THE SECURITY PLAN WITHIN 30 DAYS AFTER RECEIPT OF THE PLAN.

2. THE BOARD SHALL CONSIDER THE COMMENTS, IF ANY, OF THE CHIEF OF POLICE AND SUBSEQUENTLY ISSUE THE PERMIT, REFUSE TO ISSUE THE PERMIT, OR CONDITION THE ISSUANCE OF THE PERMIT ON CHANGES TO THE SECURITY PLAN.

3. IF THE BOARD ISSUES THE PERMIT WITH A SECURITY PLAN THAT THE CHIEF OF THE PRINCE GEORGE'S COUNTY POLICE DEPARTMENT DOES NOT SUPPORT, THE BOARD SHALL SPECIFY IN WRITING TO THE CHIEF THE REASONS WHY THE BOARD HAS DETERMINED THAT THE SECURITY PLAN IS ADEQUATE.

4. EACH PERMIT HOLDER SHALL FOLLOW THE APPROVED SECURITY PLAN AT ALL TIMES WHEN THE PERMIT HOLDER EXERCISES THE PRIVILEGES OF THE PERMIT.

~~(IV)~~ (VII) A HOLDER OF THE PERMIT:

1. SHALL IMPLEMENT THE SECURITY PLAN; AND

2. MAY NOT ALLOW AN INDIVIDUAL WHO IS UNDER THE AGE OF 21 YEARS ON THE PREMISES FOR WHICH THE PERMIT IS ISSUED, UNLESS THE INDIVIDUAL IS EMPLOYED BY OR IS AN IMMEDIATE FAMILY MEMBER OF THE HOLDER.

(VIII) THE BOARD AT ANY TIME MAY PROHIBIT, CONDITION, OR RESTRICT THE TYPE OF ENTERTAINMENT OFFERED BY A HOLDER OF THE PERMIT, INCLUDING LEWD, EXOTIC, LOUD, OR RAUCOUS ENTERTAINMENT, IF AFTER A HEARING THE BOARD DETERMINES THAT THE ENTERTAINMENT ADVERSELY IMPACTS OR UNDULY DISTURBS THE COMMUNITY AND IS NOT CONDUCIVE TO THE PEACE, HEALTH, WELFARE, OR SAFETY OF THE RESIDENTS OF THE COUNTY.

~~(V)~~ (IX) THE ANNUAL FEE FOR THE PERMIT IS $1,500, WHICH IS IN ADDITION TO THE ANNUAL FEE FOR THE CLASS B LICENSE.

(X) A PERMIT HOLDER MAY EMPLOY SWORN SECURITY PERSONNEL AS PART OF THE SECURITY PLAN IF THE SWORN SECURITY PERSONNEL HAVE FULL POLICE POWERS IN THE JURISDICTION WHERE THE PREMISES OF THE PERMIT HOLDER IS LOCATED.

(XI) 1. THE CIRCUIT COURT MAY ISSUE A TEMPORARY RESTRAINING ORDER TO IMMEDIATELY CLOSE TO THE PUBLIC THE ENTIRE OPERATION OF THE PREMISES IF THE COUNTY ESTABLISHES THAT THE SECURITY PLAN HAS NOT BEEN IMPLEMENTED AND THAT THE PUBLIC HEALTH, SAFETY, OR WELFARE REQUIRES EMERGENCY ACTION.

2. ON ISSUANCE OF A TEMPORARY RESTRAINING ORDER UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH, THE COUNTY SHALL GIVE THE PERMIT HOLDER WRITTEN NOTICE OF AND REASONS FOR THE CLOSURE.

3. THE PERMIT HOLDER PROMPTLY SHALL BE GIVEN AN OPPORTUNITY FOR A HEARING IN CIRCUIT COURT ON THE GRANTING OF THE TEMPORARY RESTRAINING ORDER IN ACCORDANCE WITH CHAPTER 500 OF THE MARYLAND RULES.

(XII) SUBJECT TO SUBPARAGRAPH (XIII) OF THIS PARAGRAPH, THE BOARD MAY IMMEDIATELY SUSPEND A PERMIT IF THE BOARD REASONABLY BELIEVES THAT THE PERMIT HOLDER VIOLATED THIS PARAGRAPH.

(XIII) IF THE BOARD IMMEDIATELY SUSPENDS A PERMIT, THE BOARD SHALL:

1. GIVE THE PERMIT HOLDER NOTICE OF THE SUSPENSION AND A HEARING ON THE SUSPENSION AT WHICH THE PERMIT HOLDER MAY BE HEARD AND PRESENT EVIDENCE; AND

2. HOLD THE HEARING WITHIN 30 DAYS AFTER THE SUSPENSION IS IMPOSED.

(XIV) AT THE HEARING, THE BOARD SHALL DETERMINE:

1. WHETHER THE PERMIT HOLDER VIOLATED THIS PARAGRAPH; AND

2. IF A VIOLATION OCCURRED, WHAT PENALTY TO IMPOSE AMONG THOSE LISTED IN SUBPARAGRAPHS (XV) AND (XVI) OF THIS PARAGRAPH.

(XV) SUBJECT TO SUBPARAGRAPH (XVI) OF THIS PARAGRAPH, IF THE BOARD FINDS THAT A PERSON HAS VIOLATED THIS PARAGRAPH, THE BOARD:

1. MAY REVOKE OR CONTINUE THE SUSPENSION OF THE PERMIT; AND

2. SHALL IMPOSE ON THE PERSON A PENALTY OF:

A. FOR A FIRST OFFENSE, AT LEAST $1,000 BUT NOT MORE THAN $12,500; AND

B. FOR EACH SUBSEQUENT OFFENSE, AT LEAST $5,000.

(XVI) THE BOARD:

1. SHALL REVOKE THE PERMIT OF A PERSON WHO THE BOARD DETERMINES VIOLATED THIS PARAGRAPH TWICE WITHIN A 24–MONTH PERIOD; AND

2. UNTIL AT LEAST 12 MONTHS AFTER THE ORDER OF REVOCATION WAS ISSUED, MAY NOT CONSIDER AN APPLICATION FROM THE PERSON FOR A NEW PERMIT OR AN APPLICATION FOR A NEW PERMIT FOR THE PREMISES THAT WAS THE SUBJECT OF THE REVOCATION.

(XVII) IF THE BOARD DETERMINES THAT THE PERMIT HOLDER DID NOT VIOLATE THIS PARAGRAPH, THE BOARD SHALL IMMEDIATELY REINSTATE THE PERMIT.

~~(VI)~~ (XVIII) THE BOARD OF LICENSE COMMISSIONERS SHALL ADOPT REGULATIONS TO CARRY OUT THIS PARAGRAPH.

9–217.

(N) A HOLDER OF A LICENSE ISSUED BY THE BOARD MAY NOT IMPOSE A COVER CHARGE, OFFER FACILITIES FOR PATRON DANCING, OR PROVIDE ENTERTAINMENT UNLESS THE HOLDER IS SPECIFICALLY AUTHORIZED UNDER THIS ARTICLE AND MEETS ALL REQUIREMENTS UNDER COUNTY LAW.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before November 1, 2013, the Board of License Commissioners shall report to the Prince George's County House and Senate Delegations of the Maryland General Assembly, in accordance with § 2–1246 of the State Government Article, on the activities of permit holders and the impact of entertainment permits on Prince George's County. The Board shall include in the report the amount of revenue raised by the permit fees, and the number of permits issued, suspended, or revoked, permit violations committed by permit holders, and complaints lodged against permit holders during the period of July 1, 2010, through June 30, 2013.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 685

(House Bill 601)

AN ACT concerning

Calvert County – Regulation of Tattoo Artist and Body Piercing Services

FOR the purpose of authorizing the County Commissioners of Calvert County to adopt certain ordinances pertaining to tattoo artist or body piercing services; requiring the Calvert County Health Department to enforce certain ordinances; and generally relating to tattoo artist and body piercing services.

BY adding to
Article 25 – County Commissioners
Section 256 to be under the new subheading "Regulation of Tattoo Artist and Body Piercing Services"
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

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

Article 25 – County Commissioners

REGULATION OF TATTOO ARTIST AND BODY PIERCING SERVICES

256.

(A) THE COUNTY COMMISSIONERS OF CALVERT COUNTY MAY ENACT ORDINANCES PERTAINING TO:

(1) TATTOO ARTIST SERVICES; OR

(2) BODY PIERCING SERVICES.

(B) THE CALVERT COUNTY HEALTH DEPARTMENT SHALL ENFORCE ORDINANCES ADOPTED UNDER THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 686

(House Bill 619)

AN ACT concerning

State Contributory Law Enforcement Officers' Pension System – Transfer of Service Credit

FOR the purpose of providing that certain members of the State Contributory Law Enforcement Officers' Pension System may transfer certain service credit from the Employees' Pension System in a certain manner; requiring that certain members of the State Contributory Law Enforcement Officers' Pension System who transfer certain service credit from the Employees' Pension System complete and file certain forms with the Board of Trustees of the State Retirement and Pension System by a certain date; defining a certain term; providing for the termination of certain provisions of this Act; and generally relating to the transfer of service credit for members of the State Contributory Law Enforcement Officers' Pension System.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(a) In this section, "State Contributory Law Enforcement Officers' Pension System" means the part of the Law Enforcement Officers' Pension System of the State of Maryland that provides a contributory pension benefit under Title 26, Subtitle 2, Part II of the State Personnel and Pensions Article.

(b) This section applies to an individual who:

(1) on or after January 1, 1980, was employed by the Maryland Port Administration and joined the Employees' Pension System;

(2) on or after January 1, 1982, accepted employed with the Harford County Sheriff's Office when Harford County was a participant in the Employees' Pension System as a participating governmental unit before the Employees' Pension System became a contributory pension system;

(3) on or before May 1, 1992, terminated employment with the Harford County Sheriff's Office; and

(4) on or after August 1, 2008, resumed employment with the Harford County Sheriff's Office and joined the State Contributory Law Enforcement Officers' Pension System.

(c) (1) An individual described in subsection (b) of this section may elect to transfer to the State Contributory Law Enforcement Officers' Pension System the years of creditable service the individual accrued in the Employees' Pension System.

(2) An individual who elects to transfer creditable service in paragraph (1) of this subsection shall transfer the creditable service in accordance with Title 37 of the State Personnel and Pensions Article.

(d) To transfer service credit under subsection (c) of this section, an individual shall complete a claim to transfer the service credit on a form provided by the Board of Trustees for the State Retirement and Pension System and file it with the Board of Trustees on or before December 31, 2010.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010. It shall remain effective for a period of 6 months and, at the end of December 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 20, 2010.

Chapter 687

(House Bill 625)

AN ACT concerning

Domestic Violence – Domestic Violence Central Repository

FOR the purpose of requiring the Administrative Office of the Courts to maintain a Domestic Violence Central Repository; requiring that the Central Repository store certain domestic violence orders issued in the State; establishing the purposes of the Central Repository; defining a certain term; and generally relating to domestic violence and the Domestic Violence Central Repository.

BY adding to
Article – Family Law
Section 4–512
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

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

Article – Family Law

4–512.

(A) IN THIS SECTION, "CENTRAL REPOSITORY" MEANS THE DOMESTIC VIOLENCE CENTRAL REPOSITORY.

(B) THE ADMINISTRATIVE OFFICE OF THE COURTS SHALL MAINTAIN A DOMESTIC VIOLENCE CENTRAL REPOSITORY.

(C) (1) THE CENTRAL REPOSITORY SHALL STORE THE FOLLOWING DOMESTIC VIOLENCE ORDERS ISSUED IN THE STATE:

(I) INTERIM PROTECTIVE ORDERS;

(II) TEMPORARY PROTECTIVE ORDERS;

(III) FINAL PROTECTIVE ORDERS;

(IV) PEACE ORDERS ISSUED UNDER TITLE 3, SUBTITLE 15 OF THE COURTS ARTICLE; AND

(V) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, PEACE ORDERS ISSUED UNDER TITLE 3, SUBTITLE 8A OF THE COURTS ARTICLE.

(2) A PEACE ORDER ISSUED UNDER TITLE 3, SUBTITLE 8A OF THE COURTS ARTICLE SHALL BE STORED ONLY DURING THE TERM OF THE PEACE ORDER.

(D) THE PURPOSES OF THE CENTRAL REPOSITORY ARE TO:

(1) PROVIDE IMMEDIATE ACCESS TO DOMESTIC VIOLENCE ORDERS BY JUDGES, COURT PERSONNEL, AND LAW ENFORCEMENT AGENCIES;

(2) IMPROVE THE COURTS' ABILITY TO RESPOND EFFECTIVELY, PROMPTLY, AND IN A COORDINATED MANNER TO DOMESTIC VIOLENCE CASES;

(3) ELIMINATE CONFLICTING OR SIMULTANEOUS DOMESTIC VIOLENCE ORDERS BY IMPROVING COMMUNICATION BETWEEN THE DISTRICT COURT AND THE CIRCUIT COURTS;

(4) ENHANCE THE ENFORCEABILITY OF DOMESTIC VIOLENCE ORDERS BY LAW ENFORCEMENT AGENCIES; AND

(5) FACILITATE SERVICE OF DOMESTIC VIOLENCE ORDERS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 688

(House Bill 635)

AN ACT concerning

Judges' Retirement System – Reemployment of Retirees

FOR the purpose of repealing certain exceptions under which certain retirees of the Judges' Retirement System may be reemployed without being subject to a certain earnings offset to their retirement allowance; repealing a certain earnings offset of a retirement allowance for certain retired judges of the Judges' Retirement System who are reemployed by the State; repealing a certain requirement to reduce certain retirement benefits of certain retirees of the Judges' Retirement System by a certain amount if the retirees earn an additional retirement benefit under certain circumstances; prohibiting certain retirees of the Judges' Retirement System from being rehired within a certain period of time under certain circumstances; requiring the Chief Judge of the Court of Appeals to submit a report to the Joint Committee by a certain date each year; providing for the termination of this Act; and generally relating to the reemployment of retirees of the Judges' Retirement System.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 27–406
Annotated Code of Maryland
(2009 Replacement Volume and 2009 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

27–406.

[(a) This section does not apply to a retiree who:

(1) is temporarily assigned to sit in a court of this State under the authority of Article IV, § 3A of the Maryland Constitution; or

(2) is employed as a member of the faculty of a public institution of higher education in the State.

(b)**] (A)** A retiree may accept employment in which all or part of the compensation for the employment comes from municipal, county, or State funds, if the retiree immediately notifies the Board of Trustees of:

(1) the retiree's intention to accept the employment; and

(2) the compensation that the retiree will receive.

(B) (1) THIS SUBSECTION DOES NOT APPLY TO A RETIREE WHO IS TEMPORARILY ASSIGNED TO SIT IN A COURT OF THIS STATE UNDER THE AUTHORITY OF ARTICLE IV, § 3A OF THE MARYLAND CONSTITUTION.

(2) A RETIREE 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.

[(c) (1) The Board of Trustees shall reduce the retirement allowance of a retiree who accepts employment as provided under subsection (b) of this section if the retiree's current employer is any unit of State government and the retiree's employer at the time of the retiree's last separation from employment with the State before the

retiree commenced receiving a service retirement allowance was also a unit of State government.

(2) The reduction required under paragraph (1) of this subsection shall equal the amount that the sum of the retiree's annual retirement allowance and the retiree's annual compensation exceeds the amount of the compensation on which the retirement allowance is based.

(d) If a retiree accepts employment as allowed by subsection (a) of this section and is subsequently awarded retirement benefits because of that employment, the Board of Trustees shall reduce the retiree's benefits under this subtitle by the amount of the retirement benefits resulting from the subsequent employment if the retiree's current employer is any unit of State government and the retiree's employer at the time of the retiree's last separation from employment with the State before the retiree commenced receiving a service retirement allowance was also a unit of State government.**]**

(C) ON OR BEFORE SEPTEMBER 1 OF EACH YEAR, THE CHIEF JUDGE OF THE COURT OF APPEALS 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 (A) OF THIS SECTION;

(2) THE EMPLOYER REHIRING A RETIREE UNDER SUBSECTION (A) OF THIS SECTION;

(3) THE ANNUAL SALARY OF EACH REHIRED RETIREE AT THE TIME OF RETIREMENT; AND

(4) THE CURRENT ANNUAL SALARY OF EACH REHIRED RETIREE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010. It shall remain effective for a period of 4 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 20, 2010.

Chapter 689

(House Bill 659)

AN ACT concerning

Maryland General and Limited Power of Attorney Act (Loretta's Law)

FOR the purpose of repealing certain provisions of law relating to durable powers of attorney; establishing the Maryland General and Limited Power of Attorney Act; establishing that a certain agent is not required to disclose certain information, with certain exceptions; requiring a certain agent to comply with a certain request within a certain time period, under certain circumstances; authorizing a principal or an interested person to file a certain petition for injunctive relief in a certain court for certain purposes; authorizing certain persons to petition a court for certain purposes; requiring a court to dismiss a certain petition; prohibiting a person from requiring a certain additional or different power of attorney than a certain statutory form power of attorney under certain circumstances; providing that a person that refuses to accept a certain power of attorney in violation of this Act is subject to a certain court order and liability for certain fees and costs incurred in a certain action; establishing that a document substantially in a certain form may be used to create a certain statutory form power of attorney; providing that a certain power of attorney is durable, with a certain exception; providing for the effect of certain acts performed for a certain incapacitated principal; requiring a certain attorney in fact or agent to account to a certain guardian under certain circumstances; providing that a certain guardian has the same power as the principal under certain circumstances; providing that the death, disability, or incompetence of a certain principal does not revoke or terminate a certain agency under certain circumstances; establishing that a certain affidavit executed by a certain attorney in fact is conclusive proof of a certain event; establishing that a report that a certain member of the armed forces of the United States is missing in action does not operate to revoke a certain power of attorney, with a certain exception; providing that a power of attorney executed in the State is valid and enforceable as to persons dealing with the agent; providing that a power of attorney executed outside the State is valid and enforceable as to persons dealing with the agent under certain circumstances; providing that a certain photocopy or electronically transmitted copy of an original power of attorney is as valid and binding as the original power of attorney under certain circumstances; authorizing a clerk of court to refuse to record a certain copy of a power of attorney; providing exceptions to the applicability of this Act; requiring a power of attorney to have certain characteristics; *establishing certain requirements for the execution of certain powers of attorney;* providing for when a power of attorney becomes effective; providing for the termination of a power of attorney; requiring a certain agent to act in a certain manner; providing for reimbursement of expenses and compensation for a certain agent under certain circumstances; prohibiting a person from requiring an additional or different form of a power of attorney than a certain statutory form; subjecting a certain person to a certain liability for refusal to accept a certain power of attorney; providing that this Act does not supersede certain other laws; authorizing this Act to be cited in a certain

manner; establishing that a certain optional form may be used ~~by an agent to certify certain facts concerning a~~ to create a certain statutory form power of attorney; defining certain terms; and generally relating to powers of attorney.

BY repealing
Article – Estates and Trusts
Section 13–601 through 13–603 and the subtitle "Subtitle 6. Powers of Attorney"
Annotated Code of Maryland
(2001 Replacement Volume and 2009 Supplement)

BY adding to
Article – Estates and Trusts
Section 17–101 through ~~17–202~~ 17–204 to be under the new title "Title 17. Maryland General and Limited Power of Attorney Act"
Annotated Code of Maryland
(2001 Replacement Volume and 2009 Supplement)

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

Article – Estates and Trusts

[Subtitle 6. Powers of Attorney.**]**

[13–601.

(a) In this section, "durable power of attorney" means a power of attorney by which a principal designates another as an attorney in fact or agent and the authority is exercisable notwithstanding the principal's subsequent disability or incapacity.

(b) Except as provided in subsection (e) of this section, when a principal designates another as an attorney in fact or agent by a power of attorney in writing, it is a durable power of attorney unless otherwise provided by its terms.

(c) Any act done by the attorney in fact or agent pursuant to the power during any period of disability or incompetence or uncertainty as to whether the principal is dead or alive has the same effect and inures to the benefit of and binds the principal as if the principal were alive, competent, and not disabled.

(d) If a guardian is appointed for the principal, the attorney in fact or agent shall account to the guardian rather than the principal. The guardian has the same power the principal would have but for his disability or incompetence to revoke, suspend, or terminate all or any part of the power of attorney or agency.

(e) (1) This section does not apply to an instrument or portion of an instrument that is an advance directive appointing a health care agent under Title 5, Subtitle 6 of the Health – General Article.

(2) An instrument or portion of an instrument that is an advance directive appointing a health care agent is subject to the provisions of Title 5, Subtitle 6 of the Health – General Article.**]**

[13–602.

(a) The death, disability, or incompetence of a principal who has executed a power of attorney in writing does not revoke or terminate the agency as to the attorney in fact, agent, or other person who, without actual knowledge of the death, disability, or incompetence of the principal, acts in good faith under the power of attorney or agency. Unless otherwise invalid or unenforceable, any action taken binds the principal and his heirs, legatees, and personal representatives.

(b) In the absence of fraud, an affidavit executed by the attorney in fact or agent and stating that he did not have, at the time of doing an act pursuant to the power of attorney, actual knowledge of the revocation or termination of the power of attorney by death, disability, or incompetence, is conclusive proof of the nonrevocation or nontermination of the power at that time. If the exercise of the power requires execution and delivery of any instrument which is recordable, the affidavit when authenticated for record is likewise recordable.

(c) This section may not be construed to alter or affect any provision for revocation or termination contained in the power of attorney.**]**

[13–603.

If any member of the armed services of the United States has executed a power of attorney, the fact that the person has been reported or listed, officially or otherwise, as "missing in action", as that phrase is used in military parlance, may not operate to revoke the power of attorney, unless the instrument otherwise provides.**]**

TITLE 17. MARYLAND GENERAL AND LIMITED POWER OF ATTORNEY ACT.

SUBTITLE 1. GENERAL PROVISIONS.

17–101.

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

(B) (1) "AGENT" MEANS A PERSON GRANTED AUTHORITY TO ACT FOR A PRINCIPAL UNDER A POWER OF ATTORNEY, WHETHER DENOMINATED AN AGENT, ATTORNEY–IN–FACT, OR OTHERWISE.

(2) "AGENT" INCLUDES AN ORIGINAL AGENT, COAGENT, SUCCESSOR AGENT, AND A PERSON TO WHICH AN AGENT'S AUTHORITY IS DELEGATED.

(C) "INCAPACITY" MEANS THE INABILITY OF AN INDIVIDUAL TO MANAGE PROPERTY OR BUSINESS AFFAIRS BECAUSE THE INDIVIDUAL:

(1) MEETS THE GROUNDS REQUIRED FOR THE APPOINTMENT OF A GUARDIAN OF THE PROPERTY OF A DISABLED PERSON DESCRIBED IN § 13–201 OF THIS ARTICLE; OR

(2) IS:

(I) MISSING;

(II) DETAINED, INCLUDING INCARCERATED IN A PENAL SYSTEM; OR

(III) OUTSIDE THE UNITED STATES AND UNABLE TO RETURN.

~~(C)~~ (D) "POWER OF ATTORNEY" MEANS A WRITING OR OTHER RECORD THAT GRANTS AUTHORITY TO AN AGENT TO ACT IN THE PLACE OF THE PRINCIPAL, WHETHER OR NOT THE TERM "POWER OF ATTORNEY" IS USED.

~~(D)~~ (E) "PRINCIPAL" MEANS AN INDIVIDUAL WHO GRANTS AUTHORITY TO AN AGENT IN A POWER OF ATTORNEY.

(F) "STATUTORY FORM POWER OF ATTORNEY" MEANS A POWER OF ATTORNEY THAT IS SUBSTANTIALLY IN THE SAME FORM AS ONE OF THE POWERS OF ATTORNEY SET FORTH IN SUBTITLE 2 OF THIS TITLE.

17–102.

(A) EXCEPT AS OTHERWISE PROVIDED IN A POWER OF ATTORNEY, AN AGENT IS NOT REQUIRED TO DISCLOSE RECEIPTS, DISBURSEMENTS, OR TRANSACTIONS CONDUCTED ON BEHALF OF THE PRINCIPAL UNLESS ORDERED BY A COURT OR REQUESTED BY THE PRINCIPAL, A GUARDIAN, A CONSERVATOR, ANOTHER FIDUCIARY ACTING FOR THE PRINCIPAL, A GOVERNMENTAL AGENCY HAVING AUTHORITY TO PROTECT THE WELFARE OF THE PRINCIPAL, OR, ON THE DEATH OF THE PRINCIPAL, BY THE PERSONAL REPRESENTATIVE OR SUCCESSOR IN INTEREST OF THE PRINCIPAL'S ESTATE.

(B) (1) IF A REQUEST AS DESCRIBED IN SUBSECTION (A) OF THIS SECTION IS MADE, WITHIN 30 DAYS AFTER THE REQUEST IS MADE, THE AGENT SHALL COMPLY WITH THE REQUEST OR PROVIDE A WRITING OR OTHER RECORD SUBSTANTIATING WHY ADDITIONAL TIME IS NEEDED AND SHALL COMPLY WITH THE REQUEST WITHIN AN ADDITIONAL 30 DAYS.

(2) A PRINCIPAL OR AN INTERESTED PERSON MAY FILE A PETITION UNDER TITLE 15, CHAPTER 500 OF THE MARYLAND RULES IN THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE POWER OF ATTORNEY IS RECORDED TO ENJOIN AN AGENT TO COMPLY WITH THIS SECTION.

17–103.

(A) THE FOLLOWING PERSONS MAY PETITION A COURT TO CONSTRUE A POWER OF ATTORNEY OR REVIEW THE AGENT'S CONDUCT, AND GRANT APPROPRIATE RELIEF:

(1) THE PRINCIPAL OR THE AGENT;

(2) A GUARDIAN, CONSERVATOR, OR OTHER FIDUCIARY ACTING FOR THE PRINCIPAL;

(3) A PERSON AUTHORIZED TO MAKE HEALTH CARE DECISIONS FOR THE PRINCIPAL;

(4) THE PRINCIPAL'S SPOUSE, PARENT, OR DESCENDANT;

(5) AN INDIVIDUAL WHO WOULD QUALIFY AS A PRESUMPTIVE HEIR OF THE PRINCIPAL;

(6) A PERSON NAMED AS A BENEFICIARY TO RECEIVE ANY PROPERTY, BENEFIT, OR CONTRACTUAL RIGHT ON THE PRINCIPAL'S DEATH OR AS A BENEFICIARY OF A TRUST CREATED BY OR FOR THE PRINCIPAL THAT HAS A FINANCIAL INTEREST IN THE PRINCIPAL'S ESTATE;

(7) A GOVERNMENTAL AGENCY HAVING REGULATORY AUTHORITY TO PROTECT THE WELFARE OF THE PRINCIPAL;

(8) THE PRINCIPAL'S CAREGIVER OR ANOTHER PERSON THAT DEMONSTRATES SUFFICIENT INTEREST IN THE PRINCIPAL'S WELFARE; AND

(9) A PERSON ASKED TO ACCEPT THE POWER OF ATTORNEY.

(B) ON MOTION BY THE PRINCIPAL, THE COURT SHALL DISMISS A PETITION FILED UNDER THIS SECTION, UNLESS THE COURT FINDS THAT THE PRINCIPAL LACKS CAPACITY TO REVOKE THE AGENT'S AUTHORITY OR THE POWER OF ATTORNEY.

17–104.

(A) A PERSON MAY NOT REQUIRE AN ADDITIONAL OR DIFFERENT FORM OF POWER OF ATTORNEY FOR ANY AUTHORITY GRANTED IN ~~THE~~ A STATUTORY FORM POWER OF ATTORNEY ~~DESCRIBED IN § 17–201 OF THIS TITLE~~.

(B) A PERSON THAT REFUSES IN VIOLATION OF THIS SECTION TO ACCEPT AN ACKNOWLEDGED STATUTORY FORM POWER OF ATTORNEY IS SUBJECT TO:

(1) A COURT ORDER MANDATING ACCEPTANCE OF THE POWER OF ATTORNEY; AND

(2) LIABILITY FOR REASONABLE ATTORNEY'S FEES AND COSTS INCURRED IN AN ACTION OR PROCEEDING THAT CONFIRMS THE VALIDITY OF THE POWER OF ATTORNEY OR MANDATES ACCEPTANCE OF THE POWER OF ATTORNEY.

17–105.

(A) IN THIS SECTION, "DURABLE POWER OF ATTORNEY" MEANS A POWER OF ATTORNEY BY WHICH A PRINCIPAL DESIGNATES ANOTHER AS AN ATTORNEY IN FACT OR AGENT AND THE AUTHORITY IS EXERCISABLE NOTWITHSTANDING THE PRINCIPAL'S SUBSEQUENT DISABILITY OR INCAPACITY.

(B) WHEN A PRINCIPAL DESIGNATES ANOTHER AS AN ATTORNEY IN FACT OR AGENT BY A POWER OF ATTORNEY IN WRITING, IT IS A DURABLE POWER OF ATTORNEY UNLESS OTHERWISE PROVIDED BY ITS TERMS.

(C) ANY ACT DONE BY THE ATTORNEY IN FACT OR AGENT IN ACCORDANCE WITH THE POWER OF ATTORNEY DURING ANY PERIOD OF DISABILITY OR INCOMPETENCE OF THE PRINCIPAL OR DURING ANY PERIOD OF UNCERTAINTY AS TO WHETHER THE PRINCIPAL IS DEAD OR ALIVE HAS THE SAME EFFECT AND INURES TO THE BENEFIT OF AND BINDS THE PRINCIPAL AS IF THE PRINCIPAL WERE ALIVE, COMPETENT, AND NOT DISABLED.

(D) (1) IF A GUARDIAN IS APPOINTED FOR THE PRINCIPAL, THE ATTORNEY IN FACT OR AGENT SHALL ACCOUNT TO THE GUARDIAN RATHER THAN THE PRINCIPAL.

(2) THE GUARDIAN HAS THE SAME POWER THE PRINCIPAL WOULD HAVE BUT FOR THE PRINCIPAL'S DISABILITY OR INCOMPETENCE TO REVOKE, SUSPEND, OR TERMINATE ALL OR ANY PART OF THE POWER OF ATTORNEY OR AGENCY.

17–106.

(A) (1) THE DEATH, DISABILITY, OR INCOMPETENCE OF A PRINCIPAL WHO HAS EXECUTED A POWER OF ATTORNEY IN WRITING DOES NOT REVOKE OR TERMINATE THE AGENCY AS TO THE ATTORNEY IN FACT, AGENT, OR OTHER PERSON WHO, WITHOUT ACTUAL KNOWLEDGE OF THE DEATH, DISABILITY, OR INCOMPETENCE OF THE PRINCIPAL, ACTS IN GOOD FAITH UNDER THE POWER OF ATTORNEY OR AGENCY.

(2) UNLESS OTHERWISE INVALID OR UNENFORCEABLE, ANY ACTION TAKEN BY THE ATTORNEY IN FACT, AGENT, OR OTHER PERSON WHO ACTS IN GOOD FAITH UNDER THE POWER OF ATTORNEY OR AGENCY BINDS THE PRINCIPAL AND THE PRINCIPAL'S HEIRS, LEGATEES, AND PERSONAL REPRESENTATIVES.

(B) (1) IN THE ABSENCE OF FRAUD, AN AFFIDAVIT EXECUTED BY THE ATTORNEY IN FACT OR AGENT AND STATING THAT THE ATTORNEY IN FACT OR AGENT DID NOT HAVE, AT THE TIME OF DOING AN ACT IN ACCORDANCE WITH THE POWER OF ATTORNEY, ACTUAL KNOWLEDGE OF THE REVOCATION OR TERMINATION OF THE POWER OF ATTORNEY BY DEATH, DISABILITY, OR INCOMPETENCE, IS CONCLUSIVE PROOF OF THE NONREVOCATION OR NONTERMINATION OF THE POWER AT THAT TIME.

(2) IF THE EXERCISE OF THE POWER REQUIRES EXECUTION AND DELIVERY OF ANY INSTRUMENT THAT IS RECORDABLE, THE AFFIDAVIT WHEN AUTHENTICATED FOR RECORD IS LIKEWISE RECORDABLE.

(C) THIS SECTION MAY NOT BE CONSTRUED TO ALTER OR AFFECT ANY PROVISION FOR REVOCATION OR TERMINATION CONTAINED IN THE POWER OF ATTORNEY.

17–107.

IF ANY MEMBER OF THE ARMED SERVICES OF THE UNITED STATES HAS EXECUTED A POWER OF ATTORNEY, THE FACT THAT THAT PERSON HAS BEEN REPORTED OR LISTED, OFFICIALLY OR OTHERWISE, AS "MISSING IN ACTION", AS THAT PHRASE IS USED TO DESCRIBE A CASUALTY CATEGORY APPLICABLE TO

MEMBERS OF THE ARMED SERVICES, DOES NOT OPERATE TO REVOKE THE POWER OF ATTORNEY, UNLESS THE INSTRUMENT OTHERWISE PROVIDES.

17–108.

(A) A POWER OF ATTORNEY EXECUTED IN THIS STATE IS VALID AND ENFORCEABLE AS TO PERSONS DEALING WITH THE AGENT.

(B) A POWER OF ATTORNEY EXECUTED OTHER THAN IN THIS STATE IS VALID AND ENFORCEABLE IN THIS STATE AS TO PERSONS DEALING WITH THE AGENT IF, WHEN THE POWER OF ATTORNEY WAS EXECUTED, THE EXECUTION COMPLIED WITH:

(1) THE LAW OF THE JURISDICTION THAT DETERMINES THE MEANING AND EFFECT OF THE POWER OF ATTORNEY; OR

(2) THE REQUIREMENTS FOR A MILITARY POWER OF ATTORNEY IN ACCORDANCE WITH 10 U.S.C. § 1044B.

(C) (1) EXCEPT AS OTHERWISE PROVIDED BY LAW OTHER THAN THIS TITLE AND SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A PHOTOCOPY OR ELECTRONICALLY TRANSMITTED COPY OF AN ORIGINAL POWER OF ATTORNEY IS AS VALID AND BINDING AS THE ORIGINAL POWER OF ATTORNEY.

(2) A CLERK OF COURT MAY REFUSE TO RECORD A PHOTOCOPY OR ELECTRONICALLY TRANSMITTED COPY OF AN ORIGINAL POWER OF ATTORNEY.

(D) (1) A PRINCIPAL MAY DELEGATE TO ONE OR MORE AGENTS THE AUTHORITY TO DO ANY ACT SPECIFIED IN THE STATUTORY FORMS IN SUBTITLE 2 OF THIS TITLE.

(2) THE ACTS SPECIFIED IN THE STATUTORY FORMS MAY NOT, NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION, BE DEEMED TO INVALIDATE OR LIMIT THE VALIDITY OF OTHER AUTHORIZED ACTS THAT A PRINCIPAL MAY DELEGATE TO AN AGENT.

17–109.

(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THIS TITLE APPLIES TO ALL POWERS OF ATTORNEY.

(B) THIS TITLE DOES NOT APPLY TO:

(1) A POWER THAT IS COUPLED WITH AN INTEREST IN THE SUBJECT OF THE POWER, IS GIVEN AS SECURITY, OR IS GIVEN FOR CONSIDERATION, REGARDLESS OF WHETHER THE POWER IS HELD FOR THE BENEFIT OF THE AGENT OR ANOTHER PERSON, INCLUDING A POWER GIVEN TO OR FOR THE BENEFIT OF A CREDITOR IN CONNECTION WITH A CREDIT TRANSACTION;

(2) AN ADVANCE DIRECTIVE APPOINTING A HEALTH CARE AGENT UNDER TITLE 5, SUBTITLE 6 OF THE HEALTH – GENERAL ARTICLE OR ANY OTHER POWER TO MAKE HEALTH CARE DECISIONS;

(3) A PROXY OR OTHER DELEGATION TO EXERCISE ANY RIGHT WITH RESPECT TO AN ENTITY, INCLUDING VOTING RIGHTS OR MANAGEMENT RIGHTS OR BOTH, OR A DELEGATION OF AUTHORITY TO EXECUTE, BECOME A PARTY TO, OR AMEND A DOCUMENT OR AGREEMENT GOVERNING AN ENTITY OR ENTITY OWNERSHIP INTEREST;

(4) A POWER CREATED ON A FORM PRESCRIBED BY A GOVERNMENT OR GOVERNMENTAL SUBDIVISION, AGENCY, OR INSTRUMENTALITY FOR A GOVERNMENTAL PURPOSE;

(5) A POWER CREATED AS PART OF, OR IN CONNECTION WITH, AN AGREEMENT ESTABLISHING AN ATTORNEY AND CLIENT RELATIONSHIP;

(6) A POWER OF ATTORNEY THAT STATES THAT IT IS NOT SUBJECT TO THIS TITLE;

(7) A POWER AUTHORIZING ANOTHER TO PREPARE, EXECUTE, DELIVER, SUBMIT, OR FILE, ON BEHALF OF AN ENTITY OR THE GOVERNING BODY OR MANAGEMENT OF AN ENTITY, A DOCUMENT OR INSTRUMENT WITH A GOVERNMENT OR GOVERNMENTAL SUBDIVISION, AGENCY, OR INSTRUMENTALITY OR WITH A THIRD PARTY;

(8) A POWER OR OTHER DELEGATION OF AUTHORITY CONTAINED IN A DOCUMENT OR AGREEMENT GOVERNING OR BINDING ON AN ENTITY THAT AUTHORIZES A PERSON TO TAKE ACTION WITH RESPECT TO THE ENTITY; AND

(9) A POWER WITH RESPECT TO AN ENTITY CREATED IN ACCORDANCE WITH AUTHORIZATION PROVIDED BY A FEDERAL OR STATE STATUTE THAT SPECIFICALLY CONTEMPLATES CREATION OF THE POWER.

17–110.

(A) A POWER OF ATTORNEY ~~UNDER THIS TITLE~~ *EXECUTED ON OR AFTER OCTOBER 1, 2010,* SHALL BE:

(1) IN WRITING;

(2) SIGNED BY THE PRINCIPAL OR BY SOME OTHER PERSON FOR THE PRINCIPAL, IN THE PRESENCE OF THE PRINCIPAL, AND AT THE EXPRESS DIRECTION OF THE PRINCIPAL;

(3) ACKNOWLEDGED BY THE PRINCIPAL BEFORE A NOTARY PUBLIC; AND

(4) ATTESTED AND SIGNED BY TWO OR MORE ADULT WITNESSES WHO SIGN IN THE PRESENCE OF THE PRINCIPAL AND IN THE PRESENCE OF EACH OTHER.

(B) THE NOTARY PUBLIC BEFORE WHOM THE PRINCIPAL ACKNOWLEDGES THE POWER OF ATTORNEY MAY ALSO SERVE AS ONE OF THE TWO OR MORE ADULT WITNESSES.

17–111.

(A) A POWER OF ATTORNEY IS EFFECTIVE WHEN EXECUTED, UNLESS THE PRINCIPAL PROVIDES IN THE POWER OF ATTORNEY THAT IT BECOMES EFFECTIVE AT A FUTURE DATE OR ON THE OCCURRENCE OF A FUTURE EVENT OR CONTINGENCY.

(B) IF A POWER OF ATTORNEY BECOMES EFFECTIVE ON THE OCCURRENCE OF A FUTURE EVENT OR CONTINGENCY, THE PRINCIPAL, IN THE POWER OF ATTORNEY, MAY AUTHORIZE ONE OR MORE PERSONS TO DETERMINE IN A WRITING OR OTHER RECORD THAT THE EVENT OR CONTINGENCY HAS OCCURRED.

(C) IF A POWER OF ATTORNEY BECOMES EFFECTIVE ON THE PRINCIPAL'S INCAPACITY AND THE PRINCIPAL HAS NOT AUTHORIZED A PERSON TO DETERMINE WHETHER THE PRINCIPAL IS INCAPACITATED, OR THE PERSON AUTHORIZED IS UNABLE OR UNWILLING TO MAKE THE DETERMINATION, THE POWER OF ATTORNEY BECOMES EFFECTIVE ON A DETERMINATION IN A WRITING OR OTHER RECORD BY:

(1) A PHYSICIAN OR LICENSED PSYCHOLOGIST THAT THE PRINCIPAL IS INCAPACITATED WITHIN THE MEANING OF § 17–101(C) OF THIS SUBTITLE; OR

(2) AN ATTORNEY AT LAW, A JUDGE, OR AN APPROPRIATE GOVERNMENTAL OFFICIAL THAT THE PRINCIPAL IS INCAPACITATED WITHIN THE MEANING OF § 17–101(C) OF THIS SUBTITLE.

(D) A PERSON AUTHORIZED BY THE PRINCIPAL IN THE POWER OF ATTORNEY TO DETERMINE THAT THE PRINCIPAL IS INCAPACITATED MAY ACT AS THE PRINCIPAL'S PERSONAL REPRESENTATIVE TO OBTAIN ACCESS TO THE PRINCIPAL'S HEALTH–CARE INFORMATION AND COMMUNICATE WITH THE PRINCIPAL'S HEALTH–CARE PROVIDER *IN ACCORDANCE WITH*:

(1) THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT;

(2) SECTIONS 1171 THROUGH 1179 OF THE SOCIAL SECURITY ACT, 42 U.S.C. SECTION 1320D, AS AMENDED; AND

(3) APPLICABLE REGULATIONS.

17–112.

(A) A POWER OF ATTORNEY TERMINATES WHEN:

(1) THE PRINCIPAL DIES;

(2) THE PRINCIPAL BECOMES INCAPACITATED, IF THE POWER OF ATTORNEY IS NOT DURABLE;

(3) THE PRINCIPAL REVOKES THE POWER OF ATTORNEY;

(4) THE POWER OF ATTORNEY PROVIDES THAT IT TERMINATES;

(5) THE PURPOSE OF THE POWER OF ATTORNEY IS ACCOMPLISHED; OR

(6) THE PRINCIPAL REVOKES THE AGENT'S AUTHORITY OR THE AGENT DIES, BECOMES INCAPACITATED, OR RESIGNS, AND THE POWER OF ATTORNEY DOES NOT PROVIDE FOR ANOTHER AGENT TO ACT UNDER THE POWER OF ATTORNEY.

(B) AN AGENT'S AUTHORITY TERMINATES WHEN:

(1) THE PRINCIPAL REVOKES THE AUTHORITY;

(2) THE AGENT DIES, BECOMES INCAPACITATED, OR RESIGNS;

(3) AN ACTION IS FILED FOR THE DISSOLUTION OR ANNULMENT OF THE AGENT'S MARRIAGE TO THE PRINCIPAL OR THEIR LEGAL SEPARATION, UNLESS THE POWER OF ATTORNEY OTHERWISE PROVIDES; OR

(4) THE POWER OF ATTORNEY TERMINATES.

(C) UNLESS THE POWER OF ATTORNEY OTHERWISE PROVIDES, AN AGENT'S AUTHORITY IS EXERCISABLE UNTIL THE AUTHORITY TERMINATES UNDER SUBSECTION (B) OF THIS SECTION, EVEN IF THERE HAS BEEN A LAPSE OF TIME SINCE THE EXECUTION OF THE POWER OF ATTORNEY.

17–113.

(A) NOTWITHSTANDING PROVISIONS IN THE POWER OF ATTORNEY, AN AGENT THAT HAS ACCEPTED APPOINTMENT SHALL:

(1) ACT IN ACCORDANCE WITH THE PRINCIPAL'S REASONABLE EXPECTATIONS TO THE EXTENT ACTUALLY KNOWN BY THE AGENT AND, OTHERWISE, ACT IN THE PRINCIPAL'S BEST INTEREST;

(2) ACT WITH CARE, COMPETENCE, AND DILIGENCE FOR THE BEST INTEREST OF THE PRINCIPAL; AND

(3) ACT ONLY WITHIN THE SCOPE OF AUTHORITY GRANTED IN THE POWER OF ATTORNEY.

(B) EXCEPT AS OTHERWISE PROVIDED IN THE POWER OF ATTORNEY, AN AGENT THAT HAS ACCEPTED APPOINTMENT SHALL:

(1) ACT LOYALLY FOR THE PRINCIPAL'S BENEFIT;

(2) ACT SO AS NOT TO CREATE A CONFLICT OF INTEREST THAT IMPAIRS THE AGENT'S ABILITY TO ACT IMPARTIALLY IN THE PRINCIPAL'S BEST INTEREST;

(3) KEEP A RECORD OF ALL RECEIPTS, DISBURSEMENTS, AND TRANSACTIONS MADE ON BEHALF OF THE PRINCIPAL;

(4) COOPERATE WITH A PERSON THAT HAS AUTHORITY TO MAKE HEALTH–CARE DECISIONS FOR THE PRINCIPAL TO CARRY OUT THE PRINCIPAL'S REASONABLE EXPECTATIONS TO THE EXTENT ACTUALLY KNOWN BY THE AGENT AND, OTHERWISE, ACT IN THE PRINCIPAL'S BEST INTEREST; AND

(5) ATTEMPT TO PRESERVE THE PRINCIPAL'S ESTATE PLAN, TO THE EXTENT ACTUALLY KNOWN BY THE AGENT, IF PRESERVING THE PLAN IS CONSISTENT WITH THE PRINCIPAL'S BEST INTEREST BASED ON ALL RELEVANT FACTORS, INCLUDING:

(I) THE VALUE AND NATURE OF THE PRINCIPAL'S PROPERTY;

(II) THE PRINCIPAL'S FORESEEABLE OBLIGATIONS AND NEED FOR MAINTENANCE;

(III) THE EXTENT TO WHICH THE PRINCIPAL'S LIABILITY FOR TAXES, INCLUDING INCOME, ESTATE, INHERITANCE, GENERATION–SKIPPING TRANSFER, AND GIFT TAXES, CAN BE MINIMIZED; AND

(IV) THE PRINCIPAL'S ELIGIBILITY FOR A BENEFIT, A PROGRAM, OR ASSISTANCE UNDER A STATUTE OR REGULATION.

(C) AN AGENT THAT ACTS AS PROVIDED IN THIS SECTION IS NOT LIABLE TO ANY BENEFICIARY OF THE PRINCIPAL'S ESTATE PLAN FOR FAILURE TO PRESERVE THE PLAN.

(D) AN AGENT THAT ACTS WITH CARE, COMPETENCE, AND DILIGENCE FOR THE BEST INTEREST OF THE PRINCIPAL IS NOT LIABLE SOLELY BECAUSE THE AGENT ALSO BENEFITS FROM AN ACT TAKEN BY THE AGENT OR HAS AN INDIVIDUAL OR CONFLICTING INTEREST IN RELATION TO THE PROPERTY OR AFFAIRS OF THE PRINCIPAL.

(E) IF AN AGENT IS SELECTED BY THE PRINCIPAL BECAUSE OF SPECIAL SKILLS OR EXPERTISE POSSESSED BY THE AGENT OR IN RELIANCE ON THE AGENT'S REPRESENTATION THAT THE AGENT HAS SPECIAL SKILLS OR EXPERTISE, THE SPECIAL SKILLS OR EXPERTISE MUST BE CONSIDERED IN DETERMINING WHETHER THE AGENT HAS ACTED WITH CARE, COMPETENCE, AND DILIGENCE UNDER THE CIRCUMSTANCES.

(F) ABSENT A BREACH OF DUTY TO THE PRINCIPAL, AN AGENT IS NOT LIABLE IF THE VALUE OF THE PRINCIPAL'S PROPERTY DECLINES.

(G) AN AGENT THAT EXERCISES AUTHORITY TO DELEGATE TO ANOTHER PERSON THE AUTHORITY GRANTED BY THE PRINCIPAL OR THAT ENGAGES ANOTHER PERSON ON BEHALF OF THE PRINCIPAL IS NOT LIABLE FOR AN ACT, ERROR OF JUDGMENT, OR DEFAULT OF THAT PERSON IF THE AGENT EXERCISES CARE, COMPETENCE, AND DILIGENCE IN SELECTING AND MONITORING THE PERSON.

(H) THIS SECTION MAY NOT BE CONSTRUED TO REDUCE ANY DUTY OF AN AGENT TO THE PRINCIPAL UNDER EXISTING STATE LAW.

17–114.

(A) UNLESS THE POWER OF ATTORNEY OTHERWISE PROVIDES, AN AGENT IS ENTITLED TO REIMBURSEMENT OF EXPENSES REASONABLY INCURRED ON BEHALF OF THE PRINCIPAL BUT THE AGENT IS NOT ENTITLED TO COMPENSATION.

(B) IF THE PRINCIPAL INDICATES IN THE POWER OF ATTORNEY THAT THE AGENT IS ENTITLED TO COMPENSATION, THE AGENT MAY RECEIVE COMPENSATION BASED ON WHAT IS REASONABLE UNDER THE CIRCUMSTANCES OR ON ANOTHER BASIS AS SET FORTH IN THE POWER OF ATTORNEY.

17–115.

THIS TITLE DOES NOT SUPERSEDE OTHER LAWS APPLICABLE TO FINANCIAL INSTITUTIONS OR OTHER ENTITIES, AND TO THE EXTENT THOSE OTHER LAWS ARE INCONSISTENT WITH THE TITLE, THE OTHER LAWS PREVAIL.

17–116.

THIS TITLE MAY BE CITED AS THE MARYLAND GENERAL AND LIMITED POWER OF ATTORNEY ACT.

SUBTITLE 2. STATUTORY FORMS.

17–201.

A DOCUMENT SUBSTANTIALLY IN ONE OF THE FOLLOWING ~~FORM~~ FORMS MAY BE USED TO CREATE A STATUTORY FORM POWER OF ATTORNEY THAT HAS THE MEANING AND EFFECT PRESCRIBED BY THIS TITLE~~:~~.

17–202.

"MARYLAND STATUTORY FORM
PERSONAL FINANCIAL POWER OF ATTORNEY

IMPORTANT INFORMATION AND WARNING

YOU SHOULD BE VERY CAREFUL IN DECIDING WHETHER OR NOT TO SIGN THIS DOCUMENT. THE POWERS GRANTED BY YOU (THE PRINCIPAL) IN THIS DOCUMENT ARE BROAD AND SWEEPING. THIS POWER OF ATTORNEY AUTHORIZES ANOTHER PERSON (YOUR AGENT) TO MAKE DECISIONS CONCERNING YOUR PROPERTY FOR YOU (THE PRINCIPAL). YOUR AGENT WILL BE ABLE TO MAKE DECISIONS AND ACT WITH RESPECT TO YOUR PROPERTY (INCLUDING YOUR MONEY) WHETHER OR NOT YOU ARE ABLE TO ACT FOR YOURSELF.

YOU SHOULD SELECT SOMEONE YOU TRUST TO SERVE AS YOUR AGENT. UNLESS YOU SPECIFY OTHERWISE, GENERALLY THE AGENT'S AUTHORITY WILL CONTINUE UNTIL YOU DIE OR REVOKE THE POWER OF ATTORNEY OR THE AGENT RESIGNS OR IS UNABLE TO ACT FOR YOU.

YOU NEED NOT GRANT ALL OF THE POWERS LISTED BELOW. IF YOU CHOOSE TO GRANT LESS THAN ALL OF THE LISTED POWERS, YOU MAY INSTEAD USE A MARYLAND STATUTORY FORM LIMITED POWER OF ATTORNEY AND MARK ON THAT MARYLAND STATUTORY FORM LIMITED POWER OF ATTORNEY WHICH POWERS YOU INTEND TO DELEGATE TO YOUR ATTORNEY–IN–FACT (THE AGENT) AND WHICH YOU DO NOT WANT THE AGENT TO EXERCISE.

THIS POWER OF ATTORNEY BECOMES EFFECTIVE IMMEDIATELY UNLESS YOU STATE OTHERWISE IN THE SPECIAL INSTRUCTIONS.

YOU SHOULD OBTAIN COMPETENT LEGAL ADVICE BEFORE YOU SIGN THIS POWER OF ATTORNEY IF YOU HAVE ANY QUESTIONS ABOUT THE DOCUMENT OR THE AUTHORITY YOU ARE GRANTING TO YOUR AGENT.

DESIGNATION OF AGENT

I, _____,
(NAME OF PRINCIPAL)

NAME THE FOLLOWING PERSON AS MY AGENT:

NAME OF AGENT: _____

AGENT'S ADDRESS: _____

AGENT'S TELEPHONE NUMBER: _____

DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)

IF MY AGENT IS UNABLE OR UNWILLING TO ACT FOR ME, I NAME AS MY SUCCESSOR AGENT:

NAME OF SUCCESSOR AGENT: _____

SUCCESSOR AGENT'S ADDRESS: _____

SUCCESSOR AGENT'S TELEPHONE NUMBER: _____

IF MY SUCCESSOR AGENT IS UNABLE OR UNWILLING TO ACT FOR ME, I NAME AS MY SECOND SUCCESSOR AGENT:

NAME OF SECOND SUCCESSOR AGENT: _____

SECOND SUCCESSOR AGENT'S ADDRESS: _____

SECOND SUCCESSOR AGENT'S TELEPHONE NUMBER: _____

GRANT OF GENERAL AUTHORITY

I ("THE PRINCIPAL") GRANT MY AGENT AND ANY SUCCESSOR AGENT, WITH RESPECT TO EACH SUBJECT LISTED BELOW, THE AUTHORITY TO DO ALL ACTS THAT I COULD DO TO:

(1) CONTRACT WITH ANOTHER PERSON, ON TERMS AGREEABLE TO THE AGENT, TO ACCOMPLISH A PURPOSE OF A TRANSACTION AND PERFORM, RESCIND, CANCEL, TERMINATE, REFORM, RESTATE, RELEASE, OR MODIFY THE CONTRACT OR ANOTHER CONTRACT MADE BY OR ON BEHALF OF THE PRINCIPAL;

(2) EXECUTE, ACKNOWLEDGE, SEAL, DELIVER, FILE, OR RECORD ANY INSTRUMENT OR COMMUNICATION THE AGENT CONSIDERS DESIRABLE TO ACCOMPLISH A PURPOSE OF A TRANSACTION;

(3) SEEK ON THE PRINCIPAL'S BEHALF THE ASSISTANCE OF A COURT OR OTHER GOVERNMENTAL AGENCY TO CARRY OUT AN ACT AUTHORIZED IN THIS POWER OF ATTORNEY;

(4) INITIATE, PARTICIPATE IN, SUBMIT TO ALTERNATIVE DISPUTE RESOLUTION, SETTLE, OPPOSE, OR PROPOSE OR ACCEPT A COMPROMISE WITH RESPECT TO A CLAIM EXISTING IN FAVOR OF OR AGAINST THE PRINCIPAL OR INTERVENE IN LITIGATION RELATING TO THE CLAIM;

(5) ENGAGE, COMPENSATE, AND DISCHARGE AN ATTORNEY, ACCOUNTANT, DISCRETIONARY INVESTMENT MANAGER, EXPERT WITNESS, OR OTHER ADVISOR;

(6) PREPARE, EXECUTE, AND FILE A RECORD, REPORT, OR OTHER DOCUMENT TO SAFEGUARD OR PROMOTE THE PRINCIPAL'S INTEREST UNDER A STATUTE OR REGULATION AND COMMUNICATE WITH REPRESENTATIVES OR EMPLOYEES OF A GOVERNMENT OR GOVERNMENTAL SUBDIVISION, AGENCY, OR INSTRUMENTALITY, ON BEHALF OF THE PRINCIPAL; AND

(7) DO LAWFUL ACTS WITH RESPECT TO THE SUBJECT AND ALL PROPERTY RELATED TO THE SUBJECT.

MY AGENT'S AUTHORITY SHALL INCLUDE THE AUTHORITY TO ACT AS STATED BELOW WITH REGARD TO EACH OF THE FOLLOWING SUBJECTS:

SUBJECTS AND AUTHORITY

REAL PROPERTY – WITH RESPECT TO THIS SUBJECT, I AUTHORIZE MY AGENT TO: DEMAND, BUY, *SELL, CONVEY,* LEASE, RECEIVE, ACCEPT AS A GIFT OR AS SECURITY FOR AN EXTENSION OF CREDIT, OR OTHERWISE ACQUIRE OR REJECT AN INTEREST IN REAL PROPERTY OR A RIGHT INCIDENT TO REAL PROPERTY; PLEDGE OR MORTGAGE AN INTEREST IN REAL PROPERTY OR RIGHT INCIDENT TO REAL PROPERTY AS SECURITY TO BORROW MONEY OR PAY, RENEW, OR EXTEND THE TIME OF PAYMENT OF A DEBT OF THE PRINCIPAL OR A DEBT GUARANTEED BY THE PRINCIPAL, INCLUDING A REVERSE MORTGAGE; RELEASE, ASSIGN, SATISFY, OR ENFORCE BY LITIGATION OR OTHERWISE A MORTGAGE, DEED OF TRUST, CONDITIONAL SALE CONTRACT, ENCUMBRANCE, LIEN, OR OTHER CLAIM TO REAL PROPERTY THAT EXISTS OR IS ASSERTED; AND MANAGE OR CONSERVE AN INTEREST IN REAL PROPERTY OR A RIGHT INCIDENT TO REAL PROPERTY OWNED OR CLAIMED TO BE OWNED BY THE PRINCIPAL, INCLUDING: (1) INSURING AGAINST LIABILITY OR CASUALTY OR OTHER LOSS; (2) OBTAINING OR REGAINING POSSESSION OF OR PROTECTING THE INTEREST OR RIGHT BY LITIGATION OR OTHERWISE; (3) PAYING, ASSESSING, COMPROMISING, OR CONTESTING TAXES OR ASSESSMENTS OR APPLYING FOR AND RECEIVING REFUNDS IN CONNECTION WITH THEM; AND (4) PURCHASING SUPPLIES, HIRING ASSISTANCE OR LABOR, AND MAKING REPAIRS OR ALTERATIONS TO THE REAL PROPERTY.

STOCKS AND BONDS – WITH RESPECT TO THIS SUBJECT, I AUTHORIZE MY AGENT TO: BUY, SELL, AND EXCHANGE STOCKS AND BONDS; ESTABLISH, CONTINUE, MODIFY, OR TERMINATE AN ACCOUNT WITH RESPECT TO STOCKS AND BONDS; PLEDGE STOCKS AND BONDS AS SECURITY TO BORROW, PAY, RENEW, OR EXTEND THE TIME OF PAYMENT OF A DEBT OF THE PRINCIPAL; RECEIVE CERTIFICATES AND OTHER EVIDENCES OF OWNERSHIP WITH RESPECT TO STOCKS AND BONDS; EXERCISE VOTING RIGHTS WITH RESPECT TO STOCKS AND BONDS IN PERSON OR BY PROXY, ENTER INTO VOTING TRUSTS, AND CONSENT TO LIMITATIONS ON THE RIGHT TO VOTE.

BANKS AND OTHER FINANCIAL INSTITUTIONS – WITH RESPECT TO THIS SUBJECT, I AUTHORIZE MY AGENT TO: CONTINUE, MODIFY, AND TERMINATE AN ACCOUNT OR OTHER BANKING ARRANGEMENT MADE BY OR ON BEHALF OF THE PRINCIPAL; ESTABLISH, MODIFY, AND TERMINATE AN ACCOUNT OR OTHER BANKING ARRANGEMENT WITH A BANK, TRUST COMPANY, SAVINGS AND LOAN ASSOCIATION, CREDIT UNION, THRIFT COMPANY, BROKERAGE FIRM, OR OTHER FINANCIAL INSTITUTION SELECTED BY THE AGENT; CONTRACT FOR SERVICES AVAILABLE FROM A FINANCIAL INSTITUTION, INCLUDING RENTING A SAFE DEPOSIT BOX OR SPACE IN A VAULT; WITHDRAW, BY CHECK, MONEY ORDER, ELECTRONIC FUNDS TRANSFER, OR OTHERWISE, MONEY OR PROPERTY OF THE PRINCIPAL DEPOSITED WITH OR LEFT IN THE CUSTODY OF A FINANCIAL INSTITUTION; RECEIVE STATEMENTS OF ACCOUNT, VOUCHERS, NOTICES, AND SIMILAR DOCUMENTS FROM A FINANCIAL INSTITUTION AND ACT WITH RESPECT TO THEM; ENTER A SAFE DEPOSIT BOX OR VAULT AND WITHDRAW OR ADD TO THE CONTENTS; BORROW MONEY AND PLEDGE AS SECURITY PERSONAL PROPERTY OF THE PRINCIPAL NECESSARY TO BORROW MONEY OR PAY, RENEW, OR EXTEND THE TIME OF PAYMENT OF A DEBT OF THE PRINCIPAL OR A DEBT GUARANTEED BY THE PRINCIPAL; MAKE, ASSIGN, DRAW, ENDORSE, DISCOUNT, GUARANTEE, AND NEGOTIATE PROMISSORY NOTES, CHECKS, DRAFTS, AND OTHER NEGOTIABLE OR NONNEGOTIABLE PAPER OF THE PRINCIPAL OR PAYABLE TO THE PRINCIPAL OR THE PRINCIPAL'S ORDER, TRANSFER MONEY, RECEIVE THE CASH OR OTHER PROCEEDS OF THOSE TRANSACTIONS; AND APPLY FOR, RECEIVE, AND USE CREDIT CARDS AND DEBIT CARDS, ELECTRONIC TRANSACTION AUTHORIZATIONS, AND TRAVELER'S CHECKS FROM A FINANCIAL INSTITUTION.

INSURANCE AND ANNUITIES – WITH RESPECT TO THIS SUBJECT, I AUTHORIZE MY AGENT TO: CONTINUE, PAY THE PREMIUM OR MAKE A CONTRIBUTION ON, MODIFY, EXCHANGE, RESCIND, RELEASE, OR TERMINATE A CONTRACT PROCURED BY OR ON BEHALF OF THE PRINCIPAL THAT INSURES OR PROVIDES AN ANNUITY TO EITHER THE PRINCIPAL OR ANOTHER PERSON, WHETHER OR NOT THE PRINCIPAL IS A BENEFICIARY UNDER THE CONTRACT; PROCURE NEW, DIFFERENT, AND ADDITIONAL CONTRACTS OF INSURANCE AND ANNUITIES FOR

THE PRINCIPAL AND SELECT THE AMOUNT, TYPE OF INSURANCE OR ANNUITY, AND MODE OF PAYMENT; PAY THE PREMIUM OR MAKE A CONTRIBUTION ON, MODIFY, EXCHANGE, RESCIND, RELEASE, OR TERMINATE A CONTRACT OF INSURANCE OR ANNUITY PROCURED BY THE AGENT; APPLY FOR AND RECEIVE A LOAN SECURED BY A CONTRACT OF INSURANCE OR ANNUITY; SURRENDER AND RECEIVE THE CASH SURRENDER VALUE ON A CONTRACT OF INSURANCE OR ANNUITY; EXERCISE AN ELECTION; EXERCISE INVESTMENT POWERS AVAILABLE UNDER A CONTRACT OF INSURANCE OR ANNUITY; CHANGE THE MANNER OF PAYING PREMIUMS ON A CONTRACT OF INSURANCE OR ANNUITY; CHANGE OR CONVERT THE TYPE OF INSURANCE OR ANNUITY WITH RESPECT TO WHICH THE PRINCIPAL HAS OR CLAIMS TO HAVE AUTHORITY DESCRIBED IN THIS SECTION; APPLY FOR AND PROCURE A BENEFIT OR ASSISTANCE UNDER A STATUTE OR REGULATION TO GUARANTEE OR PAY PREMIUMS OF A CONTRACT OF INSURANCE ON THE LIFE OF THE PRINCIPAL; COLLECT, SELL, ASSIGN, HYPOTHECATE, BORROW AGAINST, OR PLEDGE THE INTEREST OF THE PRINCIPAL IN A CONTRACT OF INSURANCE OR ANNUITY; SELECT THE FORM AND TIMING OF THE PAYMENT OF PROCEEDS FROM A CONTRACT OF INSURANCE OR ANNUITY; PAY, FROM PROCEEDS OR OTHERWISE, COMPROMISE OR CONTEST, AND APPLY FOR REFUNDS IN CONNECTION WITH A TAX OR ASSESSMENT LEVIED BY A TAXING AUTHORITY WITH RESPECT TO A CONTRACT OF INSURANCE OR ANNUITY OR THE PROCEEDS OR LIABILITY FROM THE CONTRACT OF INSURANCE OR ANNUITY ACCRUING BY REASON OF THE TAX OR ASSESSMENT.

CLAIMS AND LITIGATION – WITH RESPECT TO THIS SUBJECT, I AUTHORIZE MY AGENT TO: ASSERT AND MAINTAIN BEFORE A COURT OR ADMINISTRATIVE AGENCY A CLAIM, CLAIM FOR RELIEF, CAUSE OF ACTION, COUNTERCLAIM, OFFSET, RECOUPMENT, OR DEFENSE, INCLUDING AN ACTION TO RECOVER PROPERTY OR OTHER THING OF VALUE, RECOVER DAMAGES SUSTAINED BY THE PRINCIPAL, ELIMINATE OR MODIFY TAX LIABILITY, OR SEEK AN INJUNCTION, SPECIFIC PERFORMANCE, OR OTHER RELIEF; ACT FOR THE PRINCIPAL WITH RESPECT TO BANKRUPTCY OR INSOLVENCY, WHETHER VOLUNTARY OR INVOLUNTARY, CONCERNING THE PRINCIPAL OR SOME OTHER PERSON, OR WITH RESPECT TO A REORGANIZATION, RECEIVERSHIP, OR APPLICATION FOR THE APPOINTMENT OF A RECEIVER OR TRUSTEE THAT AFFECTS AN INTEREST OF THE PRINCIPAL IN PROPERTY OR OTHER THING OF VALUE; PAY A JUDGMENT, AWARD, OR ORDER AGAINST THE PRINCIPAL OR A SETTLEMENT MADE IN CONNECTION WITH A CLAIM OR LITIGATION; AND RECEIVE MONEY OR OTHER THING OF VALUE PAID IN SETTLEMENT OF OR AS PROCEEDS OF A CLAIM OR LITIGATION.

BENEFITS FROM GOVERNMENTAL PROGRAMS OR CIVIL OR MILITARY SERVICE (INCLUDING ANY BENEFIT, PROGRAM, OR ASSISTANCE PROVIDED UNDER A STATUTE OR REGULATION INCLUDING SOCIAL SECURITY, MEDICARE, AND

MEDICAID) – WITH RESPECT TO THIS SUBJECT, I AUTHORIZE MY AGENT TO: EXECUTE VOUCHERS IN THE NAME OF THE PRINCIPAL FOR ALLOWANCES AND REIMBURSEMENTS PAYABLE BY THE UNITED STATES OR A FOREIGN GOVERNMENT OR BY A STATE OR SUBDIVISION OF A STATE TO THE PRINCIPAL; ENROLL IN, APPLY FOR, SELECT, REJECT, CHANGE, AMEND, OR DISCONTINUE, ON THE PRINCIPAL'S BEHALF, A BENEFIT OR PROGRAM; PREPARE, FILE, AND MAINTAIN A CLAIM OF THE PRINCIPAL FOR A BENEFIT OR ASSISTANCE, FINANCIAL OR OTHERWISE, TO WHICH THE PRINCIPAL MAY BE ENTITLED UNDER A STATUTE OR REGULATION; INITIATE, PARTICIPATE IN, SUBMIT TO ALTERNATIVE DISPUTE RESOLUTION, SETTLE, OPPOSE, OR PROPOSE OR ACCEPT A COMPROMISE WITH RESPECT TO LITIGATION CONCERNING A BENEFIT OR ASSISTANCE THE PRINCIPAL MAY BE ENTITLED TO RECEIVE UNDER A STATUTE OR REGULATION; AND RECEIVE THE FINANCIAL PROCEEDS OF A CLAIM DESCRIBED ABOVE AND CONSERVE, INVEST, DISBURSE, OR USE FOR A LAWFUL PURPOSE ANYTHING SO RECEIVED.

RETIREMENT PLANS (INCLUDING A PLAN OR ACCOUNT CREATED BY AN EMPLOYER, THE PRINCIPAL, OR ANOTHER INDIVIDUAL TO PROVIDE RETIREMENT BENEFITS OR DEFERRED COMPENSATION OF WHICH THE PRINCIPAL IS A PARTICIPANT, BENEFICIARY, OR OWNER, INCLUDING A PLAN OR ACCOUNT UNDER THE FOLLOWING SECTIONS OF THE INTERNAL REVENUE CODE: (1) AN INDIVIDUAL RETIREMENT ACCOUNT UNDER INTERNAL REVENUE CODE SECTION 408, 26 U.S.C. § 408; (2) A ROTH INDIVIDUAL RETIREMENT ACCOUNT UNDER INTERNAL REVENUE CODE SECTION 408(A), 26 U.S.C. § 408(A); (3) A DEEMED INDIVIDUAL RETIREMENT ACCOUNT UNDER INTERNAL REVENUE CODE SECTION 408(Q), 26 U.S.C. § 408(Q); (4) AN ANNUITY OR MUTUAL FUND CUSTODIAL ACCOUNT UNDER INTERNAL REVENUE CODE SECTION 403(B), 26 U.S.C. § 403(B); (5) A PENSION, PROFIT–SHARING, STOCK BONUS, OR OTHER RETIREMENT PLAN QUALIFIED UNDER INTERNAL REVENUE CODE SECTION 401(A), 26 U.S.C. § 401(A); (6) A PLAN UNDER INTERNAL REVENUE CODE SECTION 457(B), 26 U.S.C. § 457(B); AND (7) A NONQUALIFIED DEFERRED COMPENSATION PLAN UNDER INTERNAL REVENUE CODE SECTION 409(A), 26 U.S.C. § 409(A) – WITH RESPECT TO THIS SUBJECT, I AUTHORIZE MY AGENT TO: SELECT THE FORM AND TIMING OF PAYMENTS UNDER A RETIREMENT PLAN AND WITHDRAW BENEFITS FROM A PLAN; MAKE A ROLLOVER, INCLUDING A DIRECT TRUSTEE–TO–TRUSTEE ROLLOVER, OF BENEFITS FROM ONE RETIREMENT PLAN TO ANOTHER; ESTABLISH A RETIREMENT PLAN IN THE PRINCIPAL'S NAME; MAKE CONTRIBUTIONS TO A RETIREMENT PLAN; EXERCISE INVESTMENT POWERS AVAILABLE UNDER A RETIREMENT PLAN; BORROW FROM, SELL ASSETS TO, OR PURCHASE ASSETS FROM A RETIREMENT PLAN.

TAXES – WITH RESPECT TO THIS SUBJECT, I AUTHORIZE MY AGENT TO: PREPARE, SIGN, AND FILE FEDERAL, STATE, LOCAL, AND FOREIGN INCOME, GIFT, PAYROLL, PROPERTY, FEDERAL INSURANCE CONTRIBUTIONS ACT, AND OTHER TAX RETURNS, CLAIMS FOR REFUNDS, REQUESTS FOR EXTENSION OF TIME, PETITIONS REGARDING TAX MATTERS, AND OTHER TAX–RELATED DOCUMENTS, INCLUDING RECEIPTS, OFFERS, WAIVERS, CONSENTS, INCLUDING CONSENTS AND AGREEMENTS UNDER INTERNAL REVENUE CODE SECTION 2032(A), 26 U.S.C. § 2032(A), CLOSING AGREEMENTS, AND OTHER POWERS OF ATTORNEY REQUIRED BY THE INTERNAL REVENUE SERVICE OR OTHER TAXING AUTHORITY WITH RESPECT TO A TAX YEAR ON WHICH THE STATUTE OF LIMITATIONS HAS NOT RUN AND THE FOLLOWING 25 TAX YEARS; PAY TAXES DUE, COLLECT REFUNDS, POST BONDS, RECEIVE CONFIDENTIAL INFORMATION, AND CONTEST DEFICIENCIES DETERMINED BY THE INTERNAL REVENUE SERVICE OR OTHER TAXING AUTHORITY; EXERCISE ELECTIONS AVAILABLE TO THE PRINCIPAL UNDER FEDERAL, STATE, LOCAL, OR FOREIGN TAX LAW; AND ACT FOR THE PRINCIPAL IN ALL TAX MATTERS FOR ALL PERIODS BEFORE THE INTERNAL REVENUE SERVICE, OR OTHER TAXING AUTHORITY.

SPECIAL INSTRUCTIONS (OPTIONAL)

YOU MAY GIVE SPECIAL INSTRUCTIONS ON THE FOLLOWING LINES:

_____

_____

_____

_____

_____

_____

_____

_____

EFFECTIVE DATE

THIS POWER OF ATTORNEY IS EFFECTIVE IMMEDIATELY UNLESS I HAVE STATED OTHERWISE IN THE SPECIAL INSTRUCTIONS.

TERMINATION DATE (OPTIONAL)

THIS POWER OF ATTORNEY SHALL TERMINATE ON _____, 20__.
(USE A SPECIFIC CALENDAR DATE)

NOMINATION OF GUARDIAN (OPTIONAL)

IF IT BECOMES NECESSARY FOR A COURT TO APPOINT A GUARDIAN OF MY ESTATE OR GUARDIAN OF MY PERSON, I NOMINATE THE FOLLOWING PERSON(S) FOR APPOINTMENT:

NAME OF NOMINEE FOR GUARDIAN OF MY PROPERTY:

( ) MY AGENT (OR SUCCESSOR AGENT) NAMED ABOVE

OR

_____

NOMINEE'S ADDRESS: _____

NOMINEE'S TELEPHONE NUMBER: _____

NAME OF NOMINEE FOR GUARDIAN OF MY PERSON:

( ) MY AGENT (OR SUCCESSOR AGENT) NAMED ABOVE

OR

_____

NOMINEE'S ADDRESS: _____

NOMINEE'S TELEPHONE NUMBER: _____

SIGNATURE AND ACKNOWLEDGMENT

_____ _____

YOUR SIGNATURE DATE

_____

YOUR NAME PRINTED

_____

_____

YOUR ADDRESS

_____

YOUR TELEPHONE NUMBER

STATE OF MARYLAND
(COUNTY) OF _____

THIS DOCUMENT WAS ACKNOWLEDGED BEFORE ME ON

_____,

(DATE)

BY _____ TO BE HIS/HER ACT.
(NAME OF PRINCIPAL)

_____ (SEAL, IF ANY)
SIGNATURE OF NOTARY
MY COMMISSION EXPIRES: _____

WITNESS ATTESTATION

THE FOREGOING POWER OF ATTORNEY WAS, ON THE DATE WRITTEN ABOVE, PUBLISHED AND DECLARED BY

_____
(NAME OF PRINCIPAL)

IN OUR PRESENCE TO BE HIS/HER POWER OF ATTORNEY. WE, IN HIS/HER PRESENCE AND AT HIS/HER REQUEST, AND IN THE PRESENCE OF EACH OTHER, HAVE ATTESTED TO THE SAME AND HAVE SIGNED OUR NAMES AS ATTESTING WITNESSES.

_____
WITNESS #1 SIGNATURE

_____
WITNESS #1 NAME PRINTED

_____
_____
WITNESS #1 ADDRESS

_____
WITNESS #1 TELEPHONE NUMBER

_____
WITNESS #2 SIGNATURE

_____
WITNESS #2 NAME PRINTED

_____
_____

WITNESS #2 ADDRESS

_____

WITNESS #2 TELEPHONE NUMBER"

17–203.

"MARYLAND STATUTORY FORM
LIMITED POWER OF ATTORNEY

PLEASE READ CAREFULLY

THIS POWER OF ATTORNEY AUTHORIZES ANOTHER PERSON (YOUR AGENT) TO MAKE ~~ALL~~ DECISIONS CONCERNING YOUR PROPERTY FOR YOU (THE PRINCIPAL). YOU ~~HAVE AN ALTERNATIVE~~ NEED NOT GIVE TO YOUR AGENT ALL THE AUTHORITIES LISTED BELOW AND MAY GIVE THE AGENT ONLY ~~A LIMITED POWER OF ATTORNEY TO YOUR AGENT~~ THOSE LIMITED POWERS THAT YOU SPECIFICALLY INDICATE. THIS POWER OF ATTORNEY GIVES YOUR AGENT THE RIGHT TO MAKE LIMITED DECISIONS FOR YOU. YOU SHOULD VERY CAREFULLY WEIGH YOUR DECISION ~~TO~~ AS TO WHAT POWERS YOU GIVE YOUR AGENT ~~AN UNRESTRICTED POWER OF ATTORNEY OR A LIMITED POWER OF ATTORNEY VERY CAREFULLY~~. YOUR AGENT WILL BE ABLE TO MAKE DECISIONS AND ACT WITH RESPECT TO YOUR PROPERTY (INCLUDING YOUR MONEY) WHETHER OR NOT YOU ARE ABLE TO ACT FOR YOURSELF.

IF YOU CHOOSE TO MAKE A GRANT OF LIMITED AUTHORITY, YOU SHOULD CHECK THE BOXES THAT IDENTIFY THE SPECIFIC AUTHORIZATION YOU CHOOSE TO GIVE YOUR AGENT.

THIS POWER OF ATTORNEY DOES NOT AUTHORIZE THE AGENT TO MAKE HEALTH CARE DECISIONS FOR YOU.

YOU SHOULD SELECT SOMEONE YOU TRUST TO SERVE AS YOUR AGENT. UNLESS YOU SPECIFY OTHERWISE, GENERALLY THE AGENT'S AUTHORITY WILL CONTINUE UNTIL YOU DIE OR REVOKE THE POWER OF ATTORNEY OR THE AGENT RESIGNS OR IS UNABLE TO ACT FOR YOU.

YOUR AGENT IS ~~ENTITLED TO REASONABLE COMPENSATION UNLESS YOU STATE OTHERWISE IN THE SPECIAL INSTRUCTIONS~~ NOT ENTITLED TO COMPENSATION UNLESS YOU INDICATE OTHERWISE IN THE SPECIAL INSTRUCTIONS OF THIS POWER OF ATTORNEY. IF YOU INDICATE THAT YOUR AGENT IS TO RECEIVE COMPENSATION, YOUR AGENT IS ENTITLED TO REASONABLE COMPENSATION OR COMPENSATION AS SPECIFIED IN THE SPECIAL INSTRUCTIONS.

THIS FORM PROVIDES FOR DESIGNATION OF ONE AGENT. IF YOU WISH TO NAME MORE THAN ONE AGENT YOU MAY NAME A COAGENT IN THE SPECIAL INSTRUCTIONS. COAGENTS ARE NOT REQUIRED TO ACT TOGETHER UNLESS YOU INCLUDE THAT REQUIREMENT IN THE SPECIAL INSTRUCTIONS.

IF YOUR AGENT IS UNAVAILABLE OR UNWILLING TO ACT FOR YOU, YOUR POWER OF ATTORNEY WILL END UNLESS YOU HAVE NAMED A SUCCESSOR AGENT. YOU MAY ALSO NAME A SECOND SUCCESSOR AGENT.

THIS POWER OF ATTORNEY BECOMES EFFECTIVE IMMEDIATELY UNLESS YOU STATE OTHERWISE IN THE SPECIAL INSTRUCTIONS.

IF YOU HAVE QUESTIONS ABOUT THE POWER OF ATTORNEY OR THE AUTHORITY YOU ARE GRANTING TO YOUR AGENT, YOU SHOULD SEEK LEGAL ADVICE BEFORE SIGNING THIS FORM.

DESIGNATION OF AGENT

I, _____, NAME THE
(NAME OF PRINCIPAL)
FOLLOWING PERSON AS MY AGENT:

NAME OF AGENT:_____
AGENT'S ADDRESS:_____
AGENT'S TELEPHONE NUMBER:_____

DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)

IF MY AGENT IS UNABLE OR UNWILLING TO ACT FOR ME, I NAME AS MY SUCCESSOR AGENT:

NAME OF SUCCESSOR AGENT:_____
SUCCESSOR AGENT'S
ADDRESS:_____
SUCCESSOR AGENT'S TELEPHONE NUMBER:_____

IF MY SUCCESSOR AGENT IS UNABLE OR UNWILLING TO ACT FOR ME, I NAME AS MY SECOND SUCCESSOR AGENT:

NAME OF SECOND SUCCESSOR
AGENT:_____
SECOND SUCCESSOR AGENT'S
ADDRESS:_____
SECOND SUCCESSOR AGENT'S TELEPHONE NUMBER: _____

GRANT OF GENERAL AUTHORITY

I ("THE PRINCIPAL") GRANT MY AGENT AND ANY SUCCESSOR AGENT, WITH RESPECT TO EACH SUBJECT THAT I CHOOSE BELOW, THE AUTHORITY TO DO ALL ACTS THAT I COULD DO TO:

(1) DEMAND, RECEIVE, AND OBTAIN BY LITIGATION OR OTHERWISE, MONEY OR ANOTHER THING OF VALUE TO WHICH THE PRINCIPAL IS, MAY BECOME, OR CLAIMS TO BE ENTITLED, AND CONSERVE, INVEST, DISBURSE, OR USE ANYTHING SO RECEIVED OR OBTAINED FOR THE PURPOSES INTENDED;

(2) CONTRACT WITH ANOTHER PERSON, ON TERMS AGREEABLE TO THE AGENT, TO ACCOMPLISH A PURPOSE OF A TRANSACTION AND PERFORM, RESCIND, CANCEL, TERMINATE, REFORM, RESTATE, RELEASE, OR MODIFY THE CONTRACT OR ANOTHER CONTRACT MADE BY OR ON BEHALF OF THE PRINCIPAL;

(3) EXECUTE, ACKNOWLEDGE, SEAL, DELIVER, FILE, OR RECORD ANY INSTRUMENT OR COMMUNICATION THE AGENT CONSIDERS DESIRABLE TO ACCOMPLISH A PURPOSE OF A TRANSACTION, INCLUDING CREATING A SCHEDULE CONTEMPORANEOUSLY OR AT A LATER TIME LISTING SOME OR ALL OF THE PRINCIPAL'S PROPERTY AND ATTACHING THE SCHEDULE TO THIS POWER OF ATTORNEY;

(4) INITIATE, PARTICIPATE IN, SUBMIT TO ALTERNATIVE DISPUTE RESOLUTION, SETTLE, OPPOSE, OR PROPOSE OR ACCEPT A COMPROMISE WITH RESPECT TO A CLAIM EXISTING IN FAVOR OF OR AGAINST THE PRINCIPAL OR INTERVENE IN LITIGATION RELATING TO THE CLAIM;

(5) SEEK ON THE PRINCIPAL'S BEHALF THE ASSISTANCE OF A COURT OR OTHER GOVERNMENTAL AGENCY TO CARRY OUT AN ACT AUTHORIZED IN THIS POWER OF ATTORNEY;

(6) ENGAGE, COMPENSATE, AND DISCHARGE AN ATTORNEY, ACCOUNTANT, DISCRETIONARY INVESTMENT MANAGER, EXPERT WITNESS, OR OTHER ADVISOR;

(7) PREPARE, EXECUTE, AND FILE A RECORD, REPORT, OR OTHER DOCUMENT TO SAFEGUARD OR PROMOTE THE PRINCIPAL'S INTEREST UNDER A STATUTE OR REGULATION;

(8) COMMUNICATE WITH REPRESENTATIVES OR EMPLOYEES OF A GOVERNMENT OR GOVERNMENTAL SUBDIVISION, AGENCY, OR INSTRUMENTALITY, ON BEHALF OF THE PRINCIPAL;

(9) ACCESS COMMUNICATIONS INTENDED FOR, AND COMMUNICATE ON BEHALF OF THE PRINCIPAL, WHETHER BY MAIL, ELECTRONIC TRANSMISSION, TELEPHONE, OR OTHER MEANS; AND

(10) DO LAWFUL ACTS WITH RESPECT TO THE SUBJECT AND ALL PROPERTY RELATED TO THE SUBJECT.

(INITIAL EACH AUTHORITY IN ANY SUBJECT YOU WANT TO INCLUDE IN THE AGENT'S GENERAL AUTHORITY. CROSS THROUGH EACH AUTHORITY IN ANY SUBJECT THAT YOU WANT TO EXCLUDE. IF YOU WISH TO GRANT GENERAL AUTHORITY OVER AN ENTIRE SUBJECT, YOU MAY INITIAL "ALL OF THE ABOVE" INSTEAD OF INITIALING EACH AUTHORITY.)

SUBJECTS AND AUTHORITY

A. REAL PROPERTY – WITH RESPECT TO THIS CATEGORY, I AUTHORIZE MY AGENT TO:

(___) DEMAND, BUY, LEASE, RECEIVE, ACCEPT AS A GIFT OR AS SECURITY FOR AN EXTENSION OF CREDIT, OR OTHERWISE ACQUIRE OR REJECT AN INTEREST IN REAL PROPERTY OR A RIGHT INCIDENT TO REAL PROPERTY

(___) SELL, EXCHANGE, CONVEY WITH OR WITHOUT COVENANTS, REPRESENTATIONS, OR WARRANTIES, QUITCLAIM, RELEASE, SURRENDER, RETAIN TITLE FOR SECURITY, ENCUMBER, PARTITION, CONSENT TO PARTITIONING, SUBJECT TO AN EASEMENT OR COVENANT, SUBDIVIDE, APPLY FOR ZONING OR OTHER GOVERNMENTAL PERMITS, PLAT OR CONSENT TO PLATTING, DEVELOP, GRANT AN OPTION CONCERNING, LEASE, SUBLEASE, CONTRIBUTE TO AN ENTITY IN EXCHANGE FOR AN INTEREST IN THAT ENTITY, OR OTHERWISE GRANT OR DISPOSE OF AN INTEREST IN REAL PROPERTY OR A RIGHT INCIDENT TO REAL PROPERTY

(___) PLEDGE OR MORTGAGE AN INTEREST IN REAL PROPERTY OR RIGHT INCIDENT TO REAL PROPERTY AS SECURITY TO BORROW MONEY OR PAY, RENEW, OR EXTEND THE TIME OF PAYMENT OF A DEBT OF THE PRINCIPAL OR A DEBT GUARANTEED BY THE PRINCIPAL, INCLUDING A REVERSE MORTGAGE

(___) RELEASE, ASSIGN, SATISFY, OR ENFORCE BY LITIGATION OR OTHERWISE A MORTGAGE, DEED OF TRUST, CONDITIONAL SALE CONTRACT,

ENCUMBRANCE, LIEN, OR OTHER CLAIM TO REAL PROPERTY THAT EXISTS OR IS ASSERTED

(___) MANAGE OR CONSERVE AN INTEREST IN REAL PROPERTY OR A RIGHT INCIDENT TO REAL PROPERTY OWNED OR CLAIMED TO BE OWNED BY THE PRINCIPAL, INCLUDING:

(1) INSURING AGAINST LIABILITY OR CASUALTY OR OTHER LOSS;

(2) OBTAINING OR REGAINING POSSESSION OF OR PROTECTING THE INTEREST OR RIGHT BY LITIGATION OR OTHERWISE;

(3) PAYING, ASSESSING, COMPROMISING, OR CONTESTING TAXES OR ASSESSMENTS OR APPLYING FOR AND RECEIVING REFUNDS IN CONNECTION WITH THEM; AND

(4) PURCHASING SUPPLIES, HIRING ASSISTANCE OR LABOR, AND MAKING REPAIRS OR ALTERATIONS TO THE REAL PROPERTY

(___) USE, DEVELOP, ALTER, REPLACE, REMOVE, ERECT, OR INSTALL STRUCTURES OR OTHER IMPROVEMENTS ON REAL PROPERTY IN OR INCIDENT TO WHICH THE PRINCIPAL HAS, OR CLAIMS TO HAVE, AN INTEREST OR RIGHT

(___) PARTICIPATE IN A REORGANIZATION WITH RESPECT TO REAL PROPERTY OR AN ENTITY THAT OWNS AN INTEREST IN OR A RIGHT INCIDENT TO REAL PROPERTY AND RECEIVE, HOLD, AND ACT WITH RESPECT TO STOCKS AND BONDS OR OTHER PROPERTY RECEIVED IN A PLAN OF REORGANIZATION, INCLUDING:

(1) SELLING OR OTHERWISE DISPOSING OF THE STOCKS AND BONDS OR OTHER PROPERTY;

(2) EXERCISING OR SELLING AN OPTION, A RIGHT OF CONVERSION, OR A SIMILAR RIGHT WITH RESPECT TO THE STOCKS AND BONDS OR OTHER PROPERTY; AND

(3) EXERCISING VOTING RIGHTS IN PERSON OR BY PROXY

(___) CHANGE THE FORM OF TITLE OF AN INTEREST IN OR A RIGHT INCIDENT TO REAL PROPERTY

(___) DEDICATE TO PUBLIC USE, WITH OR WITHOUT CONSIDERATION, EASEMENTS OR OTHER REAL PROPERTY IN WHICH THE PRINCIPAL HAS, OR CLAIMS TO HAVE, AN INTEREST

(___) ALL OF THE ABOVE

B. TANGIBLE PERSONAL PROPERTY – WITH RESPECT TO THIS SUBJECT, I AUTHORIZE MY AGENT TO:

(___) DEMAND, BUY, RECEIVE, ACCEPT AS A GIFT OR AS SECURITY FOR AN EXTENSION OF CREDIT, OR OTHERWISE ACQUIRE OR REJECT OWNERSHIP OR POSSESSION OF TANGIBLE PERSONAL PROPERTY OR AN INTEREST IN TANGIBLE PERSONAL PROPERTY

(___) SELL, EXCHANGE, CONVEY WITH OR WITHOUT COVENANTS, REPRESENTATIONS, OR WARRANTIES, QUITCLAIM, RELEASE, SURRENDER, CREATE A SECURITY INTEREST IN, GRANT OPTIONS CONCERNING, LEASE, SUBLEASE, OR OTHERWISE DISPOSE OF TANGIBLE PERSONAL PROPERTY OR AN INTEREST IN TANGIBLE PERSONAL PROPERTY

(___) GRANT A SECURITY INTEREST IN TANGIBLE PERSONAL PROPERTY OR AN INTEREST IN TANGIBLE PERSONAL PROPERTY AS SECURITY TO BORROW MONEY OR PAY, RENEW, OR EXTEND THE TIME OF PAYMENT OF A DEBT OF THE PRINCIPAL OR A DEBT GUARANTEED BY THE PRINCIPAL

(___) RELEASE, ASSIGN, SATISFY, OR ENFORCE BY LITIGATION OR OTHERWISE, A SECURITY INTEREST, LIEN, OR OTHER CLAIM ON BEHALF OF THE PRINCIPAL, WITH RESPECT TO TANGIBLE PERSONAL PROPERTY OR AN INTEREST IN TANGIBLE PERSONAL PROPERTY

(___) MANAGE OR CONSERVE TANGIBLE PERSONAL PROPERTY OR AN INTEREST IN TANGIBLE PERSONAL PROPERTY ON BEHALF OF THE PRINCIPAL, INCLUDING:

(1) INSURING AGAINST LIABILITY OR CASUALTY OR OTHER LOSS;

(2) OBTAINING OR REGAINING POSSESSION OF OR PROTECTING THE PROPERTY OR INTEREST, BY LITIGATION OR OTHERWISE;

(3) PAYING, ASSESSING, COMPROMISING, OR CONTESTING TAXES OR ASSESSMENTS OR APPLYING FOR AND RECEIVING REFUNDS IN CONNECTION WITH TAXES OR ASSESSMENTS;

(4) MOVING THE PROPERTY FROM PLACE TO PLACE;

(5) STORING THE PROPERTY FOR HIRE OR ON A GRATUITOUS BAILMENT; AND

(6) USING AND MAKING REPAIRS, ALTERATIONS, OR IMPROVEMENTS TO THE PROPERTY

(___) CHANGE THE FORM OF TITLE OF AN INTEREST IN TANGIBLE PERSONAL PROPERTY

(___) ALL OF THE ABOVE

C. STOCKS AND BONDS – WITH RESPECT TO THIS SUBJECT, I AUTHORIZE MY AGENT TO:

(___) BUY, SELL, AND EXCHANGE STOCKS AND BONDS

(___) ESTABLISH, CONTINUE, MODIFY, OR TERMINATE AN ACCOUNT WITH RESPECT TO STOCKS AND BONDS

(___) PLEDGE STOCKS AND BONDS AS SECURITY TO BORROW, PAY, RENEW, OR EXTEND THE TIME OF PAYMENT OF A DEBT OF THE PRINCIPAL

(___) RECEIVE CERTIFICATES AND OTHER EVIDENCES OF OWNERSHIP WITH RESPECT TO STOCKS AND BONDS

(___) EXERCISE VOTING RIGHTS WITH RESPECT TO STOCKS AND BONDS IN PERSON OR BY PROXY, ENTER INTO VOTING TRUSTS, AND CONSENT TO LIMITATIONS ON THE RIGHT TO VOTE

(___) ALL OF THE ABOVE

D. COMMODITIES – WITH RESPECT TO THIS SUBJECT, I AUTHORIZE MY AGENT TO:

(___) BUY, SELL, EXCHANGE, ASSIGN, SETTLE, AND EXERCISE COMMODITY FUTURES CONTRACTS AND CALL OR PUT OPTIONS ON STOCKS OR STOCK INDEXES TRADED ON A REGULATED OPTION EXCHANGE

(___) ESTABLISH, CONTINUE, MODIFY, AND TERMINATE OPTION ACCOUNTS

(___) ALL OF THE ABOVE

E. BANKS AND OTHER FINANCIAL INSTITUTIONS – WITH RESPECT TO THIS SUBJECT, I AUTHORIZE MY AGENT TO:

(___) CONTINUE, MODIFY, AND TERMINATE AN ACCOUNT OR OTHER BANKING ARRANGEMENT MADE BY OR ON BEHALF OF THE PRINCIPAL

(___) ESTABLISH, MODIFY, AND TERMINATE AN ACCOUNT OR OTHER BANKING ARRANGEMENT WITH A BANK, TRUST COMPANY, SAVINGS AND LOAN ASSOCIATION, CREDIT UNION, THRIFT COMPANY, BROKERAGE FIRM, OR OTHER FINANCIAL INSTITUTION SELECTED BY THE AGENT

(___) CONTRACT FOR SERVICES AVAILABLE FROM A FINANCIAL INSTITUTION, INCLUDING RENTING A SAFE DEPOSIT BOX OR SPACE IN A VAULT

(___) WITHDRAW, BY CHECK, MONEY ORDER, ELECTRONIC FUNDS TRANSFER, OR OTHERWISE, MONEY OR PROPERTY OF THE PRINCIPAL DEPOSITED WITH OR LEFT IN THE CUSTODY OF A FINANCIAL INSTITUTION

(___) RECEIVE STATEMENTS OF ACCOUNT, VOUCHERS, NOTICES, AND SIMILAR DOCUMENTS FROM A FINANCIAL INSTITUTION AND ACT WITH RESPECT TO THEM

(___) ENTER A SAFE DEPOSIT BOX OR VAULT AND WITHDRAW OR ADD TO THE CONTENTS

(___) BORROW MONEY AND PLEDGE AS SECURITY PERSONAL PROPERTY OF THE PRINCIPAL NECESSARY TO BORROW MONEY OR PAY, RENEW, OR EXTEND THE TIME OF PAYMENT OF A DEBT OF THE PRINCIPAL OR A DEBT GUARANTEED BY THE PRINCIPAL

(___) MAKE, ASSIGN, DRAW, ENDORSE, DISCOUNT, GUARANTEE, AND NEGOTIATE PROMISSORY NOTES, CHECKS, DRAFTS, AND OTHER NEGOTIABLE OR NONNEGOTIABLE PAPER OF THE PRINCIPAL OR PAYABLE TO THE PRINCIPAL OR THE PRINCIPAL'S ORDER, TRANSFER MONEY, RECEIVE THE CASH OR OTHER PROCEEDS OF THOSE TRANSACTIONS, AND ACCEPT A DRAFT DRAWN BY A PERSON ON THE PRINCIPAL AND PAY THE DRAFT WHEN DUE

(___) RECEIVE FOR THE PRINCIPAL AND ACT ON A SIGHT DRAFT, WAREHOUSE RECEIPT, OTHER DOCUMENT OF TITLE WHETHER TANGIBLE OR ELECTRONIC, OR OTHER NEGOTIABLE OR NONNEGOTIABLE INSTRUMENT

(___) APPLY FOR, RECEIVE, AND USE LETTERS OF CREDIT, CREDIT CARDS AND DEBIT CARDS, ELECTRONIC TRANSACTION AUTHORIZATIONS, AND

TRAVELER'S CHECKS FROM A FINANCIAL INSTITUTION AND GIVE AN INDEMNITY OR OTHER AGREEMENT IN CONNECTION WITH LETTERS OF CREDIT

(___) CONSENT TO AN EXTENSION OF THE TIME OF PAYMENT WITH RESPECT TO COMMERCIAL PAPER OR A FINANCIAL TRANSACTION WITH A FINANCIAL INSTITUTION

(___) ALL OF THE ABOVE

F. OPERATION OF AN ENTITY OR A BUSINESS – WITH RESPECT TO THIS SUBJECT, I AUTHORIZE MY AGENT TO:

(___) OPERATE, BUY, SELL, ENLARGE, REDUCE, OR TERMINATE AN OWNERSHIP INTEREST

(___) PERFORM A DUTY OR DISCHARGE A LIABILITY AND EXERCISE IN PERSON OR BY PROXY A RIGHT, POWER, PRIVILEGE, OR AN OPTION THAT THE PRINCIPAL HAS, MAY HAVE, OR CLAIMS TO HAVE

(___) ENFORCE THE TERMS OF AN OWNERSHIP AGREEMENT

(___) INITIATE, PARTICIPATE IN, SUBMIT TO ALTERNATIVE DISPUTE RESOLUTION, SETTLE, OPPOSE, OR PROPOSE OR ACCEPT A COMPROMISE WITH RESPECT TO LITIGATION TO WHICH THE PRINCIPAL IS A PARTY BECAUSE OF AN OWNERSHIP INTEREST

(___) EXERCISE IN PERSON OR BY PROXY, OR ENFORCE BY LITIGATION OR OTHERWISE, A RIGHT, POWER, PRIVILEGE, OR AN OPTION THE PRINCIPAL HAS OR CLAIMS TO HAVE AS THE HOLDER OF STOCKS AND BONDS

(___) INITIATE, PARTICIPATE IN, SUBMIT TO ALTERNATIVE DISPUTE RESOLUTION, SETTLE, OPPOSE, OR PROPOSE OR ACCEPT A COMPROMISE WITH RESPECT TO LITIGATION TO WHICH THE PRINCIPAL IS A PARTY CONCERNING STOCKS AND BONDS

(___) WITH RESPECT TO AN ENTITY OR BUSINESS OWNED SOLELY BY THE PRINCIPAL:

(1) CONTINUE, MODIFY, RENEGOTIATE, EXTEND, AND TERMINATE A CONTRACT MADE BY OR ON BEHALF OF THE PRINCIPAL WITH RESPECT TO THE ENTITY OR BUSINESS BEFORE EXECUTION OF THIS POWER OF ATTORNEY;

(2) DETERMINE:

(I) THE LOCATION OF THE OPERATION OF THE ENTITY OR BUSINESS;

(II) THE NATURE AND EXTENT OF THE BUSINESS OF THE ENTITY OR BUSINESS;

(III) THE METHODS OF MANUFACTURING, SELLING, MERCHANDISING, FINANCING, ACCOUNTING, AND ADVERTISING EMPLOYED IN THE OPERATION OF THE ENTITY OR BUSINESS;

(IV) THE AMOUNT AND TYPES OF INSURANCE CARRIED BY THE ENTITY OR BUSINESS; AND

(V) THE MODE OF ENGAGING, COMPENSATING, AND DEALING WITH THE EMPLOYEES AND ACCOUNTANTS, ATTORNEYS, OR OTHER ADVISORS OF THE ENTITY OR BUSINESS;

(3) CHANGE THE NAME OR FORM OF ORGANIZATION UNDER WHICH THE ENTITY OR BUSINESS IS OPERATED AND ENTER INTO AN OWNERSHIP AGREEMENT WITH OTHER PERSONS TO TAKE OVER ALL OR PART OF THE OPERATION OF THE ENTITY OR BUSINESS; AND

(4) DEMAND AND RECEIVE MONEY DUE OR CLAIMED BY THE PRINCIPAL OR ON THE PRINCIPAL'S BEHALF IN THE OPERATION OF THE ENTITY OR BUSINESS AND CONTROL AND DISBURSE THE MONEY IN THE OPERATION OF THE ENTITY OR BUSINESS

(___) PUT ADDITIONAL CAPITAL INTO AN ENTITY OR A BUSINESS IN WHICH THE PRINCIPAL HAS AN INTEREST

(___) JOIN IN A PLAN OF REORGANIZATION, CONSOLIDATION, CONVERSION, DOMESTICATION, OR MERGER OF THE ENTITY OR BUSINESS

(___) SELL OR LIQUIDATE ALL OR PART OF AN ENTITY OR BUSINESS

(___) ESTABLISH THE VALUE OF AN ENTITY OR A BUSINESS UNDER A BUYOUT AGREEMENT TO WHICH THE PRINCIPAL IS A PARTY

(___) PREPARE, SIGN, FILE, AND DELIVER REPORTS, COMPILATIONS OF INFORMATION, RETURNS, OR OTHER PAPERS WITH RESPECT TO AN ENTITY OR BUSINESS AND MAKE RELATED PAYMENTS

(___) PAY, COMPROMISE, OR CONTEST TAXES, ASSESSMENTS, FINES, OR PENALTIES AND PERFORM OTHER ACTS TO PROTECT THE PRINCIPAL FROM ILLEGAL OR UNNECESSARY TAXATION, ASSESSMENTS, FINES, OR PENALTIES, WITH RESPECT TO AN ENTITY OR A BUSINESS, INCLUDING ATTEMPTS TO RECOVER, AS PERMITTED BY LAW, MONEY PAID BEFORE OR AFTER THE EXECUTION OF THIS POWER OF ATTORNEY

(___) ALL OF THE ABOVE

G. INSURANCE AND ANNUITIES – WITH RESPECT TO THIS SUBJECT, I AUTHORIZE MY AGENT TO:

(___) CONTINUE, PAY THE PREMIUM OR MAKE A CONTRIBUTION ON, MODIFY, EXCHANGE, RESCIND, RELEASE, OR TERMINATE A CONTRACT PROCURED BY OR ON BEHALF OF THE PRINCIPAL THAT INSURES OR PROVIDES AN ANNUITY TO EITHER THE PRINCIPAL OR ANOTHER PERSON, WHETHER OR NOT THE PRINCIPAL IS A BENEFICIARY UNDER THE CONTRACT

(___) PROCURE NEW, DIFFERENT, AND ADDITIONAL CONTRACTS OF INSURANCE AND ANNUITIES FOR THE PRINCIPAL AND THE PRINCIPAL'S SPOUSE, CHILDREN, AND OTHER DEPENDENTS, AND SELECT THE AMOUNT, TYPE OF INSURANCE OR ANNUITY, AND MODE OF PAYMENT

(___) PAY THE PREMIUM OR MAKE A CONTRIBUTION ON, MODIFY, EXCHANGE, RESCIND, RELEASE, OR TERMINATE A CONTRACT OF INSURANCE OR ANNUITY PROCURED BY THE AGENT

(___) APPLY FOR AND RECEIVE A LOAN SECURED BY A CONTRACT OF INSURANCE OR ANNUITY

(___) SURRENDER AND RECEIVE THE CASH SURRENDER VALUE ON A CONTRACT OF INSURANCE OR ANNUITY

(___) EXERCISE AN ELECTION

(___) EXERCISE INVESTMENT POWERS AVAILABLE UNDER A CONTRACT OF INSURANCE OR ANNUITY

(___) CHANGE THE MANNER OF PAYING PREMIUMS ON A CONTRACT OF INSURANCE OR ANNUITY

(___) CHANGE OR CONVERT THE TYPE OF INSURANCE OR ANNUITY WITH RESPECT TO WHICH THE PRINCIPAL HAS OR CLAIMS TO HAVE AUTHORITY DESCRIBED IN THIS SECTION

(___) APPLY FOR AND PROCURE A BENEFIT OR ASSISTANCE UNDER A STATUTE OR REGULATION TO GUARANTEE OR PAY PREMIUMS OF A CONTRACT OF INSURANCE ON THE LIFE OF THE PRINCIPAL

(___) COLLECT, SELL, ASSIGN, HYPOTHECATE, BORROW AGAINST, OR PLEDGE THE INTEREST OF THE PRINCIPAL IN A CONTRACT OF INSURANCE OR ANNUITY

(___) SELECT THE FORM AND TIMING OF THE PAYMENT OF PROCEEDS FROM A CONTRACT OF INSURANCE OR ANNUITY

(___) PAY, FROM PROCEEDS OR OTHERWISE, COMPROMISE OR CONTEST, AND APPLY FOR REFUNDS IN CONNECTION WITH A TAX OR ASSESSMENT LEVIED BY A TAXING AUTHORITY WITH RESPECT TO A CONTRACT OF INSURANCE OR ANNUITY OR THE PROCEEDS OR LIABILITY FROM THE CONTRACT OF INSURANCE OR ANNUITY ACCRUING BY REASON OF THE TAX OR ASSESSMENT

(___) ALL OF THE ABOVE

H. ESTATES, TRUSTS, AND OTHER BENEFICIAL INTERESTS (INCLUDING TRUSTS, PROBATE ESTATES, GUARDIANSHIPS, CONSERVATORSHIPS, ESCROWS, OR CUSTODIANSHIPS OR FUNDS FROM WHICH THE PRINCIPAL IS, MAY BECOME, OR CLAIMS TO BE ENTITLED TO A SHARE OR PAYMENT) – WITH RESPECT TO THIS SUBJECT, I AUTHORIZE MY AGENT TO:

(___) ACCEPT, RECEIVE, RECEIPT FOR, SELL, ASSIGN, PLEDGE, OR EXCHANGE A SHARE IN OR PAYMENT FROM THE FUND DESCRIBED ABOVE

(___) DEMAND OR OBTAIN MONEY OR ANOTHER THING OF VALUE TO WHICH THE PRINCIPAL IS, MAY BECOME, OR CLAIMS TO BE ENTITLED BY REASON OF THE FUND DESCRIBED ABOVE, BY LITIGATION OR OTHERWISE

(___) EXERCISE FOR THE BENEFIT OF THE PRINCIPAL A PRESENTLY EXERCISABLE GENERAL POWER OF APPOINTMENT HELD BY THE PRINCIPAL

(___) INITIATE, PARTICIPATE IN, SUBMIT TO ALTERNATIVE DISPUTE RESOLUTION, SETTLE, OPPOSE, OR PROPOSE OR ACCEPT A COMPROMISE WITH RESPECT TO LITIGATION TO ASCERTAIN THE MEANING, VALIDITY, OR EFFECT OF A DEED, WILL, DECLARATION OF TRUST, OR OTHER INSTRUMENT OR TRANSACTION AFFECTING THE INTEREST OF THE PRINCIPAL

(___) INITIATE, PARTICIPATE IN, SUBMIT TO ALTERNATIVE DISPUTE RESOLUTION, SETTLE, OPPOSE, OR PROPOSE OR ACCEPT A COMPROMISE WITH RESPECT TO LITIGATION TO REMOVE, SUBSTITUTE, OR SURCHARGE A FIDUCIARY

(___) CONSERVE, INVEST, DISBURSE, OR USE ANYTHING RECEIVED FOR AN AUTHORIZED PURPOSE

(___) TRANSFER AN INTEREST OF THE PRINCIPAL IN REAL PROPERTY, STOCKS AND BONDS, ACCOUNTS WITH FINANCIAL INSTITUTIONS OR SECURITIES INTERMEDIARIES, INSURANCE, ANNUITIES, AND OTHER PROPERTY TO THE TRUSTEE OF A REVOCABLE TRUST CREATED BY THE PRINCIPAL AS SETTLOR

(___) REJECT, RENOUNCE, DISCLAIM, RELEASE, OR CONSENT TO A REDUCTION IN OR MODIFICATION OF A SHARE IN OR PAYMENT FROM THE FUND DESCRIBED ABOVE

(___) ALL OF THE ABOVE

I. CLAIMS AND LITIGATION – WITH RESPECT TO THIS SUBJECT, I AUTHORIZE MY AGENT TO:

(___) ASSERT AND MAINTAIN BEFORE A COURT OR ADMINISTRATIVE AGENCY A CLAIM, CLAIM FOR RELIEF, CAUSE OF ACTION, COUNTERCLAIM, OFFSET, RECOUPMENT, OR DEFENSE, INCLUDING AN ACTION TO RECOVER PROPERTY OR OTHER THING OF VALUE, RECOVER DAMAGES SUSTAINED BY THE PRINCIPAL, ELIMINATE OR MODIFY TAX LIABILITY, OR SEEK AN INJUNCTION, SPECIFIC PERFORMANCE, OR OTHER RELIEF

(___) BRING AN ACTION TO DETERMINE ADVERSE CLAIMS OR INTERVENE OR OTHERWISE PARTICIPATE IN LITIGATION

(___) SEEK AN ATTACHMENT, GARNISHMENT, ORDER OF ARREST, OR OTHER PRELIMINARY, PROVISIONAL, OR INTERMEDIATE RELIEF AND USE AN AVAILABLE PROCEDURE TO EFFECT OR SATISFY A JUDGMENT, ORDER, OR DECREE

(___) MAKE OR ACCEPT A TENDER, OFFER OF JUDGMENT, OR ADMISSION OF FACTS, SUBMIT A CONTROVERSY ON AN AGREED STATEMENT OF FACTS, CONSENT TO EXAMINATION, AND BIND THE PRINCIPAL IN LITIGATION

(___) SUBMIT TO ALTERNATIVE DISPUTE RESOLUTION, SETTLE, AND PROPOSE OR ACCEPT A COMPROMISE

(___) WAIVE THE ISSUANCE AND SERVICE OF PROCESS ON THE PRINCIPAL, ACCEPT SERVICE OF PROCESS, APPEAR FOR THE PRINCIPAL, DESIGNATE PERSONS ON WHICH PROCESS DIRECTED TO THE PRINCIPAL MAY BE SERVED, EXECUTE AND FILE OR DELIVER STIPULATIONS ON THE PRINCIPAL'S BEHALF, VERIFY PLEADINGS, SEEK APPELLATE REVIEW, PROCURE AND GIVE SURETY AND INDEMNITY BONDS, CONTRACT AND PAY FOR THE PREPARATION AND PRINTING OF RECORDS AND BRIEFS, RECEIVE, EXECUTE, AND FILE OR DELIVER A CONSENT, WAIVER, RELEASE, CONFESSION OF JUDGMENT, SATISFACTION OF JUDGMENT, NOTICE, AGREEMENT, OR OTHER INSTRUMENT IN CONNECTION WITH THE PROSECUTION, SETTLEMENT, OR DEFENSE OF A CLAIM OR LITIGATION

(___) ACT FOR THE PRINCIPAL WITH RESPECT TO BANKRUPTCY OR INSOLVENCY, WHETHER VOLUNTARY OR INVOLUNTARY, CONCERNING THE PRINCIPAL OR SOME OTHER PERSON, OR WITH RESPECT TO A REORGANIZATION, RECEIVERSHIP, OR APPLICATION FOR THE APPOINTMENT OF A RECEIVER OR TRUSTEE THAT AFFECTS AN INTEREST OF THE PRINCIPAL IN PROPERTY OR OTHER THING OF VALUE

(___) PAY A JUDGMENT, AWARD, OR ORDER AGAINST THE PRINCIPAL OR A SETTLEMENT MADE IN CONNECTION WITH A CLAIM OR LITIGATION

(___) RECEIVE MONEY OR OTHER THING OF VALUE PAID IN SETTLEMENT OF OR AS PROCEEDS OF A CLAIM OR LITIGATION

(___) ALL OF THE ABOVE

J. PERSONAL AND FAMILY MAINTENANCE – WITH RESPECT TO THIS SUBJECT, I AUTHORIZE MY AGENT TO:

(___) PERFORM THE ACTS NECESSARY TO MAINTAIN THE CUSTOMARY STANDARD OF LIVING OF THE PRINCIPAL, THE PRINCIPAL'S SPOUSE, AND THE FOLLOWING INDIVIDUALS, WHETHER LIVING WHEN THIS POWER OF ATTORNEY IS EXECUTED OR LATER BORN:

(1) THE PRINCIPAL'S CHILDREN;

(2) OTHER INDIVIDUALS LEGALLY ENTITLED TO BE SUPPORTED BY THE PRINCIPAL; AND

(3) THE INDIVIDUALS WHOM THE PRINCIPAL HAS CUSTOMARILY SUPPORTED OR INDICATED THE INTENT TO SUPPORT;

(___) MAKE PERIODIC PAYMENTS OF CHILD SUPPORT AND OTHER FAMILY MAINTENANCE REQUIRED BY A COURT OR GOVERNMENTAL AGENCY OR AN AGREEMENT TO WHICH THE PRINCIPAL IS A PARTY

(___) PROVIDE LIVING QUARTERS FOR THE INDIVIDUALS DESCRIBED ABOVE BY:

(1) PURCHASE, LEASE, OR OTHER CONTRACT; OR

(2) PAYING THE OPERATING COSTS, INCLUDING INTEREST, AMORTIZATION PAYMENTS, REPAIRS, IMPROVEMENTS, AND TAXES, FOR PREMISES OWNED BY THE PRINCIPAL OR OCCUPIED BY THOSE INDIVIDUALS

(___) PROVIDE NORMAL DOMESTIC HELP, USUAL VACATIONS AND TRAVEL EXPENSES, AND FUNDS FOR SHELTER, CLOTHING, FOOD, APPROPRIATE EDUCATION, INCLUDING POSTSECONDARY AND VOCATIONAL EDUCATION, AND OTHER CURRENT LIVING COSTS FOR THE INDIVIDUALS DESCRIBED ABOVE

(___) PAY EXPENSES FOR NECESSARY HEALTH CARE AND CUSTODIAL CARE ON BEHALF OF THE INDIVIDUALS DESCRIBED ABOVE

(___) ACT AS THE PRINCIPAL'S PERSONAL REPRESENTATIVE IN ACCORDANCE WITH THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT, §§ 1171 THROUGH 1179 OF THE SOCIAL SECURITY ACT, 42 U.S.C. § 1320D, AND APPLICABLE REGULATIONS IN MAKING DECISIONS RELATED TO THE PAST, PRESENT, OR FUTURE PAYMENT FOR THE PROVISION OF HEALTH CARE CONSENTED TO BY THE PRINCIPAL OR ANYONE AUTHORIZED UNDER THE LAW OF THIS STATE TO CONSENT TO HEALTH CARE ON BEHALF OF THE PRINCIPAL

(___) CONTINUE PROVISIONS MADE BY THE PRINCIPAL FOR AUTOMOBILES OR OTHER MEANS OF TRANSPORTATION, INCLUDING REGISTERING, LICENSING, INSURING, AND REPLACING THE MEANS OF TRANSPORTATION, FOR THE INDIVIDUALS DESCRIBED ABOVE

(___) MAINTAIN CREDIT AND DEBIT ACCOUNTS FOR THE CONVENIENCE OF THE INDIVIDUALS DESCRIBED ABOVE AND OPEN NEW ACCOUNTS

(___) CONTINUE PAYMENTS INCIDENTAL TO THE MEMBERSHIP OR AFFILIATION OF THE PRINCIPAL IN A RELIGIOUS INSTITUTION, CLUB, SOCIETY, ORDER, OR OTHER ORGANIZATION OR TO CONTINUE CONTRIBUTIONS TO THOSE ORGANIZATIONS

(NOTE: AUTHORITY WITH RESPECT TO PERSONAL AND FAMILY MAINTENANCE IS NEITHER DEPENDENT ON, NOR LIMITED BY, AUTHORITY THAT AN AGENT MAY OR MAY NOT HAVE WITH RESPECT TO GIFTS UNDER THIS POWER OF ATTORNEY.)

(___) ALL OF THE ABOVE

K. BENEFITS FROM GOVERNMENTAL PROGRAMS OR CIVIL OR MILITARY SERVICE (INCLUDING ANY BENEFIT, PROGRAM, OR ASSISTANCE PROVIDED UNDER A STATUTE OR REGULATION INCLUDING SOCIAL SECURITY, MEDICARE, AND MEDICAID) – WITH RESPECT TO THIS SUBJECT, I AUTHORIZE MY AGENT TO:

(___) EXECUTE VOUCHERS IN THE NAME OF THE PRINCIPAL FOR ALLOWANCES AND REIMBURSEMENTS PAYABLE BY THE UNITED STATES OR A FOREIGN GOVERNMENT OR BY A STATE OR SUBDIVISION OF A STATE TO THE PRINCIPAL, INCLUDING ALLOWANCES AND REIMBURSEMENTS FOR TRANSPORTATION OF THE INDIVIDUALS DESCRIBED IN "J. PERSONAL AND FAMILY MAINTENANCE" ABOVE, AND FOR SHIPMENT OF THE HOUSEHOLD EFFECTS OF THOSE INDIVIDUALS

(___) TAKE POSSESSION AND ORDER THE REMOVAL AND SHIPMENT OF PROPERTY OF THE PRINCIPAL FROM A POST, WAREHOUSE, DEPOT, DOCK, OR OTHER PLACE OF STORAGE OR SAFEKEEPING, EITHER GOVERNMENTAL OR PRIVATE, AND EXECUTE AND DELIVER A RELEASE, VOUCHER, RECEIPT, BILL OF LADING, SHIPPING TICKET, CERTIFICATE, OR OTHER INSTRUMENT FOR THAT PURPOSE

(___) ENROLL IN, APPLY FOR, SELECT, REJECT, CHANGE, AMEND, OR DISCONTINUE, ON THE PRINCIPAL'S BEHALF, A BENEFIT OR PROGRAM

(___) PREPARE, FILE, AND MAINTAIN A CLAIM OF THE PRINCIPAL FOR A BENEFIT OR ASSISTANCE, FINANCIAL OR OTHERWISE, TO WHICH THE PRINCIPAL MAY BE ENTITLED UNDER A STATUTE OR REGULATION

(___) INITIATE, PARTICIPATE IN, SUBMIT TO ALTERNATIVE DISPUTE RESOLUTION, SETTLE, OPPOSE, OR PROPOSE OR ACCEPT A COMPROMISE WITH RESPECT TO LITIGATION CONCERNING A BENEFIT OR ASSISTANCE THE PRINCIPAL MAY BE ENTITLED TO RECEIVE UNDER A STATUTE OR REGULATION

(___) RECEIVE THE FINANCIAL PROCEEDS OF A CLAIM DESCRIBED ABOVE AND CONSERVE, INVEST, DISBURSE, OR USE FOR A LAWFUL PURPOSE ANYTHING SO RECEIVED

(___) ALL OF THE ABOVE

L. RETIREMENT PLANS (INCLUDING A PLAN OR ACCOUNT CREATED BY AN EMPLOYER, THE PRINCIPAL, OR ANOTHER INDIVIDUAL TO PROVIDE RETIREMENT BENEFITS OR DEFERRED COMPENSATION OF WHICH THE PRINCIPAL IS A PARTICIPANT, BENEFICIARY, OR OWNER, INCLUDING A PLAN OR ACCOUNT UNDER THE FOLLOWING SECTIONS OF THE INTERNAL REVENUE CODE:

(1) AN INDIVIDUAL RETIREMENT ACCOUNT UNDER INTERNAL REVENUE CODE SECTION 408, 26 U.S.C. § 408;

(2) A ROTH INDIVIDUAL RETIREMENT ACCOUNT UNDER INTERNAL REVENUE CODE SECTION 408A, 26 U.S.C. § 408A;

(3) A DEEMED INDIVIDUAL RETIREMENT ACCOUNT UNDER INTERNAL REVENUE CODE SECTION 408(Q), 26 U.S.C. § 408(Q);

(4) AN ANNUITY OR MUTUAL FUND CUSTODIAL ACCOUNT UNDER INTERNAL REVENUE CODE SECTION 403(B), 26 U.S.C. § 403(B);

(5) A PENSION, PROFIT–SHARING, STOCK BONUS, OR OTHER RETIREMENT PLAN QUALIFIED UNDER INTERNAL REVENUE CODE SECTION 401(A), 26 U.S.C. § 401(A);

(6) A PLAN UNDER INTERNAL REVENUE CODE SECTION 457(B), 26 U.S.C. § 457(B); AND

(7) A NONQUALIFIED DEFERRED COMPENSATION PLAN UNDER INTERNAL REVENUE CODE SECTION 409A, 26 U.S.C. § 409A) – WITH RESPECT TO THIS SUBJECT, I AUTHORIZE MY AGENT TO:

(___) SELECT THE FORM AND TIMING OF PAYMENTS UNDER A RETIREMENT PLAN AND WITHDRAW BENEFITS FROM A PLAN

(___) MAKE A ROLLOVER, INCLUDING A DIRECT TRUSTEE–TO–TRUSTEE ROLLOVER, OF BENEFITS FROM ONE RETIREMENT PLAN TO ANOTHER

(___) ESTABLISH A RETIREMENT PLAN IN THE PRINCIPAL'S NAME

(___) MAKE CONTRIBUTIONS TO A RETIREMENT PLAN

(___) EXERCISE INVESTMENT POWERS AVAILABLE UNDER A RETIREMENT PLAN

(___) BORROW FROM, SELL ASSETS TO, OR PURCHASE ASSETS FROM A RETIREMENT PLAN

(___) ALL OF THE ABOVE

M. TAXES – WITH RESPECT TO THIS SUBJECT, I AUTHORIZE MY AGENT TO:

(___) PREPARE, SIGN, AND FILE FEDERAL, STATE, LOCAL, AND FOREIGN INCOME, GIFT, PAYROLL, PROPERTY, FEDERAL INSURANCE CONTRIBUTIONS ACT, AND OTHER TAX RETURNS, CLAIMS FOR REFUNDS, REQUESTS FOR EXTENSION OF TIME, PETITIONS REGARDING TAX MATTERS, AND OTHER TAX–RELATED DOCUMENTS, INCLUDING RECEIPTS, OFFERS, WAIVERS, CONSENTS, INCLUDING CONSENTS AND AGREEMENTS UNDER INTERNAL REVENUE CODE SECTION 2032A, 26 U.S.C. § 2032A, CLOSING AGREEMENTS, AND OTHER POWERS OF ATTORNEY REQUIRED BY THE INTERNAL REVENUE SERVICE OR OTHER TAXING AUTHORITY WITH RESPECT TO A TAX YEAR ON WHICH THE STATUTE OF LIMITATIONS HAS NOT RUN AND THE FOLLOWING 25 TAX YEARS

(___) PAY TAXES DUE, COLLECT REFUNDS, POST BONDS, RECEIVE CONFIDENTIAL INFORMATION, AND CONTEST DEFICIENCIES DETERMINED BY THE INTERNAL REVENUE SERVICE OR OTHER TAXING AUTHORITY

(___) EXERCISE ELECTIONS AVAILABLE TO THE PRINCIPAL UNDER FEDERAL, STATE, LOCAL, OR FOREIGN TAX LAW

(___) ACT FOR THE PRINCIPAL IN ALL TAX MATTERS FOR ALL PERIODS BEFORE THE INTERNAL REVENUE SERVICE, OR OTHER TAXING AUTHORITY

(___) ALL OF THE ABOVE

N. GIFTS (INCLUDING GIFTS TO A TRUST, AN ACCOUNT UNDER THE UNIFORM TRANSFERS TO MINORS ACT, AND A TUITION SAVINGS ACCOUNT OR PREPAID TUITION PLAN AS DEFINED UNDER INTERNAL REVENUE CODE SECTION 529, 26 U.S.C. § 529) – WITH RESPECT TO THIS SUBJECT, I AUTHORIZE MY AGENT TO:

(___) MAKE OUTRIGHT TO, OR FOR THE BENEFIT OF, A PERSON, A GIFT OF PART OR ALL OF THE PRINCIPAL'S PROPERTY, INCLUDING BY THE EXERCISE OF A PRESENTLY EXERCISABLE GENERAL POWER OF APPOINTMENT HELD BY THE PRINCIPAL, IN AN AMOUNT FOR EACH DONEE NOT TO EXCEED THE ANNUAL DOLLAR LIMITS OF THE FEDERAL GIFT TAX EXCLUSION UNDER INTERNAL REVENUE CODE SECTION 2503(B), 26 U.S.C. § 2503(B), WITHOUT REGARD TO WHETHER THE FEDERAL GIFT TAX EXCLUSION APPLIES TO THE GIFT, OR IF THE PRINCIPAL'S SPOUSE AGREES TO CONSENT TO A SPLIT GIFT PURSUANT TO INTERNAL REVENUE CODE SECTION 2513, 26 U.S.C. § 2513, IN AN AMOUNT FOR EACH DONEE NOT TO EXCEED TWICE THE ANNUAL FEDERAL GIFT TAX EXCLUSION LIMIT

(___) CONSENT, PURSUANT TO INTERNAL REVENUE CODE SECTION 2513, 26 U.S.C. § 2513, TO THE SPLITTING OF A GIFT MADE BY THE PRINCIPAL'S SPOUSE IN AN AMOUNT FOR EACH DONEE NOT TO EXCEED THE AGGREGATE ANNUAL GIFT TAX EXCLUSIONS FOR BOTH SPOUSES

(NOTE: AN AGENT MAY ONLY MAKE A GIFT OF THE PRINCIPAL'S PROPERTY AS THE AGENT DETERMINES IS CONSISTENT WITH THE PRINCIPAL'S OBJECTIVES IF ACTUALLY KNOWN BY THE AGENT AND, IF UNKNOWN, AS THE AGENT DETERMINES IS CONSISTENT WITH THE PRINCIPAL'S BEST INTEREST BASED ON ALL RELEVANT FACTORS, INCLUDING:

(1) THE VALUE AND NATURE OF THE PRINCIPAL'S PROPERTY;

(2) THE PRINCIPAL'S FORESEEABLE OBLIGATIONS AND NEED FOR MAINTENANCE;

(3) MINIMIZATION OF TAXES, INCLUDING INCOME, ESTATE, INHERITANCE, GENERATION–SKIPPING TRANSFER, AND GIFT TAXES;

(4) ELIGIBILITY FOR A BENEFIT, A PROGRAM, OR ASSISTANCE UNDER A STATUTE OR REGULATION; AND

(5) THE PRINCIPAL'S PERSONAL HISTORY OF MAKING OR JOINING IN MAKING GIFTS.)

(___) ALL OF THE ABOVE

GRANT OF SPECIFIC AUTHORITY (OPTIONAL)

MY AGENT MAY NOT DO ANY OF THE FOLLOWING SPECIFIC ACTS FOR ME UNLESS I HAVE INITIALED THE SPECIFIC AUTHORITY LISTED BELOW:

(CAUTION: GRANTING ANY OF THE FOLLOWING WILL GIVE YOUR AGENT THE AUTHORITY TO TAKE ACTIONS THAT COULD SIGNIFICANTLY REDUCE YOUR PROPERTY OR CHANGE HOW YOUR PROPERTY IS DISTRIBUTED AT YOUR DEATH. INITIAL ONLY THE SPECIFIC AUTHORITY YOU WANT TO GIVE YOUR AGENT.)

(___) CREATE~~,~~ *AN INTER VIVOS TRUST, OR* AMEND, REVOKE, OR TERMINATE AN *EXISTING* INTER VIVOS TRUST *IF THE TRUST EXPRESSLY AUTHORIZES THAT ACTION BY THE AGENT*

(___) MAKE A GIFT, SUBJECT TO ~~THE LIMITATIONS OF THE MARYLAND UNIFORM POWER OF ATTORNEY ACT, § 17–217 OF THE ESTATES AND TRUSTS ARTICLE, AND~~ ANY SPECIAL INSTRUCTIONS IN THIS POWER OF ATTORNEY

(___) CREATE OR CHANGE RIGHTS OF SURVIVORSHIP

(___) CREATE OR CHANGE A BENEFICIARY DESIGNATION

(___) AUTHORIZE ANOTHER PERSON TO EXERCISE THE AUTHORITY GRANTED UNDER THIS POWER OF ATTORNEY

(___) WAIVE THE PRINCIPAL'S RIGHT TO BE A BENEFICIARY OF A JOINT AND SURVIVOR ANNUITY, INCLUDING A SURVIVOR BENEFIT UNDER A RETIREMENT PLAN

(___) EXERCISE FIDUCIARY POWERS THAT THE PRINCIPAL HAS AUTHORITY TO DELEGATE

(___) DISCLAIM OR REFUSE AN INTEREST IN PROPERTY, INCLUDING A POWER OF APPOINTMENT

LIMITATION ON AGENT'S AUTHORITY

AN AGENT THAT IS NOT MY ANCESTOR, SPOUSE, OR DESCENDANT MAY NOT USE MY PROPERTY TO BENEFIT THE AGENT OR A PERSON TO WHOM THE AGENT OWES AN OBLIGATION OF SUPPORT UNLESS I HAVE INCLUDED THAT AUTHORITY IN THE SPECIAL INSTRUCTIONS.

SPECIAL INSTRUCTIONS (OPTIONAL)

YOU MAY GIVE SPECIAL INSTRUCTIONS ON THE FOLLOWING LINES:

_____
_____
_____
_____
_____
_____
_____

EFFECTIVE DATE

THIS POWER OF ATTORNEY IS EFFECTIVE IMMEDIATELY UNLESS I HAVE STATED OTHERWISE IN THE SPECIAL INSTRUCTIONS.

TERMINATION DATE (OPTIONAL)

THIS POWER OF ATTORNEY SHALL TERMINATE ON _____, 20____.
(USE A SPECIFIC CALENDAR DATE)

NOMINATION OF GUARDIAN (OPTIONAL)

IF IT BECOMES NECESSARY FOR A COURT TO APPOINT A GUARDIAN OF MY ~~ESTATE~~ PROPERTY OR GUARDIAN OF MY PERSON, I NOMINATE THE FOLLOWING PERSON(S) FOR APPOINTMENT:

NAME OF NOMINEE FOR GUARDIAN OF MY ~~ESTATE~~ PROPERTY:

_____
NOMINEE'S ADDRESS:_____
NOMINEE'S TELEPHONE NUMBER:_____

NAME OF NOMINEE FOR GUARDIAN OF MY PERSON:

_____
NOMINEE'S ADDRESS:_____
NOMINEE'S TELEPHONE NUMBER:_____

~~RELIANCE ON THIS POWER OF ATTORNEY~~

~~ANY PERSON, INCLUDING MY AGENT, MAY RELY ON THE VALIDITY OF THIS POWER OF ATTORNEY OR A COPY OF IT UNLESS THAT PERSON KNOWS IT HAS TERMINATED OR IS INVALID.~~

SIGNATURE AND ACKNOWLEDGMENT

_____ _____

YOUR SIGNATURE DATE

_____

YOUR NAME PRINTED

_____

_____

YOUR ADDRESS

_____

YOUR TELEPHONE NUMBER

STATE OF MARYLAND
(COUNTY) OF_____

THIS DOCUMENT WAS ACKNOWLEDGED BEFORE ME ON
_____,
(DATE)

BY_____.
(NAME OF PRINCIPAL)

_____ (SEAL, IF ANY)
SIGNATURE OF NOTARY
MY COMMISSION EXPIRES: _____

WITNESS ATTESTATION

THE FOREGOING POWER OF ATTORNEY WAS, ON THE DATE WRITTEN ABOVE, PUBLISHED AND DECLARED BY

_____

(NAME OF PRINCIPAL)

IN OUR PRESENCE TO BE HIS/HER POWER OF ATTORNEY. WE, IN HIS/HER PRESENCE AND AT HIS/HER REQUEST, AND IN THE PRESENCE OF EACH OTHER, HAVE ATTESTED TO THE SAME AND HAVE SIGNED OUR NAMES AS ATTESTING WITNESSES.

_____

WITNESS #1 SIGNATURE

_____

WITNESS #1 NAME PRINTED

_____

_____

WITNESS #1 ADDRESS

_____

WITNESS #1 TELEPHONE NUMBER

_____

WITNESS #2 SIGNATURE

_____

WITNESS #2 NAME PRINTED

_____

_____

WITNESS #2 ADDRESS

_____

WITNESS #2 TELEPHONE NUMBER"

THIS DOCUMENT PREPARED BY:

_____

_____

IMPORTANT INFORMATION FOR AGENT

AGENT'S DUTIES

WHEN YOU ACCEPT THE AUTHORITY GRANTED UNDER THIS POWER OF ATTORNEY, A SPECIAL LEGAL RELATIONSHIP IS CREATED BETWEEN YOU AND THE PRINCIPAL. THIS RELATIONSHIP IMPOSES ON YOU LEGAL DUTIES THAT CONTINUE UNTIL YOU RESIGN OR THE POWER OF ATTORNEY IS TERMINATED OR REVOKED. YOU MUST:

(1) DO WHAT YOU KNOW THE PRINCIPAL REASONABLY EXPECTS YOU TO DO WITH THE PRINCIPAL'S PROPERTY OR, IF YOU DO NOT KNOW THE PRINCIPAL'S EXPECTATIONS, ACT IN THE PRINCIPAL'S BEST INTEREST;

(2) ACT ~~IN GOOD FAITH~~ WITH CARE, COMPETENCE, AND DILIGENCE FOR THE BEST INTEREST OF THE PRINCIPAL;

(3) DO NOTHING BEYOND THE AUTHORITY GRANTED IN THIS POWER OF ATTORNEY; AND

(4) DISCLOSE YOUR IDENTITY AS AN AGENT WHENEVER YOU ACT FOR THE PRINCIPAL BY WRITING OR PRINTING THE NAME OF THE PRINCIPAL AND SIGNING YOUR OWN NAME AS "AGENT" IN THE FOLLOWING MANNER:

_____ _____

(PRINCIPAL'S NAME) BY (YOUR SIGNATURE) AS AGENT

UNLESS THE SPECIAL INSTRUCTIONS IN THIS POWER OF ATTORNEY STATE OTHERWISE, YOU MUST ALSO:

(1) ACT LOYALLY FOR THE PRINCIPAL'S BENEFIT;

(2) AVOID CONFLICTS THAT WOULD IMPAIR YOUR ABILITY TO ACT IN THE PRINCIPAL'S BEST INTEREST;

~~(3) ACT WITH CARE, COMPETENCE, AND DILIGENCE;~~

~~(4)~~ (3) KEEP A RECORD OF ALL RECEIPTS, DISBURSEMENTS, AND TRANSACTIONS MADE ON BEHALF OF THE PRINCIPAL;

~~(5)~~ (4) COOPERATE WITH ANY PERSON THAT HAS AUTHORITY TO MAKE HEALTH CARE DECISIONS FOR THE PRINCIPAL TO DO WHAT YOU KNOW THE PRINCIPAL REASONABLY EXPECTS OR, IF YOU DO NOT KNOW THE PRINCIPAL'S EXPECTATIONS, TO ACT IN THE PRINCIPAL'S BEST INTEREST; AND

~~(6)~~ (5) ATTEMPT TO PRESERVE THE PRINCIPAL'S ESTATE PLAN IF YOU KNOW THE PLAN AND PRESERVING THE PLAN IS CONSISTENT WITH THE PRINCIPAL'S BEST INTEREST.

TERMINATION OF AGENT'S AUTHORITY

YOU MUST STOP ACTING ON BEHALF OF THE PRINCIPAL IF YOU LEARN OF ANY EVENT THAT TERMINATES THIS POWER OF ATTORNEY OR YOUR AUTHORITY UNDER THIS POWER OF ATTORNEY. EVENTS THAT TERMINATE A POWER OF ATTORNEY OR YOUR AUTHORITY TO ACT UNDER A POWER OF ATTORNEY INCLUDE:

(1) DEATH OF THE PRINCIPAL;

(2) THE PRINCIPAL'S REVOCATION OF THE POWER OF ATTORNEY OR YOUR AUTHORITY;

(3) THE OCCURRENCE OF A TERMINATION EVENT STATED IN THE POWER OF ATTORNEY;

(4) THE PURPOSE OF THE POWER OF ATTORNEY IS FULLY ACCOMPLISHED; OR

(5) IF YOU ARE MARRIED TO THE PRINCIPAL, A LEGAL ACTION IS FILED WITH A COURT TO END YOUR MARRIAGE, OR FOR YOUR LEGAL SEPARATION, UNLESS THE SPECIAL INSTRUCTIONS IN THIS POWER OF ATTORNEY STATE THAT SUCH AN ACTION WILL NOT TERMINATE YOUR AUTHORITY.

LIABILITY OF AGENT

THE MEANING OF THE AUTHORITY GRANTED TO YOU IS DEFINED IN THE MARYLAND ~~UNIFORM~~ POWER OF ATTORNEY ACT, TITLE 17 OF THE ESTATES AND TRUSTS ARTICLE. IF YOU VIOLATE THE MARYLAND ~~UNIFORM~~ POWER OF ATTORNEY ACT, TITLE 17 OF THE ESTATES AND TRUSTS ARTICLE, OR ACT OUTSIDE THE AUTHORITY GRANTED, YOU MAY BE LIABLE FOR ANY DAMAGES CAUSED BY YOUR VIOLATION.

IF THERE IS ANYTHING ABOUT THIS DOCUMENT OR YOUR DUTIES THAT YOU DO NOT UNDERSTAND, YOU SHOULD SEEK LEGAL ADVICE.".

~~17–202.~~ 17–204.

THE FOLLOWING OPTIONAL FORM MAY BE USED BY AN AGENT TO CERTIFY FACTS CONCERNING A POWER OF ATTORNEY:

"AGENT'S CERTIFICATION AS TO THE VALIDITY OF POWER OF ATTORNEY AND AGENT'S AUTHORITY

STATE OF MARYLAND
(COUNTY) OF_____

I, _____ (NAME OF AGENT), CERTIFY UNDER PENALTY OF PERJURY THAT _____ (NAME OF PRINCIPAL) GRANTED ME AUTHORITY AS AN AGENT OR SUCCESSOR AGENT IN A POWER OF ATTORNEY DATED _____.

I FURTHER CERTIFY THAT TO MY KNOWLEDGE:

(1) THE PRINCIPAL IS ALIVE AND HAS NOT REVOKED THE POWER OF ATTORNEY OR MY AUTHORITY TO ACT UNDER THE POWER OF ATTORNEY AND

THE POWER OF ATTORNEY AND MY AUTHORITY TO ACT UNDER THE POWER OF ATTORNEY HAVE NOT TERMINATED;

(2) IF THE POWER OF ATTORNEY WAS DRAFTED TO BECOME EFFECTIVE ON THE HAPPENING OF AN EVENT OR CONTINGENCY, THE EVENT OR CONTINGENCY HAS OCCURRED;

(3) IF I WAS NAMED AS A SUCCESSOR AGENT, THE PRIOR AGENT IS NO LONGER ABLE OR WILLING TO SERVE; AND

(4) _____
_____
_____
_____

(INSERT OTHER RELEVANT STATEMENTS)

SIGNATURE AND ACKNOWLEDGMENT

_____ _____
AGENT'S SIGNATURE DATE

_____
AGENT'S NAME PRINTED

_____
_____
AGENT'S ADDRESS

_____
AGENT'S TELEPHONE NUMBER

THIS DOCUMENT WAS ACKNOWLEDGED BEFORE ME ON _____,
(DATE)

BY_____.
(NAME OF AGENT)

_____ (SEAL, IF ANY)
SIGNATURE OF NOTARY

MY COMMISSION EXPIRES: _____

THIS DOCUMENT PREPARED BY:

_____.”.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 690

(Senate Bill 309)

AN ACT concerning

~~Uniform Power of Attorney Act~~
Maryland General and Limited Power of Attorney Act (Loretta's Law)

~~FOR the purpose of repealing certain provisions of law relating to durable powers of attorney; establishing the Uniform Power of Attorney Act; establishing certain exceptions to the application of this Act; establishing that a power of attorney created under this Act is durable unless the power of attorney contains a certain provision; requiring a power of attorney to be signed by the principal or a certain other individual; providing that a signature on a power of attorney is presumed to be genuine after a certain acknowledgment; providing for the validity of certain powers of attorney under certain circumstances; providing that a certain photocopy or electronically transmitted copy of an original power of attorney has a certain effect under certain circumstances; providing for the meaning and effect of a certain power of attorney in certain circumstances; authorizing a principal, in a power of attorney, to make a certain nomination; establishing the accountability of a certain agent under certain circumstances; establishing that, with certain exceptions, a certain court appointment does not terminate a power of attorney; establishing that a power of attorney is effective under certain circumstances; authorizing a principal in a power of attorney to authorize certain persons to make a certain determination; establishing that a certain power of attorney may become effective on a certain determination by a certain individual; establishing certain circumstances under which a certain person may act as the principal's personal representative for certain purposes; establishing certain circumstances under which a power of attorney terminates; providing that a certain agent's authority remains exercisable, notwithstanding certain circumstances; establishing that the termination of an agent's authority or a power of attorney is not effective as to certain persons under certain circumstances; establishing that certain persons are bound by certain acts; establishing that the incapacity of a certain principal in a power of attorney does not have a certain effect; establishing that the execution of a power of~~

~~attorney does not revoke a previously executed power of attorney, with certain exceptions; authorizing a principal in a power of attorney to designate a certain number of coagents for certain purposes; authorizing a principal in a power of attorney to make certain designations and grant a certain authority; establishing the authority of a certain successor agent in certain circumstances; limiting the liability of a certain agent for the actions of another agent in certain circumstances; requiring a certain agent with certain knowledge to take certain actions; establishing liability of a certain agent for failure to take certain actions in certain circumstances; establishing the entitlement of a certain agent to a certain reimbursement of expenses in certain circumstances; providing for the acceptance of a certain appointment by an agent under certain circumstances; requiring a certain agent that has accepted a certain appointment to act in a certain manner; providing for the liability of a certain agent under certain circumstances; establishing that a certain agent is not required to disclose certain information, with certain exceptions; requiring a certain agent to comply with a certain request within a certain time period, under certain circumstances; authorizing a principal or an interested person to file a certain petition for injunctive relief in a certain court for certain purposes; establishing that a certain provision in a power of attorney is binding on certain persons; authorizing certain persons to petition a court for certain purposes; requiring a court to dismiss a certain petition; providing for the liability of a certain agent for a certain amount; authorizing a certain agent to resign by giving a certain notice; authorizing a certain person to request and rely on a certain certification, translation, or opinion, without further investigation and without liability under certain circumstances; establishing that a certain person is without actual knowledge of a certain fact under certain circumstances; requiring a person to either accept a certain power of attorney or request a certain certification, translation, or opinion of counsel within a certain period after presentation of the power of attorney, except under certain circumstances; requiring a person to accept a certain power of attorney within a certain period after receiving the certification, translation, or opinion of counsel, except under certain circumstances; prohibiting a person from requiring a certain additional or different power of attorney under certain circumstances; establishing that this Act does not supersede and is controlled by certain other laws; authorizing a certain agent to perform certain acts only under certain circumstances; prohibiting an agent that is not an ancestor, spouse, or descendent of the principal from exercising a certain authority; providing that a certain power of attorney provides a certain agent with certain authority; subjecting a certain grant of authority to certain limitations of this Act; providing for a certain controlling authority under certain circumstances; establishing certain circumstances under which a certain authority is exercisable with respect to certain property; establishing that a certain act performed by a certain agent has a certain effect and inures to the benefit of and binds certain persons; establishing that a certain agent has authority described in this Act under certain circumstances; providing that a certain reference in a power of attorney incorporates a certain provision of this Act as if set out in full; authorizing a certain principal to modify a certain authority; providing that a principal, by~~

~~executing a certain power of attorney, authorizes an agent to perform certain acts; establishing that certain language authorizes a certain agent to perform certain acts; establishing that certain language in a power of attorney, subject to the terms of a certain document or agreement, authorizes the agent to perform certain acts; establishing that certain language in a power of attorney authorizes the agent to perform only certain acts; establishing that a document substantially in a certain form may be used to create a certain statutory form power of attorney; establishing that a certain optional form may be used by an agent to certify certain facts concerning a power of attorney; authorizing the use of the title of this Act in certain circumstances; requiring that, in applying and construing this Act, a certain consideration be given; establishing that this Act modifies, limits, and supersedes a provision of a certain federal law, but not certain other provisions; providing for the application of this Act; defining certain terms; and generally relating to powers of attorney.~~

FOR the purpose of repealing certain provisions of law relating to durable powers of attorney; establishing the Maryland General and Limited Power of Attorney Act; establishing that a certain agent is not required to disclose certain information, with certain exceptions; requiring a certain agent to comply with a certain request within a certain time period, under certain circumstances; authorizing a principal or an interested person to file a certain petition for injunctive relief in a certain court for certain purposes; authorizing certain persons to petition a court for certain purposes; requiring a court to dismiss a certain petition; prohibiting a person from requiring a certain additional or different power of attorney than a certain statutory form power of attorney under certain circumstances; providing that a person that refuses to accept a certain power of attorney in violation of this Act is subject to a certain court order and liability for certain fees and costs incurred in a certain action; establishing that a document substantially in a certain form may be used to create a certain statutory form power of attorney; providing that a certain power of attorney is durable, with a certain exception; providing for the effect of certain acts performed for a certain incapacitated principal; requiring a certain attorney in fact or agent to account to a certain guardian under certain circumstances; providing that a certain guardian has the same power as the principal under certain circumstances; providing that the death, disability, or incompetence of a certain principal does not revoke or terminate a certain agency under certain circumstances; establishing that a certain affidavit executed by a certain attorney in fact is conclusive proof of a certain event; establishing that a report that a certain member of the armed forces of the United States is missing in action does not operate to revoke a certain power of attorney, with a certain exception; providing that a power of attorney executed in the State is valid and enforceable as to persons dealing with the agent; providing that a power of attorney executed outside the State is valid and enforceable as to persons dealing with the agent under certain circumstances; providing that a certain photocopy or electronically transmitted copy of an original power of attorney is as valid and binding as the original power of attorney under certain circumstances; authorizing a clerk of court to refuse to

record a certain copy of a power of attorney; providing exceptions to the applicability of this Act; requiring a power of attorney to have certain characteristics; *establishing certain requirements for the execution of certain powers of attorney;* providing for when a power of attorney becomes effective; providing for the termination of a power of attorney; requiring a certain agent to act in a certain manner; providing for reimbursement of expenses and compensation for a certain agent under certain circumstances; prohibiting a person from requiring an additional or different form of a power of attorney than a certain statutory form; subjecting a certain person to a certain liability for refusal to accept a certain power of attorney; providing that this Act does not supersede certain other laws; authorizing this Act to be cited in a certain manner; establishing that a certain optional form may be used to create a certain statutory form power of attorney; defining certain terms; and generally relating to powers of attorney.

BY repealing
Article – Estates and Trusts
Section 13–601 through 13–603 and the subtitle "Subtitle 6. Powers of Attorney"
Annotated Code of Maryland
(2001 Replacement Volume and 2009 Supplement)

BY adding to
Article – Estates and Trusts
~~Section 17–101 through 17–404 to be under the new title "Title 17. Uniform Power of Attorney Act"~~
Section 17–101 through 17–204 to be under the new title "Title 17. Maryland General and Limited Power of Attorney Act"
Annotated Code of Maryland
(2001 Replacement Volume and 2009 Supplement)

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

Article – Estates and Trusts

[Subtitle 6. Powers of Attorney.**]**

[13–601.

(a) In this section, "durable power of attorney" means a power of attorney by which a principal designates another as an attorney in fact or agent and the authority is exercisable notwithstanding the principal's subsequent disability or incapacity.

(b) Except as provided in subsection (e) of this section, when a principal designates another as an attorney in fact or agent by a power of attorney in writing, it is a durable power of attorney unless otherwise provided by its terms.

(c) Any act done by the attorney in fact or agent pursuant to the power during any period of disability or incompetence or uncertainty as to whether the principal is dead or alive has the same effect and inures to the benefit of and binds the principal as if the principal were alive, competent, and not disabled.

(d) If a guardian is appointed for the principal, the attorney in fact or agent shall account to the guardian rather than the principal. The guardian has the same power the principal would have but for his disability or incompetence to revoke, suspend, or terminate all or any part of the power of attorney or agency.

(e) (1) This section does not apply to an instrument or portion of an instrument that is an advance directive appointing a health care agent under Title 5, Subtitle 6 of the Health – General Article.

(2) An instrument or portion of an instrument that is an advance directive appointing a health care agent is subject to the provisions of Title 5, Subtitle 6 of the Health – General Article.**]**

[13–602.

(a) The death, disability, or incompetence of a principal who has executed a power of attorney in writing does not revoke or terminate the agency as to the attorney in fact, agent, or other person who, without actual knowledge of the death, disability, or incompetence of the principal, acts in good faith under the power of attorney or agency. Unless otherwise invalid or unenforceable, any action taken binds the principal and his heirs, legatees, and personal representatives.

(b) In the absence of fraud, an affidavit executed by the attorney in fact or agent and stating that he did not have, at the time of doing an act pursuant to the power of attorney, actual knowledge of the revocation or termination of the power of attorney by death, disability, or incompetence, is conclusive proof of the nonrevocation or nontermination of the power at that time. If the exercise of the power requires execution and delivery of any instrument which is recordable, the affidavit when authenticated for record is likewise recordable.

(c) This section may not be construed to alter or affect any provision for revocation or termination contained in the power of attorney.**]**

[13–603.

If any member of the armed services of the United States has executed a power of attorney, the fact that the person has been reported or listed, officially or otherwise, as "missing in action", as that phrase is used in military parlance, may not operate to revoke the power of attorney, unless the instrument otherwise provides.**]**

TITLE 17. MARYLAND GENERAL AND LIMITED POWER OF ATTORNEY ACT.

SUBTITLE 1. GENERAL PROVISIONS.

17–101.

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

(B) (1) "AGENT" MEANS A PERSON GRANTED AUTHORITY TO ACT FOR A PRINCIPAL UNDER A POWER OF ATTORNEY, WHETHER DENOMINATED AN AGENT, ATTORNEY–IN–FACT, OR OTHERWISE.

(2) "AGENT" INCLUDES AN ORIGINAL AGENT, COAGENT, SUCCESSOR AGENT, AND A PERSON TO WHICH AN AGENT'S AUTHORITY IS DELEGATED.

(C) "INCAPACITY" MEANS THE INABILITY OF AN INDIVIDUAL TO MANAGE PROPERTY OR BUSINESS AFFAIRS BECAUSE THE INDIVIDUAL:

(1) MEETS THE GROUNDS REQUIRED FOR THE APPOINTMENT OF A GUARDIAN OF THE PROPERTY OF A DISABLED PERSON DESCRIBED IN § 13–201 OF THIS ARTICLE; OR

(2) IS:

(I) MISSING;

(II) DETAINED, INCLUDING INCARCERATED IN A PENAL SYSTEM; OR

(III) OUTSIDE THE UNITED STATES AND UNABLE TO RETURN.

(D) "POWER OF ATTORNEY" MEANS A WRITING OR OTHER RECORD THAT GRANTS AUTHORITY TO AN AGENT TO ACT IN THE PLACE OF THE PRINCIPAL, WHETHER OR NOT THE TERM "POWER OF ATTORNEY" IS USED.

(E) "PRINCIPAL" MEANS AN INDIVIDUAL WHO GRANTS AUTHORITY TO AN AGENT IN A POWER OF ATTORNEY.

(F) "STATUTORY FORM POWER OF ATTORNEY" MEANS A POWER OF ATTORNEY THAT IS SUBSTANTIALLY IN THE SAME FORM AS ONE OF THE POWERS OF ATTORNEY SET FORTH IN SUBTITLE 2 OF THIS TITLE.

17–102.

(A) EXCEPT AS OTHERWISE PROVIDED IN A POWER OF ATTORNEY, AN AGENT IS NOT REQUIRED TO DISCLOSE RECEIPTS, DISBURSEMENTS, OR TRANSACTIONS CONDUCTED ON BEHALF OF THE PRINCIPAL UNLESS ORDERED BY A COURT OR REQUESTED BY THE PRINCIPAL, A GUARDIAN, A CONSERVATOR, ANOTHER FIDUCIARY ACTING FOR THE PRINCIPAL, A GOVERNMENTAL AGENCY HAVING AUTHORITY TO PROTECT THE WELFARE OF THE PRINCIPAL, OR, ON THE DEATH OF THE PRINCIPAL, BY THE PERSONAL REPRESENTATIVE OR SUCCESSOR IN INTEREST OF THE PRINCIPAL'S ESTATE.

(B) (1) IF A REQUEST AS DESCRIBED IN SUBSECTION (A) OF THIS SECTION IS MADE, WITHIN 30 DAYS AFTER THE REQUEST IS MADE, THE AGENT SHALL COMPLY WITH THE REQUEST OR PROVIDE A WRITING OR OTHER RECORD SUBSTANTIATING WHY ADDITIONAL TIME IS NEEDED AND SHALL COMPLY WITH THE REQUEST WITHIN AN ADDITIONAL 30 DAYS.

(2) A PRINCIPAL OR AN INTERESTED PERSON MAY FILE A PETITION UNDER TITLE 15, CHAPTER 500 OF THE MARYLAND RULES IN THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE POWER OF ATTORNEY IS RECORDED TO ENJOIN AN AGENT TO COMPLY WITH THIS SECTION.

17–103.

(A) THE FOLLOWING PERSONS MAY PETITION A COURT TO CONSTRUE A POWER OF ATTORNEY OR REVIEW THE AGENT'S CONDUCT, AND GRANT APPROPRIATE RELIEF:

(1) THE PRINCIPAL OR THE AGENT;

(2) A GUARDIAN, CONSERVATOR, OR OTHER FIDUCIARY ACTING FOR THE PRINCIPAL;

(3) A PERSON AUTHORIZED TO MAKE HEALTH CARE DECISIONS FOR THE PRINCIPAL;

(4) THE PRINCIPAL'S SPOUSE, PARENT, OR DESCENDANT;

(5) AN INDIVIDUAL WHO WOULD QUALIFY AS A PRESUMPTIVE HEIR OF THE PRINCIPAL;

(6) A PERSON NAMED AS A BENEFICIARY TO RECEIVE ANY PROPERTY, BENEFIT, OR CONTRACTUAL RIGHT ON THE PRINCIPAL'S DEATH OR

AS A BENEFICIARY OF A TRUST CREATED BY OR FOR THE PRINCIPAL THAT HAS A FINANCIAL INTEREST IN THE PRINCIPAL'S ESTATE;

(7) A GOVERNMENTAL AGENCY HAVING REGULATORY AUTHORITY TO PROTECT THE WELFARE OF THE PRINCIPAL;

(8) THE PRINCIPAL'S CAREGIVER OR ANOTHER PERSON THAT DEMONSTRATES SUFFICIENT INTEREST IN THE PRINCIPAL'S WELFARE; AND

(9) A PERSON ASKED TO ACCEPT THE POWER OF ATTORNEY.

(B) ON MOTION BY THE PRINCIPAL, THE COURT SHALL DISMISS A PETITION FILED UNDER THIS SECTION, UNLESS THE COURT FINDS THAT THE PRINCIPAL LACKS CAPACITY TO REVOKE THE AGENT'S AUTHORITY OR THE POWER OF ATTORNEY.

17–104.

(A) A PERSON MAY NOT REQUIRE AN ADDITIONAL OR DIFFERENT FORM OF POWER OF ATTORNEY FOR ANY AUTHORITY GRANTED IN A STATUTORY FORM POWER OF ATTORNEY.

(B) A PERSON THAT REFUSES IN VIOLATION OF THIS SECTION TO ACCEPT AN ACKNOWLEDGED STATUTORY FORM POWER OF ATTORNEY IS SUBJECT TO:

(1) A COURT ORDER MANDATING ACCEPTANCE OF THE POWER OF ATTORNEY; AND

(2) LIABILITY FOR REASONABLE ATTORNEY'S FEES AND COSTS INCURRED IN AN ACTION OR PROCEEDING THAT CONFIRMS THE VALIDITY OF THE POWER OF ATTORNEY OR MANDATES ACCEPTANCE OF THE POWER OF ATTORNEY.

17–105.

(A) IN THIS SECTION, "DURABLE POWER OF ATTORNEY" MEANS A POWER OF ATTORNEY BY WHICH A PRINCIPAL DESIGNATES ANOTHER AS AN ATTORNEY IN FACT OR AGENT AND THE AUTHORITY IS EXERCISABLE NOTWITHSTANDING THE PRINCIPAL'S SUBSEQUENT DISABILITY OR INCAPACITY.

(B) WHEN A PRINCIPAL DESIGNATES ANOTHER AS AN ATTORNEY IN FACT OR AGENT BY A POWER OF ATTORNEY IN WRITING, IT IS A DURABLE POWER OF ATTORNEY UNLESS OTHERWISE PROVIDED BY ITS TERMS.

(C) ANY ACT DONE BY THE ATTORNEY IN FACT OR AGENT IN ACCORDANCE WITH THE POWER OF ATTORNEY DURING ANY PERIOD OF DISABILITY OR INCOMPETENCE OF THE PRINCIPAL OR DURING ANY PERIOD OF UNCERTAINTY AS TO WHETHER THE PRINCIPAL IS DEAD OR ALIVE HAS THE SAME EFFECT AND INURES TO THE BENEFIT OF AND BINDS THE PRINCIPAL AS IF THE PRINCIPAL WERE ALIVE, COMPETENT, AND NOT DISABLED.

(D) (1) IF A GUARDIAN IS APPOINTED FOR THE PRINCIPAL, THE ATTORNEY IN FACT OR AGENT SHALL ACCOUNT TO THE GUARDIAN RATHER THAN THE PRINCIPAL.

(2) THE GUARDIAN HAS THE SAME POWER THE PRINCIPAL WOULD HAVE BUT FOR THE PRINCIPAL'S DISABILITY OR INCOMPETENCE TO REVOKE, SUSPEND, OR TERMINATE ALL OR ANY PART OF THE POWER OF ATTORNEY OR AGENCY.

17–106.

(A) (1) THE DEATH, DISABILITY, OR INCOMPETENCE OF A PRINCIPAL WHO HAS EXECUTED A POWER OF ATTORNEY IN WRITING DOES NOT REVOKE OR TERMINATE THE AGENCY AS TO THE ATTORNEY IN FACT, AGENT, OR OTHER PERSON WHO, WITHOUT ACTUAL KNOWLEDGE OF THE DEATH, DISABILITY, OR INCOMPETENCE OF THE PRINCIPAL, ACTS IN GOOD FAITH UNDER THE POWER OF ATTORNEY OR AGENCY.

(2) UNLESS OTHERWISE INVALID OR UNENFORCEABLE, ANY ACTION TAKEN BY THE ATTORNEY IN FACT, AGENT, OR OTHER PERSON WHO ACTS IN GOOD FAITH UNDER THE POWER OF ATTORNEY OR AGENCY BINDS THE PRINCIPAL AND THE PRINCIPAL'S HEIRS, LEGATEES, AND PERSONAL REPRESENTATIVES.

(B) (1) IN THE ABSENCE OF FRAUD, AN AFFIDAVIT EXECUTED BY THE ATTORNEY IN FACT OR AGENT AND STATING THAT THE ATTORNEY IN FACT OR AGENT DID NOT HAVE, AT THE TIME OF DOING AN ACT IN ACCORDANCE WITH THE POWER OF ATTORNEY, ACTUAL KNOWLEDGE OF THE REVOCATION OR TERMINATION OF THE POWER OF ATTORNEY BY DEATH, DISABILITY, OR INCOMPETENCE, IS CONCLUSIVE PROOF OF THE NONREVOCATION OR NONTERMINATION OF THE POWER AT THAT TIME.

(2) IF THE EXERCISE OF THE POWER REQUIRES EXECUTION AND DELIVERY OF ANY INSTRUMENT THAT IS RECORDABLE, THE AFFIDAVIT WHEN AUTHENTICATED FOR RECORD IS LIKEWISE RECORDABLE.

(C) THIS SECTION MAY NOT BE CONSTRUED TO ALTER OR AFFECT ANY PROVISION FOR REVOCATION OR TERMINATION CONTAINED IN THE POWER OF ATTORNEY.

17–107.

IF ANY MEMBER OF THE ARMED SERVICES OF THE UNITED STATES HAS EXECUTED A POWER OF ATTORNEY, THE FACT THAT THAT PERSON HAS BEEN REPORTED OR LISTED, OFFICIALLY OR OTHERWISE, AS "MISSING IN ACTION", AS THAT PHRASE IS USED TO DESCRIBE A CASUALTY CATEGORY APPLICABLE TO MEMBERS OF THE ARMED SERVICES, DOES NOT OPERATE TO REVOKE THE POWER OF ATTORNEY, UNLESS THE INSTRUMENT OTHERWISE PROVIDES.

17–108.

(A) A POWER OF ATTORNEY EXECUTED IN THIS STATE IS VALID AND ENFORCEABLE AS TO PERSONS DEALING WITH THE AGENT.

(B) A POWER OF ATTORNEY EXECUTED OTHER THAN IN THIS STATE IS VALID AND ENFORCEABLE IN THIS STATE AS TO PERSONS DEALING WITH THE AGENT IF, WHEN THE POWER OF ATTORNEY WAS EXECUTED, THE EXECUTION COMPLIED WITH:

(1) THE LAW OF THE JURISDICTION THAT DETERMINES THE MEANING AND EFFECT OF THE POWER OF ATTORNEY; OR

(2) THE REQUIREMENTS FOR A MILITARY POWER OF ATTORNEY IN ACCORDANCE WITH 10 U.S.C. § 1044B.

(C) (1) EXCEPT AS OTHERWISE PROVIDED BY LAW OTHER THAN THIS TITLE AND SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A PHOTOCOPY OR ELECTRONICALLY TRANSMITTED COPY OF AN ORIGINAL POWER OF ATTORNEY IS AS VALID AND BINDING AS THE ORIGINAL POWER OF ATTORNEY.

(2) A CLERK OF COURT MAY REFUSE TO RECORD A PHOTOCOPY OR ELECTRONICALLY TRANSMITTED COPY OF AN ORIGINAL POWER OF ATTORNEY.

(D) (1) A PRINCIPAL MAY DELEGATE TO ONE OR MORE AGENTS THE AUTHORITY TO DO ANY ACT SPECIFIED IN THE STATUTORY FORMS IN SUBTITLE 2 OF THIS TITLE.

(2) THE ACTS SPECIFIED IN THE STATUTORY FORMS MAY NOT, NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION, BE DEEMED TO

INVALIDATE OR LIMIT THE VALIDITY OF OTHER AUTHORIZED ACTS THAT A PRINCIPAL MAY DELEGATE TO AN AGENT.

17–109.

(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THIS TITLE APPLIES TO ALL POWERS OF ATTORNEY.

(B) THIS TITLE DOES NOT APPLY TO:

(1) A POWER THAT IS COUPLED WITH AN INTEREST IN THE SUBJECT OF THE POWER, IS GIVEN AS SECURITY, OR IS GIVEN FOR CONSIDERATION, REGARDLESS OF WHETHER THE POWER IS HELD FOR THE BENEFIT OF THE AGENT OR ANOTHER PERSON, INCLUDING A POWER GIVEN TO OR FOR THE BENEFIT OF A CREDITOR IN CONNECTION WITH A CREDIT TRANSACTION;

(2) AN ADVANCE DIRECTIVE APPOINTING A HEALTH CARE AGENT UNDER TITLE 5, SUBTITLE 6 OF THE HEALTH – GENERAL ARTICLE OR ANY OTHER POWER TO MAKE HEALTH CARE DECISIONS;

(3) A PROXY OR OTHER DELEGATION TO EXERCISE ANY RIGHT WITH RESPECT TO AN ENTITY, INCLUDING VOTING RIGHTS OR MANAGEMENT RIGHTS OR BOTH, OR A DELEGATION OF AUTHORITY TO EXECUTE, BECOME A PARTY TO, OR AMEND A DOCUMENT OR AGREEMENT GOVERNING AN ENTITY OR ENTITY OWNERSHIP INTEREST;

(4) A POWER CREATED ON A FORM PRESCRIBED BY A GOVERNMENT OR GOVERNMENTAL SUBDIVISION, AGENCY, OR INSTRUMENTALITY FOR A GOVERNMENTAL PURPOSE;

(5) A POWER CREATED AS PART OF, OR IN CONNECTION WITH, AN AGREEMENT ESTABLISHING AN ATTORNEY AND CLIENT RELATIONSHIP;

(6) A POWER OF ATTORNEY THAT STATES THAT IT IS NOT SUBJECT TO THIS TITLE;

(7) A POWER AUTHORIZING ANOTHER TO PREPARE, EXECUTE, DELIVER, SUBMIT, OR FILE, ON BEHALF OF AN ENTITY OR THE GOVERNING BODY OR MANAGEMENT OF AN ENTITY, A DOCUMENT OR INSTRUMENT WITH A GOVERNMENT OR GOVERNMENTAL SUBDIVISION, AGENCY, OR INSTRUMENTALITY OR WITH A THIRD PARTY;

(8) A POWER OR OTHER DELEGATION OF AUTHORITY CONTAINED IN A DOCUMENT OR AGREEMENT GOVERNING OR BINDING ON AN ENTITY THAT AUTHORIZES A PERSON TO TAKE ACTION WITH RESPECT TO THE ENTITY; AND

(9) A POWER WITH RESPECT TO AN ENTITY CREATED IN ACCORDANCE WITH AUTHORIZATION PROVIDED BY A FEDERAL OR STATE STATUTE THAT SPECIFICALLY CONTEMPLATES CREATION OF THE POWER.

17–110.

(A) A POWER OF ATTORNEY ~~UNDER THIS TITLE~~ *EXECUTED ON OR AFTER OCTOBER 1, 2010,* SHALL BE:

(1) IN WRITING;

(2) SIGNED BY THE PRINCIPAL OR BY SOME OTHER PERSON FOR THE PRINCIPAL, IN THE PRESENCE OF THE PRINCIPAL, AND AT THE EXPRESS DIRECTION OF THE PRINCIPAL;

(3) ACKNOWLEDGED BY THE PRINCIPAL BEFORE A NOTARY PUBLIC; AND

(4) ATTESTED AND SIGNED BY TWO OR MORE ADULT WITNESSES WHO SIGN IN THE PRESENCE OF THE PRINCIPAL AND IN THE PRESENCE OF EACH OTHER.

(B) THE NOTARY PUBLIC BEFORE WHOM THE PRINCIPAL ACKNOWLEDGES THE POWER OF ATTORNEY MAY ALSO SERVE AS ONE OF THE TWO OR MORE ADULT WITNESSES.

17–111.

(A) A POWER OF ATTORNEY IS EFFECTIVE WHEN EXECUTED, UNLESS THE PRINCIPAL PROVIDES IN THE POWER OF ATTORNEY THAT IT BECOMES EFFECTIVE AT A FUTURE DATE OR ON THE OCCURRENCE OF A FUTURE EVENT OR CONTINGENCY.

(B) IF A POWER OF ATTORNEY BECOMES EFFECTIVE ON THE OCCURRENCE OF A FUTURE EVENT OR CONTINGENCY, THE PRINCIPAL, IN THE POWER OF ATTORNEY, MAY AUTHORIZE ONE OR MORE PERSONS TO DETERMINE IN A WRITING OR OTHER RECORD THAT THE EVENT OR CONTINGENCY HAS OCCURRED.

(C) IF A POWER OF ATTORNEY BECOMES EFFECTIVE ON THE PRINCIPAL'S INCAPACITY AND THE PRINCIPAL HAS NOT AUTHORIZED A PERSON TO DETERMINE WHETHER THE PRINCIPAL IS INCAPACITATED, OR THE PERSON AUTHORIZED IS UNABLE OR UNWILLING TO MAKE THE DETERMINATION, THE POWER OF ATTORNEY BECOMES EFFECTIVE ON A DETERMINATION IN A WRITING OR OTHER RECORD BY:

(1) A PHYSICIAN OR LICENSED PSYCHOLOGIST THAT THE PRINCIPAL IS INCAPACITATED WITHIN THE MEANING OF § 17–101(C) OF THIS SUBTITLE; OR

(2) AN ATTORNEY AT LAW, A JUDGE, OR AN APPROPRIATE GOVERNMENTAL OFFICIAL THAT THE PRINCIPAL IS INCAPACITATED WITHIN THE MEANING OF § 17–101(C) OF THIS SUBTITLE.

(D) A PERSON AUTHORIZED BY THE PRINCIPAL IN THE POWER OF ATTORNEY TO DETERMINE THAT THE PRINCIPAL IS INCAPACITATED MAY ACT AS THE PRINCIPAL'S PERSONAL REPRESENTATIVE TO OBTAIN ACCESS TO THE PRINCIPAL'S HEALTH–CARE INFORMATION AND COMMUNICATE WITH THE PRINCIPAL'S HEALTH–CARE PROVIDER IN ACCORDANCE WITH:

(1) THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT;

(2) SECTIONS 1171 THROUGH 1179 OF THE SOCIAL SECURITY ACT, 42 U.S.C. SECTION 1320D, AS AMENDED; AND

(3) APPLICABLE REGULATIONS.

17–112.

(A) A POWER OF ATTORNEY TERMINATES WHEN:

(1) THE PRINCIPAL DIES;

(2) THE PRINCIPAL BECOMES INCAPACITATED, IF THE POWER OF ATTORNEY IS NOT DURABLE;

(3) THE PRINCIPAL REVOKES THE POWER OF ATTORNEY;

(4) THE POWER OF ATTORNEY PROVIDES THAT IT TERMINATES;

(5) THE PURPOSE OF THE POWER OF ATTORNEY IS ACCOMPLISHED; OR

(6) THE PRINCIPAL REVOKES THE AGENT'S AUTHORITY OR THE AGENT DIES, BECOMES INCAPACITATED, OR RESIGNS, AND THE POWER OF ATTORNEY DOES NOT PROVIDE FOR ANOTHER AGENT TO ACT UNDER THE POWER OF ATTORNEY.

(B) AN AGENT'S AUTHORITY TERMINATES WHEN:

(1) THE PRINCIPAL REVOKES THE AUTHORITY;

(2) THE AGENT DIES, BECOMES INCAPACITATED, OR RESIGNS;

(3) AN ACTION IS FILED FOR THE DISSOLUTION OR ANNULMENT OF THE AGENT'S MARRIAGE TO THE PRINCIPAL OR THEIR LEGAL SEPARATION, UNLESS THE POWER OF ATTORNEY OTHERWISE PROVIDES; OR

(4) THE POWER OF ATTORNEY TERMINATES.

(C) UNLESS THE POWER OF ATTORNEY OTHERWISE PROVIDES, AN AGENT'S AUTHORITY IS EXERCISABLE UNTIL THE AUTHORITY TERMINATES UNDER SUBSECTION (B) OF THIS SECTION, EVEN IF THERE HAS BEEN A LAPSE OF TIME SINCE THE EXECUTION OF THE POWER OF ATTORNEY.

17–113.

(A) NOTWITHSTANDING PROVISIONS IN THE POWER OF ATTORNEY, AN AGENT THAT HAS ACCEPTED APPOINTMENT SHALL:

(1) ACT IN ACCORDANCE WITH THE PRINCIPAL'S REASONABLE EXPECTATIONS TO THE EXTENT ACTUALLY KNOWN BY THE AGENT AND, OTHERWISE, ACT IN THE PRINCIPAL'S BEST INTEREST;

(2) ACT WITH CARE, COMPETENCE, AND DILIGENCE FOR THE BEST INTEREST OF THE PRINCIPAL; AND

(3) ACT ONLY WITHIN THE SCOPE OF AUTHORITY GRANTED IN THE POWER OF ATTORNEY.

(B) EXCEPT AS OTHERWISE PROVIDED IN THE POWER OF ATTORNEY, AN AGENT THAT HAS ACCEPTED APPOINTMENT SHALL:

(1) ACT LOYALLY FOR THE PRINCIPAL'S BENEFIT;

(2) ACT SO AS NOT TO CREATE A CONFLICT OF INTEREST THAT IMPAIRS THE AGENT'S ABILITY TO ACT IMPARTIALLY IN THE PRINCIPAL'S BEST INTEREST;

(3) KEEP A RECORD OF ALL RECEIPTS, DISBURSEMENTS, AND TRANSACTIONS MADE ON BEHALF OF THE PRINCIPAL;

(4) COOPERATE WITH A PERSON THAT HAS AUTHORITY TO MAKE HEALTH–CARE DECISIONS FOR THE PRINCIPAL TO CARRY OUT THE PRINCIPAL'S REASONABLE EXPECTATIONS TO THE EXTENT ACTUALLY KNOWN BY THE AGENT AND, OTHERWISE, ACT IN THE PRINCIPAL'S BEST INTEREST; AND

(5) ATTEMPT TO PRESERVE THE PRINCIPAL'S ESTATE PLAN, TO THE EXTENT ACTUALLY KNOWN BY THE AGENT, IF PRESERVING THE PLAN IS CONSISTENT WITH THE PRINCIPAL'S BEST INTEREST BASED ON ALL RELEVANT FACTORS, INCLUDING:

(I) THE VALUE AND NATURE OF THE PRINCIPAL'S PROPERTY;

(II) THE PRINCIPAL'S FORESEEABLE OBLIGATIONS AND NEED FOR MAINTENANCE;

(III) THE EXTENT TO WHICH THE PRINCIPAL'S LIABILITY FOR TAXES, INCLUDING INCOME, ESTATE, INHERITANCE, GENERATION–SKIPPING TRANSFER, AND GIFT TAXES, CAN BE MINIMIZED; AND

(IV) THE PRINCIPAL'S ELIGIBILITY FOR A BENEFIT, A PROGRAM, OR ASSISTANCE UNDER A STATUTE OR REGULATION.

(C) AN AGENT THAT ACTS AS PROVIDED IN THIS SECTION IS NOT LIABLE TO ANY BENEFICIARY OF THE PRINCIPAL'S ESTATE PLAN FOR FAILURE TO PRESERVE THE PLAN.

(D) AN AGENT THAT ACTS WITH CARE, COMPETENCE, AND DILIGENCE FOR THE BEST INTEREST OF THE PRINCIPAL IS NOT LIABLE SOLELY BECAUSE THE AGENT ALSO BENEFITS FROM AN ACT TAKEN BY THE AGENT OR HAS AN INDIVIDUAL OR CONFLICTING INTEREST IN RELATION TO THE PROPERTY OR AFFAIRS OF THE PRINCIPAL.

(E) IF AN AGENT IS SELECTED BY THE PRINCIPAL BECAUSE OF SPECIAL SKILLS OR EXPERTISE POSSESSED BY THE AGENT OR IN RELIANCE ON THE AGENT'S REPRESENTATION THAT THE AGENT HAS SPECIAL SKILLS OR EXPERTISE, THE SPECIAL SKILLS OR EXPERTISE MUST BE CONSIDERED IN

DETERMINING WHETHER THE AGENT HAS ACTED WITH CARE, COMPETENCE, AND DILIGENCE UNDER THE CIRCUMSTANCES.

(F) ABSENT A BREACH OF DUTY TO THE PRINCIPAL, AN AGENT IS NOT LIABLE IF THE VALUE OF THE PRINCIPAL'S PROPERTY DECLINES.

(G) AN AGENT THAT EXERCISES AUTHORITY TO DELEGATE TO ANOTHER PERSON THE AUTHORITY GRANTED BY THE PRINCIPAL OR THAT ENGAGES ANOTHER PERSON ON BEHALF OF THE PRINCIPAL IS NOT LIABLE FOR AN ACT, ERROR OF JUDGMENT, OR DEFAULT OF THAT PERSON IF THE AGENT EXERCISES CARE, COMPETENCE, AND DILIGENCE IN SELECTING AND MONITORING THE PERSON.

(H) THIS SECTION MAY NOT BE CONSTRUED TO REDUCE ANY DUTY OF AN AGENT TO THE PRINCIPAL UNDER EXISTING STATE LAW.

17–114.

(A) UNLESS THE POWER OF ATTORNEY OTHERWISE PROVIDES, AN AGENT IS ENTITLED TO REIMBURSEMENT OF EXPENSES REASONABLY INCURRED ON BEHALF OF THE PRINCIPAL BUT THE AGENT IS NOT ENTITLED TO COMPENSATION.

(B) IF THE PRINCIPAL INDICATES IN THE POWER OF ATTORNEY THAT THE AGENT IS ENTITLED TO COMPENSATION, THE AGENT MAY RECEIVE COMPENSATION BASED ON WHAT IS REASONABLE UNDER THE CIRCUMSTANCES OR ON ANOTHER BASIS AS SET FORTH IN THE POWER OF ATTORNEY.

17–115.

THIS TITLE DOES NOT SUPERSEDE OTHER LAWS APPLICABLE TO FINANCIAL INSTITUTIONS OR OTHER ENTITIES, AND TO THE EXTENT THOSE OTHER LAWS ARE INCONSISTENT WITH THE TITLE, THE OTHER LAWS PREVAIL.

17–116.

THIS TITLE MAY BE CITED AS THE MARYLAND GENERAL AND LIMITED POWER OF ATTORNEY ACT.

SUBTITLE 2. STATUTORY FORMS.

17–201.

A DOCUMENT SUBSTANTIALLY IN ONE OF THE FOLLOWING FORMS MAY BE USED TO CREATE A STATUTORY FORM POWER OF ATTORNEY THAT HAS THE MEANING AND EFFECT PRESCRIBED BY THIS TITLE.

17–202.

"MARYLAND STATUTORY FORM PERSONAL FINANCIAL POWER OF ATTORNEY

IMPORTANT INFORMATION AND WARNING

YOU SHOULD BE VERY CAREFUL IN DECIDING WHETHER OR NOT TO SIGN THIS DOCUMENT. THE POWERS GRANTED BY YOU (THE PRINCIPAL) IN THIS DOCUMENT ARE BROAD AND SWEEPING. THIS POWER OF ATTORNEY AUTHORIZES ANOTHER PERSON (YOUR AGENT) TO MAKE DECISIONS CONCERNING YOUR PROPERTY FOR YOU (THE PRINCIPAL). YOUR AGENT WILL BE ABLE TO MAKE DECISIONS AND ACT WITH RESPECT TO YOUR PROPERTY (INCLUDING YOUR MONEY) WHETHER OR NOT YOU ARE ABLE TO ACT FOR YOURSELF.

YOU SHOULD SELECT SOMEONE YOU TRUST TO SERVE AS YOUR AGENT. UNLESS YOU SPECIFY OTHERWISE, GENERALLY THE AGENT'S AUTHORITY WILL CONTINUE UNTIL YOU DIE OR REVOKE THE POWER OF ATTORNEY OR THE AGENT RESIGNS OR IS UNABLE TO ACT FOR YOU.

YOU NEED NOT GRANT ALL OF THE POWERS LISTED BELOW. IF YOU CHOOSE TO GRANT LESS THAN ALL OF THE LISTED POWERS, YOU MAY INSTEAD USE A MARYLAND STATUTORY FORM LIMITED POWER OF ATTORNEY AND MARK ON THAT MARYLAND STATUTORY FORM LIMITED POWER OF ATTORNEY WHICH POWERS YOU INTEND TO DELEGATE TO YOUR ATTORNEY–IN–FACT (THE AGENT) AND WHICH YOU DO NOT WANT THE AGENT TO EXERCISE.

THIS POWER OF ATTORNEY BECOMES EFFECTIVE IMMEDIATELY UNLESS YOU STATE OTHERWISE IN THE SPECIAL INSTRUCTIONS.

YOU SHOULD OBTAIN COMPETENT LEGAL ADVICE BEFORE YOU SIGN THIS POWER OF ATTORNEY IF YOU HAVE ANY QUESTIONS ABOUT THE DOCUMENT OR THE AUTHORITY YOU ARE GRANTING TO YOUR AGENT.

DESIGNATION OF AGENT

I, _____,
(NAME OF PRINCIPAL)

NAME THE FOLLOWING PERSON AS MY AGENT:

NAME OF
AGENT: _____
AGENT'S
ADDRESS: _____
AGENT'S TELEPHONE
NUMBER: _____

DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)

IF MY AGENT IS UNABLE OR UNWILLING TO ACT FOR ME, I NAME AS MY SUCCESSOR AGENT:

NAME OF SUCCESSOR
AGENT: _____

SUCCESSOR AGENT'S
ADDRESS: _____

SUCCESSOR AGENT'S TELEPHONE
NUMBER: _____

IF MY SUCCESSOR AGENT IS UNABLE OR UNWILLING TO ACT FOR ME, I NAME AS MY SECOND SUCCESSOR AGENT:

NAME OF SECOND SUCCESSOR
AGENT: _____

SECOND SUCCESSOR AGENT'S
ADDRESS: _____

SECOND SUCCESSOR AGENT'S TELEPHONE
NUMBER: _____

GRANT OF GENERAL AUTHORITY

I ("THE PRINCIPAL") GRANT MY AGENT AND ANY SUCCESSOR AGENT, WITH RESPECT TO EACH SUBJECT LISTED BELOW, THE AUTHORITY TO DO ALL ACTS THAT I COULD DO TO:

(1) CONTRACT WITH ANOTHER PERSON, ON TERMS AGREEABLE TO THE AGENT, TO ACCOMPLISH A PURPOSE OF A TRANSACTION AND PERFORM, RESCIND, CANCEL, TERMINATE, REFORM, RESTATE, RELEASE, OR MODIFY THE CONTRACT OR ANOTHER CONTRACT MADE BY OR ON BEHALF OF THE PRINCIPAL;

(2) EXECUTE, ACKNOWLEDGE, SEAL, DELIVER, FILE, OR RECORD ANY INSTRUMENT OR COMMUNICATION THE AGENT CONSIDERS DESIRABLE TO ACCOMPLISH A PURPOSE OF A TRANSACTION;

(3) SEEK ON THE PRINCIPAL'S BEHALF THE ASSISTANCE OF A COURT OR OTHER GOVERNMENTAL AGENCY TO CARRY OUT AN ACT AUTHORIZED IN THIS POWER OF ATTORNEY;

(4) INITIATE, PARTICIPATE IN, SUBMIT TO ALTERNATIVE DISPUTE RESOLUTION, SETTLE, OPPOSE, OR PROPOSE OR ACCEPT A COMPROMISE WITH RESPECT TO A CLAIM EXISTING IN FAVOR OF OR AGAINST THE PRINCIPAL OR INTERVENE IN LITIGATION RELATING TO THE CLAIM;

(5) ENGAGE, COMPENSATE, AND DISCHARGE AN ATTORNEY, ACCOUNTANT, DISCRETIONARY INVESTMENT MANAGER, EXPERT WITNESS, OR OTHER ADVISOR;

(6) PREPARE, EXECUTE, AND FILE A RECORD, REPORT, OR OTHER DOCUMENT TO SAFEGUARD OR PROMOTE THE PRINCIPAL'S INTEREST UNDER A STATUTE OR REGULATION AND COMMUNICATE WITH REPRESENTATIVES OR EMPLOYEES OF A GOVERNMENT OR GOVERNMENTAL SUBDIVISION, AGENCY, OR INSTRUMENTALITY, ON BEHALF OF THE PRINCIPAL; AND

(7) DO LAWFUL ACTS WITH RESPECT TO THE SUBJECT AND ALL PROPERTY RELATED TO THE SUBJECT.

MY AGENT'S AUTHORITY SHALL INCLUDE THE AUTHORITY TO ACT AS STATED BELOW WITH REGARD TO EACH OF THE FOLLOWING SUBJECTS:

SUBJECTS AND AUTHORITY

REAL PROPERTY – WITH RESPECT TO THIS SUBJECT, I AUTHORIZE MY AGENT TO: DEMAND, BUY, *SELL*, *CONVEY*, LEASE, RECEIVE, ACCEPT AS A GIFT OR AS SECURITY FOR AN EXTENSION OF CREDIT, OR OTHERWISE ACQUIRE OR REJECT AN INTEREST IN REAL PROPERTY OR A RIGHT INCIDENT TO REAL PROPERTY; PLEDGE OR MORTGAGE AN INTEREST IN REAL PROPERTY OR RIGHT INCIDENT TO REAL PROPERTY AS SECURITY TO BORROW MONEY OR PAY, RENEW, OR EXTEND THE TIME OF PAYMENT OF A DEBT OF THE PRINCIPAL OR A DEBT GUARANTEED BY THE PRINCIPAL, INCLUDING A REVERSE MORTGAGE; RELEASE, ASSIGN, SATISFY, OR ENFORCE BY LITIGATION OR OTHERWISE A MORTGAGE, DEED OF TRUST, CONDITIONAL SALE CONTRACT, ENCUMBRANCE, LIEN, OR OTHER CLAIM TO REAL PROPERTY THAT EXISTS OR IS ASSERTED; AND MANAGE OR CONSERVE AN INTEREST IN REAL PROPERTY OR A RIGHT INCIDENT TO REAL

PROPERTY OWNED OR CLAIMED TO BE OWNED BY THE PRINCIPAL, INCLUDING: (1) INSURING AGAINST LIABILITY OR CASUALTY OR OTHER LOSS; (2) OBTAINING OR REGAINING POSSESSION OF OR PROTECTING THE INTEREST OR RIGHT BY LITIGATION OR OTHERWISE; (3) PAYING, ASSESSING, COMPROMISING, OR CONTESTING TAXES OR ASSESSMENTS OR APPLYING FOR AND RECEIVING REFUNDS IN CONNECTION WITH THEM; AND (4) PURCHASING SUPPLIES, HIRING ASSISTANCE OR LABOR, AND MAKING REPAIRS OR ALTERATIONS TO THE REAL PROPERTY.

STOCKS AND BONDS – WITH RESPECT TO THIS SUBJECT, I AUTHORIZE MY AGENT TO: BUY, SELL, AND EXCHANGE STOCKS AND BONDS; ESTABLISH, CONTINUE, MODIFY, OR TERMINATE AN ACCOUNT WITH RESPECT TO STOCKS AND BONDS; PLEDGE STOCKS AND BONDS AS SECURITY TO BORROW, PAY, RENEW, OR EXTEND THE TIME OF PAYMENT OF A DEBT OF THE PRINCIPAL; RECEIVE CERTIFICATES AND OTHER EVIDENCES OF OWNERSHIP WITH RESPECT TO STOCKS AND BONDS; EXERCISE VOTING RIGHTS WITH RESPECT TO STOCKS AND BONDS IN PERSON OR BY PROXY, ENTER INTO VOTING TRUSTS, AND CONSENT TO LIMITATIONS ON THE RIGHT TO VOTE.

BANKS AND OTHER FINANCIAL INSTITUTIONS – WITH RESPECT TO THIS SUBJECT, I AUTHORIZE MY AGENT TO: CONTINUE, MODIFY, AND TERMINATE AN ACCOUNT OR OTHER BANKING ARRANGEMENT MADE BY OR ON BEHALF OF THE PRINCIPAL; ESTABLISH, MODIFY, AND TERMINATE AN ACCOUNT OR OTHER BANKING ARRANGEMENT WITH A BANK, TRUST COMPANY, SAVINGS AND LOAN ASSOCIATION, CREDIT UNION, THRIFT COMPANY, BROKERAGE FIRM, OR OTHER FINANCIAL INSTITUTION SELECTED BY THE AGENT; CONTRACT FOR SERVICES AVAILABLE FROM A FINANCIAL INSTITUTION, INCLUDING RENTING A SAFE DEPOSIT BOX OR SPACE IN A VAULT; WITHDRAW, BY CHECK, MONEY ORDER, ELECTRONIC FUNDS TRANSFER, OR OTHERWISE, MONEY OR PROPERTY OF THE PRINCIPAL DEPOSITED WITH OR LEFT IN THE CUSTODY OF A FINANCIAL INSTITUTION; RECEIVE STATEMENTS OF ACCOUNT, VOUCHERS, NOTICES, AND SIMILAR DOCUMENTS FROM A FINANCIAL INSTITUTION AND ACT WITH RESPECT TO THEM; ENTER A SAFE DEPOSIT BOX OR VAULT AND WITHDRAW OR ADD TO THE CONTENTS; BORROW MONEY AND PLEDGE AS SECURITY PERSONAL PROPERTY OF THE PRINCIPAL NECESSARY TO BORROW MONEY OR PAY, RENEW, OR EXTEND THE TIME OF PAYMENT OF A DEBT OF THE PRINCIPAL OR A DEBT GUARANTEED BY THE PRINCIPAL; MAKE, ASSIGN, DRAW, ENDORSE, DISCOUNT, GUARANTEE, AND NEGOTIATE PROMISSORY NOTES, CHECKS, DRAFTS, AND OTHER NEGOTIABLE OR NONNEGOTIABLE PAPER OF THE PRINCIPAL OR PAYABLE TO THE PRINCIPAL OR THE PRINCIPAL'S ORDER, TRANSFER MONEY, RECEIVE THE CASH OR OTHER PROCEEDS OF THOSE TRANSACTIONS; AND APPLY FOR, RECEIVE, AND USE CREDIT CARDS AND DEBIT CARDS, ELECTRONIC

TRANSACTION AUTHORIZATIONS, AND TRAVELER'S CHECKS FROM A FINANCIAL INSTITUTION.

INSURANCE AND ANNUITIES – WITH RESPECT TO THIS SUBJECT, I AUTHORIZE MY AGENT TO: CONTINUE, PAY THE PREMIUM OR MAKE A CONTRIBUTION ON, MODIFY, EXCHANGE, RESCIND, RELEASE, OR TERMINATE A CONTRACT PROCURED BY OR ON BEHALF OF THE PRINCIPAL THAT INSURES OR PROVIDES AN ANNUITY TO EITHER THE PRINCIPAL OR ANOTHER PERSON, WHETHER OR NOT THE PRINCIPAL IS A BENEFICIARY UNDER THE CONTRACT; PROCURE NEW, DIFFERENT, AND ADDITIONAL CONTRACTS OF INSURANCE AND ANNUITIES FOR THE PRINCIPAL AND SELECT THE AMOUNT, TYPE OF INSURANCE OR ANNUITY, AND MODE OF PAYMENT; PAY THE PREMIUM OR MAKE A CONTRIBUTION ON, MODIFY, EXCHANGE, RESCIND, RELEASE, OR TERMINATE A CONTRACT OF INSURANCE OR ANNUITY PROCURED BY THE AGENT; APPLY FOR AND RECEIVE A LOAN SECURED BY A CONTRACT OF INSURANCE OR ANNUITY; SURRENDER AND RECEIVE THE CASH SURRENDER VALUE ON A CONTRACT OF INSURANCE OR ANNUITY; EXERCISE AN ELECTION; EXERCISE INVESTMENT POWERS AVAILABLE UNDER A CONTRACT OF INSURANCE OR ANNUITY; CHANGE THE MANNER OF PAYING PREMIUMS ON A CONTRACT OF INSURANCE OR ANNUITY; CHANGE OR CONVERT THE TYPE OF INSURANCE OR ANNUITY WITH RESPECT TO WHICH THE PRINCIPAL HAS OR CLAIMS TO HAVE AUTHORITY DESCRIBED IN THIS SECTION; APPLY FOR AND PROCURE A BENEFIT OR ASSISTANCE UNDER A STATUTE OR REGULATION TO GUARANTEE OR PAY PREMIUMS OF A CONTRACT OF INSURANCE ON THE LIFE OF THE PRINCIPAL; COLLECT, SELL, ASSIGN, HYPOTHECATE, BORROW AGAINST, OR PLEDGE THE INTEREST OF THE PRINCIPAL IN A CONTRACT OF INSURANCE OR ANNUITY; SELECT THE FORM AND TIMING OF THE PAYMENT OF PROCEEDS FROM A CONTRACT OF INSURANCE OR ANNUITY; PAY, FROM PROCEEDS OR OTHERWISE, COMPROMISE OR CONTEST, AND APPLY FOR REFUNDS IN CONNECTION WITH A TAX OR ASSESSMENT LEVIED BY A TAXING AUTHORITY WITH RESPECT TO A CONTRACT OF INSURANCE OR ANNUITY OR THE PROCEEDS OR LIABILITY FROM THE CONTRACT OF INSURANCE OR ANNUITY ACCRUING BY REASON OF THE TAX OR ASSESSMENT.

CLAIMS AND LITIGATION – WITH RESPECT TO THIS SUBJECT, I AUTHORIZE MY AGENT TO: ASSERT AND MAINTAIN BEFORE A COURT OR ADMINISTRATIVE AGENCY A CLAIM, CLAIM FOR RELIEF, CAUSE OF ACTION, COUNTERCLAIM, OFFSET, RECOUPMENT, OR DEFENSE, INCLUDING AN ACTION TO RECOVER PROPERTY OR OTHER THING OF VALUE, RECOVER DAMAGES SUSTAINED BY THE PRINCIPAL, ELIMINATE OR MODIFY TAX LIABILITY, OR SEEK AN INJUNCTION, SPECIFIC PERFORMANCE, OR OTHER RELIEF; ACT FOR THE PRINCIPAL WITH RESPECT TO BANKRUPTCY OR INSOLVENCY, WHETHER VOLUNTARY OR INVOLUNTARY, CONCERNING THE PRINCIPAL OR SOME OTHER PERSON, OR WITH RESPECT TO A REORGANIZATION, RECEIVERSHIP, OR APPLICATION FOR

THE APPOINTMENT OF A RECEIVER OR TRUSTEE THAT AFFECTS AN INTEREST OF THE PRINCIPAL IN PROPERTY OR OTHER THING OF VALUE; PAY A JUDGMENT, AWARD, OR ORDER AGAINST THE PRINCIPAL OR A SETTLEMENT MADE IN CONNECTION WITH A CLAIM OR LITIGATION; AND RECEIVE MONEY OR OTHER THING OF VALUE PAID IN SETTLEMENT OF OR AS PROCEEDS OF A CLAIM OR LITIGATION.

BENEFITS FROM GOVERNMENTAL PROGRAMS OR CIVIL OR MILITARY SERVICE (INCLUDING ANY BENEFIT, PROGRAM, OR ASSISTANCE PROVIDED UNDER A STATUTE OR REGULATION INCLUDING SOCIAL SECURITY, MEDICARE, AND MEDICAID) – WITH RESPECT TO THIS SUBJECT, I AUTHORIZE MY AGENT TO: EXECUTE VOUCHERS IN THE NAME OF THE PRINCIPAL FOR ALLOWANCES AND REIMBURSEMENTS PAYABLE BY THE UNITED STATES OR A FOREIGN GOVERNMENT OR BY A STATE OR SUBDIVISION OF A STATE TO THE PRINCIPAL; ENROLL IN, APPLY FOR, SELECT, REJECT, CHANGE, AMEND, OR DISCONTINUE, ON THE PRINCIPAL'S BEHALF, A BENEFIT OR PROGRAM; PREPARE, FILE, AND MAINTAIN A CLAIM OF THE PRINCIPAL FOR A BENEFIT OR ASSISTANCE, FINANCIAL OR OTHERWISE, TO WHICH THE PRINCIPAL MAY BE ENTITLED UNDER A STATUTE OR REGULATION; INITIATE, PARTICIPATE IN, SUBMIT TO ALTERNATIVE DISPUTE RESOLUTION, SETTLE, OPPOSE, OR PROPOSE OR ACCEPT A COMPROMISE WITH RESPECT TO LITIGATION CONCERNING A BENEFIT OR ASSISTANCE THE PRINCIPAL MAY BE ENTITLED TO RECEIVE UNDER A STATUTE OR REGULATION; AND RECEIVE THE FINANCIAL PROCEEDS OF A CLAIM DESCRIBED ABOVE AND CONSERVE, INVEST, DISBURSE, OR USE FOR A LAWFUL PURPOSE ANYTHING SO RECEIVED.

RETIREMENT PLANS (INCLUDING A PLAN OR ACCOUNT CREATED BY AN EMPLOYER, THE PRINCIPAL, OR ANOTHER INDIVIDUAL TO PROVIDE RETIREMENT BENEFITS OR DEFERRED COMPENSATION OF WHICH THE PRINCIPAL IS A PARTICIPANT, BENEFICIARY, OR OWNER, INCLUDING A PLAN OR ACCOUNT UNDER THE FOLLOWING SECTIONS OF THE INTERNAL REVENUE CODE: (1) AN INDIVIDUAL RETIREMENT ACCOUNT UNDER INTERNAL REVENUE CODE SECTION 408, 26 U.S.C. § 408; (2) A ROTH INDIVIDUAL RETIREMENT ACCOUNT UNDER INTERNAL REVENUE CODE SECTION 408(A), 26 U.S.C. § 408(A); (3) A DEEMED INDIVIDUAL RETIREMENT ACCOUNT UNDER INTERNAL REVENUE CODE SECTION 408(Q), 26 U.S.C. § 408(Q); (4) AN ANNUITY OR MUTUAL FUND CUSTODIAL ACCOUNT UNDER INTERNAL REVENUE CODE SECTION 403(B), 26 U.S.C. § 403(B); (5) A PENSION, PROFIT–SHARING, STOCK BONUS, OR OTHER RETIREMENT PLAN QUALIFIED UNDER INTERNAL REVENUE CODE SECTION 401(A), 26 U.S.C. § 401(A); (6) A PLAN UNDER INTERNAL REVENUE CODE SECTION 457(B), 26 U.S.C. § 457(B); AND (7) A NONQUALIFIED DEFERRED COMPENSATION PLAN UNDER INTERNAL REVENUE CODE SECTION 409(A), 26 U.S.C. § 409(A) – WITH RESPECT TO THIS SUBJECT, I AUTHORIZE MY

AGENT TO: SELECT THE FORM AND TIMING OF PAYMENTS UNDER A RETIREMENT PLAN AND WITHDRAW BENEFITS FROM A PLAN; MAKE A ROLLOVER, INCLUDING A DIRECT TRUSTEE–TO–TRUSTEE ROLLOVER, OF BENEFITS FROM ONE RETIREMENT PLAN TO ANOTHER; ESTABLISH A RETIREMENT PLAN IN THE PRINCIPAL'S NAME; MAKE CONTRIBUTIONS TO A RETIREMENT PLAN; EXERCISE INVESTMENT POWERS AVAILABLE UNDER A RETIREMENT PLAN; BORROW FROM, SELL ASSETS TO, OR PURCHASE ASSETS FROM A RETIREMENT PLAN.

TAXES – WITH RESPECT TO THIS SUBJECT, I AUTHORIZE MY AGENT TO: PREPARE, SIGN, AND FILE FEDERAL, STATE, LOCAL, AND FOREIGN INCOME, GIFT, PAYROLL, PROPERTY, FEDERAL INSURANCE CONTRIBUTIONS ACT, AND OTHER TAX RETURNS, CLAIMS FOR REFUNDS, REQUESTS FOR EXTENSION OF TIME, PETITIONS REGARDING TAX MATTERS, AND OTHER TAX–RELATED DOCUMENTS, INCLUDING RECEIPTS, OFFERS, WAIVERS, CONSENTS, INCLUDING CONSENTS AND AGREEMENTS UNDER INTERNAL REVENUE CODE SECTION 2032(A), 26 U.S.C. § 2032(A), CLOSING AGREEMENTS, AND OTHER POWERS OF ATTORNEY REQUIRED BY THE INTERNAL REVENUE SERVICE OR OTHER TAXING AUTHORITY WITH RESPECT TO A TAX YEAR ON WHICH THE STATUTE OF LIMITATIONS HAS NOT RUN AND THE FOLLOWING 25 TAX YEARS; PAY TAXES DUE, COLLECT REFUNDS, POST BONDS, RECEIVE CONFIDENTIAL INFORMATION, AND CONTEST DEFICIENCIES DETERMINED BY THE INTERNAL REVENUE SERVICE OR OTHER TAXING AUTHORITY; EXERCISE ELECTIONS AVAILABLE TO THE PRINCIPAL UNDER FEDERAL, STATE, LOCAL, OR FOREIGN TAX LAW; AND ACT FOR THE PRINCIPAL IN ALL TAX MATTERS FOR ALL PERIODS BEFORE THE INTERNAL REVENUE SERVICE, OR OTHER TAXING AUTHORITY.

SPECIAL INSTRUCTIONS (OPTIONAL)

YOU MAY GIVE SPECIAL INSTRUCTIONS ON THE FOLLOWING LINES:

_____

_____

_____

_____

_____

_____

_____

EFFECTIVE DATE

THIS POWER OF ATTORNEY IS EFFECTIVE IMMEDIATELY UNLESS I HAVE STATED OTHERWISE IN THE SPECIAL INSTRUCTIONS.

TERMINATION DATE (OPTIONAL)

THIS POWER OF ATTORNEY SHALL TERMINATE ON_____, 20__.

(USE A SPECIFIC CALENDAR DATE)

NOMINATION OF GUARDIAN (OPTIONAL)

IF IT BECOMES NECESSARY FOR A COURT TO APPOINT A GUARDIAN OF MY ESTATE OR GUARDIAN OF MY PERSON, I NOMINATE THE FOLLOWING PERSON(S) FOR APPOINTMENT:

NAME OF NOMINEE FOR GUARDIAN OF MY PROPERTY:
(___) MY AGENT (OR SUCCESSOR AGENT) NAMED ABOVE

OR

NOMINEE'S ADDRESS: _____
NOMINEE'S TELEPHONE NUMBER: _____

NAME OF NOMINEE FOR GUARDIAN OF MY PERSON:
(___) MY AGENT (OR SUCCESSOR AGENT) NAMED ABOVE

OR

_____
NOMINEE'S ADDRESS: _____
NOMINEE'S TELEPHONE NUMBER: _____

SIGNATURE AND ACKNOWLEDGMENT

_____ _____
YOUR SIGNATURE DATE

_____
YOUR NAME PRINTED

_____
_____
YOUR ADDRESS

_____
YOUR TELEPHONE NUMBER

STATE OF MARYLAND
(COUNTY) OF_____

THIS DOCUMENT WAS ACKNOWLEDGED BEFORE ME ON

_____,

(DATE)

BY _____ TO BE HIS/HER ACT.

(NAME OF PRINCIPAL)

_____ (SEAL, IF ANY)

SIGNATURE OF NOTARY

MY COMMISSION EXPIRES: _____

WITNESS ATTESTATION

THE FOREGOING POWER OF ATTORNEY WAS, ON THE DATE WRITTEN ABOVE, PUBLISHED AND DECLARED BY

_____

(NAME OF PRINCIPAL)

IN OUR PRESENCE TO BE HIS/HER POWER OF ATTORNEY. WE, IN HIS/HER PRESENCE AND AT HIS/HER REQUEST, AND IN THE PRESENCE OF EACH OTHER, HAVE ATTESTED TO THE SAME AND HAVE SIGNED OUR NAMES AS ATTESTING WITNESSES.

_____

WITNESS #1 SIGNATURE

_____

WITNESS #1 NAME PRINTED

_____

_____

WITNESS #1 ADDRESS

_____

WITNESS #1 TELEPHONE NUMBER

_____

WITNESS #2 SIGNATURE

_____

WITNESS #2 NAME PRINTED

_____

_____

WITNESS #2 ADDRESS

_____

WITNESS #2 TELEPHONE NUMBER"

17–203.

"MARYLAND STATUTORY FORM LIMITED POWER OF ATTORNEY

PLEASE READ CAREFULLY

THIS POWER OF ATTORNEY AUTHORIZES ANOTHER PERSON (YOUR AGENT) TO MAKE DECISIONS CONCERNING YOUR PROPERTY FOR YOU (THE PRINCIPAL). YOU NEED NOT GIVE TO YOUR AGENT ALL THE AUTHORITIES LISTED BELOW AND MAY GIVE THE AGENT ONLY THOSE LIMITED POWERS THAT YOU SPECIFICALLY INDICATE. THIS POWER OF ATTORNEY GIVES YOUR AGENT THE RIGHT TO MAKE LIMITED DECISIONS FOR YOU. YOU SHOULD VERY CAREFULLY WEIGH YOUR DECISION AS TO WHAT POWERS YOU GIVE YOUR AGENT. YOUR AGENT WILL BE ABLE TO MAKE DECISIONS AND ACT WITH RESPECT TO YOUR PROPERTY (INCLUDING YOUR MONEY) WHETHER OR NOT YOU ARE ABLE TO ACT FOR YOURSELF.

IF YOU CHOOSE TO MAKE A GRANT OF LIMITED AUTHORITY, YOU SHOULD CHECK THE BOXES THAT IDENTIFY THE SPECIFIC AUTHORIZATION YOU CHOOSE TO GIVE YOUR AGENT.

THIS POWER OF ATTORNEY DOES NOT AUTHORIZE THE AGENT TO MAKE HEALTH CARE DECISIONS FOR YOU.

YOU SHOULD SELECT SOMEONE YOU TRUST TO SERVE AS YOUR AGENT. UNLESS YOU SPECIFY OTHERWISE, GENERALLY THE AGENT'S AUTHORITY WILL CONTINUE UNTIL YOU DIE OR REVOKE THE POWER OF ATTORNEY OR THE AGENT RESIGNS OR IS UNABLE TO ACT FOR YOU.

YOUR AGENT IS NOT ENTITLED TO COMPENSATION UNLESS YOU INDICATE OTHERWISE IN THE SPECIAL INSTRUCTIONS OF THIS POWER OF ATTORNEY. IF YOU INDICATE THAT YOUR AGENT IS TO RECEIVE COMPENSATION, YOUR AGENT IS ENTITLED TO REASONABLE COMPENSATION OR COMPENSATION AS SPECIFIED IN THE SPECIAL INSTRUCTIONS.

THIS FORM PROVIDES FOR DESIGNATION OF ONE AGENT. IF YOU WISH TO NAME MORE THAN ONE AGENT YOU MAY NAME A COAGENT IN THE SPECIAL INSTRUCTIONS. COAGENTS ARE NOT REQUIRED TO ACT TOGETHER UNLESS YOU INCLUDE THAT REQUIREMENT IN THE SPECIAL INSTRUCTIONS.

IF YOUR AGENT IS UNAVAILABLE OR UNWILLING TO ACT FOR YOU, YOUR POWER OF ATTORNEY WILL END UNLESS YOU HAVE NAMED A SUCCESSOR AGENT. YOU MAY ALSO NAME A SECOND SUCCESSOR AGENT.

THIS POWER OF ATTORNEY BECOMES EFFECTIVE IMMEDIATELY UNLESS YOU STATE OTHERWISE IN THE SPECIAL INSTRUCTIONS.

IF YOU HAVE QUESTIONS ABOUT THE POWER OF ATTORNEY OR THE AUTHORITY YOU ARE GRANTING TO YOUR AGENT, YOU SHOULD SEEK LEGAL ADVICE BEFORE SIGNING THIS FORM.

DESIGNATION OF AGENT

I, _____, NAME THE
(NAME OF PRINCIPAL)

FOLLOWING PERSON AS MY AGENT:

NAME OF
AGENT: _____

AGENT'S
ADDRESS: _____

AGENT'S TELEPHONE
NUMBER: _____

DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)

IF MY AGENT IS UNABLE OR UNWILLING TO ACT FOR ME, I NAME AS MY SUCCESSOR AGENT:

NAME OF SUCCESSOR AGENT: _____
SUCCESSOR AGENT'S ADDRESS: _____
SUCCESSOR AGENT'S TELEPHONE
NUMBER: _____

IF MY SUCCESSOR AGENT IS UNABLE OR UNWILLING TO ACT FOR ME, I NAME AS MY SECOND SUCCESSOR AGENT:

NAME OF SECOND SUCCESSOR
AGENT: _____

SECOND SUCCESSOR AGENT'S
ADDRESS: _____

SECOND SUCCESSOR AGENT'S TELEPHONE
NUMBER: _____

GRANT OF GENERAL AUTHORITY

I ("THE PRINCIPAL") GRANT MY AGENT AND ANY SUCCESSOR AGENT, WITH RESPECT TO EACH SUBJECT THAT I CHOOSE BELOW, THE AUTHORITY TO DO ALL ACTS THAT I COULD DO TO:

(1) DEMAND, RECEIVE, AND OBTAIN BY LITIGATION OR OTHERWISE, MONEY OR ANOTHER THING OF VALUE TO WHICH THE PRINCIPAL IS, MAY BECOME, OR CLAIMS TO BE ENTITLED, AND CONSERVE, INVEST, DISBURSE, OR USE ANYTHING SO RECEIVED OR OBTAINED FOR THE PURPOSES INTENDED;

(2) CONTRACT WITH ANOTHER PERSON, ON TERMS AGREEABLE TO THE AGENT, TO ACCOMPLISH A PURPOSE OF A TRANSACTION AND PERFORM, RESCIND, CANCEL, TERMINATE, REFORM, RESTATE, RELEASE, OR MODIFY THE CONTRACT OR ANOTHER CONTRACT MADE BY OR ON BEHALF OF THE PRINCIPAL;

(3) EXECUTE, ACKNOWLEDGE, SEAL, DELIVER, FILE, OR RECORD ANY INSTRUMENT OR COMMUNICATION THE AGENT CONSIDERS DESIRABLE TO ACCOMPLISH A PURPOSE OF A TRANSACTION, INCLUDING CREATING A SCHEDULE CONTEMPORANEOUSLY OR AT A LATER TIME LISTING SOME OR ALL OF THE PRINCIPAL'S PROPERTY AND ATTACHING THE SCHEDULE TO THIS POWER OF ATTORNEY;

(4) INITIATE, PARTICIPATE IN, SUBMIT TO ALTERNATIVE DISPUTE RESOLUTION, SETTLE, OPPOSE, OR PROPOSE OR ACCEPT A COMPROMISE WITH RESPECT TO A CLAIM EXISTING IN FAVOR OF OR AGAINST THE PRINCIPAL OR INTERVENE IN LITIGATION RELATING TO THE CLAIM;

(5) SEEK ON THE PRINCIPAL'S BEHALF THE ASSISTANCE OF A COURT OR OTHER GOVERNMENTAL AGENCY TO CARRY OUT AN ACT AUTHORIZED IN THIS POWER OF ATTORNEY;

(6) ENGAGE, COMPENSATE, AND DISCHARGE AN ATTORNEY, ACCOUNTANT, DISCRETIONARY INVESTMENT MANAGER, EXPERT WITNESS, OR OTHER ADVISOR;

(7) PREPARE, EXECUTE, AND FILE A RECORD, REPORT, OR OTHER DOCUMENT TO SAFEGUARD OR PROMOTE THE PRINCIPAL'S INTEREST UNDER A STATUTE OR REGULATION;

(8) COMMUNICATE WITH REPRESENTATIVES OR EMPLOYEES OF A GOVERNMENT OR GOVERNMENTAL SUBDIVISION, AGENCY, OR INSTRUMENTALITY, ON BEHALF OF THE PRINCIPAL;

(9) ACCESS COMMUNICATIONS INTENDED FOR, AND COMMUNICATE ON BEHALF OF THE PRINCIPAL, WHETHER BY MAIL, ELECTRONIC TRANSMISSION, TELEPHONE, OR OTHER MEANS; AND

(10) DO LAWFUL ACTS WITH RESPECT TO THE SUBJECT AND ALL PROPERTY RELATED TO THE SUBJECT.

(INITIAL EACH AUTHORITY IN ANY SUBJECT YOU WANT TO INCLUDE IN THE AGENT'S GENERAL AUTHORITY. CROSS THROUGH EACH AUTHORITY IN ANY SUBJECT THAT YOU WANT TO EXCLUDE. IF YOU WISH TO GRANT GENERAL AUTHORITY OVER AN ENTIRE SUBJECT, YOU MAY INITIAL "ALL OF THE ABOVE" INSTEAD OF INITIALING EACH AUTHORITY.)

SUBJECTS AND AUTHORITY

A. REAL PROPERTY – WITH RESPECT TO THIS CATEGORY, I AUTHORIZE MY AGENT TO:

(___) DEMAND, BUY, LEASE, RECEIVE, ACCEPT AS A GIFT OR AS SECURITY FOR AN EXTENSION OF CREDIT, OR OTHERWISE ACQUIRE OR REJECT AN INTEREST IN REAL PROPERTY OR A RIGHT INCIDENT TO REAL PROPERTY

(___) SELL, EXCHANGE, CONVEY WITH OR WITHOUT COVENANTS, REPRESENTATIONS, OR WARRANTIES, QUITCLAIM, RELEASE, SURRENDER, RETAIN TITLE FOR SECURITY, ENCUMBER, PARTITION, CONSENT TO PARTITIONING, SUBJECT TO AN EASEMENT OR COVENANT, SUBDIVIDE, APPLY FOR ZONING OR OTHER GOVERNMENTAL PERMITS, PLAT OR CONSENT TO PLATTING, DEVELOP, GRANT AN OPTION CONCERNING, LEASE, SUBLEASE, CONTRIBUTE TO AN ENTITY IN EXCHANGE FOR AN INTEREST IN THAT ENTITY, OR OTHERWISE GRANT OR DISPOSE OF AN INTEREST IN REAL PROPERTY OR A RIGHT INCIDENT TO REAL PROPERTY

(___) PLEDGE OR MORTGAGE AN INTEREST IN REAL PROPERTY OR RIGHT INCIDENT TO REAL PROPERTY AS SECURITY TO BORROW MONEY OR PAY, RENEW, OR EXTEND THE TIME OF PAYMENT OF A DEBT OF THE PRINCIPAL OR A DEBT GUARANTEED BY THE PRINCIPAL, INCLUDING A REVERSE MORTGAGE

(___) RELEASE, ASSIGN, SATISFY, OR ENFORCE BY LITIGATION OR OTHERWISE A MORTGAGE, DEED OF TRUST, CONDITIONAL SALE CONTRACT,

ENCUMBRANCE, LIEN, OR OTHER CLAIM TO REAL PROPERTY THAT EXISTS OR IS ASSERTED

(___) MANAGE OR CONSERVE AN INTEREST IN REAL PROPERTY OR A RIGHT INCIDENT TO REAL PROPERTY OWNED OR CLAIMED TO BE OWNED BY THE PRINCIPAL, INCLUDING:

(1) INSURING AGAINST LIABILITY OR CASUALTY OR OTHER LOSS;

(2) OBTAINING OR REGAINING POSSESSION OF OR PROTECTING THE INTEREST OR RIGHT BY LITIGATION OR OTHERWISE;

(3) PAYING, ASSESSING, COMPROMISING, OR CONTESTING TAXES OR ASSESSMENTS OR APPLYING FOR AND RECEIVING REFUNDS IN CONNECTION WITH THEM; AND

(4) PURCHASING SUPPLIES, HIRING ASSISTANCE OR LABOR, AND MAKING REPAIRS OR ALTERATIONS TO THE REAL PROPERTY

(___) USE, DEVELOP, ALTER, REPLACE, REMOVE, ERECT, OR INSTALL STRUCTURES OR OTHER IMPROVEMENTS ON REAL PROPERTY IN OR INCIDENT TO WHICH THE PRINCIPAL HAS, OR CLAIMS TO HAVE, AN INTEREST OR RIGHT

(___) PARTICIPATE IN A REORGANIZATION WITH RESPECT TO REAL PROPERTY OR AN ENTITY THAT OWNS AN INTEREST IN OR A RIGHT INCIDENT TO REAL PROPERTY AND RECEIVE, HOLD, AND ACT WITH RESPECT TO STOCKS AND BONDS OR OTHER PROPERTY RECEIVED IN A PLAN OF REORGANIZATION, INCLUDING:

(1) SELLING OR OTHERWISE DISPOSING OF THE STOCKS AND BONDS OR OTHER PROPERTY;

(2) EXERCISING OR SELLING AN OPTION, A RIGHT OF CONVERSION, OR A SIMILAR RIGHT WITH RESPECT TO THE STOCKS AND BONDS OR OTHER PROPERTY; AND

(3) EXERCISING VOTING RIGHTS IN PERSON OR BY PROXY

(___) CHANGE THE FORM OF TITLE OF AN INTEREST IN OR A RIGHT INCIDENT TO REAL PROPERTY

(___) DEDICATE TO PUBLIC USE, WITH OR WITHOUT CONSIDERATION, EASEMENTS OR OTHER REAL PROPERTY IN WHICH THE PRINCIPAL HAS, OR CLAIMS TO HAVE, AN INTEREST

(___) ALL OF THE ABOVE

B. TANGIBLE PERSONAL PROPERTY – WITH RESPECT TO THIS SUBJECT, I AUTHORIZE MY AGENT TO:

(___) DEMAND, BUY, RECEIVE, ACCEPT AS A GIFT OR AS SECURITY FOR AN EXTENSION OF CREDIT, OR OTHERWISE ACQUIRE OR REJECT OWNERSHIP OR POSSESSION OF TANGIBLE PERSONAL PROPERTY OR AN INTEREST IN TANGIBLE PERSONAL PROPERTY

(___) SELL, EXCHANGE, CONVEY WITH OR WITHOUT COVENANTS, REPRESENTATIONS, OR WARRANTIES, QUITCLAIM, RELEASE, SURRENDER, CREATE A SECURITY INTEREST IN, GRANT OPTIONS CONCERNING, LEASE, SUBLEASE, OR OTHERWISE DISPOSE OF TANGIBLE PERSONAL PROPERTY OR AN INTEREST IN TANGIBLE PERSONAL PROPERTY

(___) GRANT A SECURITY INTEREST IN TANGIBLE PERSONAL PROPERTY OR AN INTEREST IN TANGIBLE PERSONAL PROPERTY AS SECURITY TO BORROW MONEY OR PAY, RENEW, OR EXTEND THE TIME OF PAYMENT OF A DEBT OF THE PRINCIPAL OR A DEBT GUARANTEED BY THE PRINCIPAL

(___) RELEASE, ASSIGN, SATISFY, OR ENFORCE BY LITIGATION OR OTHERWISE, A SECURITY INTEREST, LIEN, OR OTHER CLAIM ON BEHALF OF THE PRINCIPAL, WITH RESPECT TO TANGIBLE PERSONAL PROPERTY OR AN INTEREST IN TANGIBLE PERSONAL PROPERTY

(___) MANAGE OR CONSERVE TANGIBLE PERSONAL PROPERTY OR AN INTEREST IN TANGIBLE PERSONAL PROPERTY ON BEHALF OF THE PRINCIPAL, INCLUDING:

(1) INSURING AGAINST LIABILITY OR CASUALTY OR OTHER LOSS;

(2) OBTAINING OR REGAINING POSSESSION OF OR PROTECTING THE PROPERTY OR INTEREST, BY LITIGATION OR OTHERWISE;

(3) PAYING, ASSESSING, COMPROMISING, OR CONTESTING TAXES OR ASSESSMENTS OR APPLYING FOR AND RECEIVING REFUNDS IN CONNECTION WITH TAXES OR ASSESSMENTS;

(4) MOVING THE PROPERTY FROM PLACE TO PLACE;

(5) STORING THE PROPERTY FOR HIRE OR ON A GRATUITOUS BAILMENT; AND

(6) USING AND MAKING REPAIRS, ALTERATIONS, OR IMPROVEMENTS TO THE PROPERTY

(___) CHANGE THE FORM OF TITLE OF AN INTEREST IN TANGIBLE PERSONAL PROPERTY

(___) ALL OF THE ABOVE

C. STOCKS AND BONDS – WITH RESPECT TO THIS SUBJECT, I AUTHORIZE MY AGENT TO:

(___) BUY, SELL, AND EXCHANGE STOCKS AND BONDS

(___) ESTABLISH, CONTINUE, MODIFY, OR TERMINATE AN ACCOUNT WITH RESPECT TO STOCKS AND BONDS

(___) PLEDGE STOCKS AND BONDS AS SECURITY TO BORROW, PAY, RENEW, OR EXTEND THE TIME OF PAYMENT OF A DEBT OF THE PRINCIPAL

(___) RECEIVE CERTIFICATES AND OTHER EVIDENCES OF OWNERSHIP WITH RESPECT TO STOCKS AND BONDS

(___) EXERCISE VOTING RIGHTS WITH RESPECT TO STOCKS AND BONDS IN PERSON OR BY PROXY, ENTER INTO VOTING TRUSTS, AND CONSENT TO LIMITATIONS ON THE RIGHT TO VOTE

(___) ALL OF THE ABOVE

D. COMMODITIES – WITH RESPECT TO THIS SUBJECT, I AUTHORIZE MY AGENT TO:

(___) BUY, SELL, EXCHANGE, ASSIGN, SETTLE, AND EXERCISE COMMODITY FUTURES CONTRACTS AND CALL OR PUT OPTIONS ON STOCKS OR STOCK INDEXES TRADED ON A REGULATED OPTION EXCHANGE

(___) ESTABLISH, CONTINUE, MODIFY, AND TERMINATE OPTION ACCOUNTS

(___) ALL OF THE ABOVE

E. BANKS AND OTHER FINANCIAL INSTITUTIONS – WITH RESPECT TO THIS SUBJECT, I AUTHORIZE MY AGENT TO:

(___) CONTINUE, MODIFY, AND TERMINATE AN ACCOUNT OR OTHER BANKING ARRANGEMENT MADE BY OR ON BEHALF OF THE PRINCIPAL

(___) ESTABLISH, MODIFY, AND TERMINATE AN ACCOUNT OR OTHER BANKING ARRANGEMENT WITH A BANK, TRUST COMPANY, SAVINGS AND LOAN ASSOCIATION, CREDIT UNION, THRIFT COMPANY, BROKERAGE FIRM, OR OTHER FINANCIAL INSTITUTION SELECTED BY THE AGENT

(___) CONTRACT FOR SERVICES AVAILABLE FROM A FINANCIAL INSTITUTION, INCLUDING RENTING A SAFE DEPOSIT BOX OR SPACE IN A VAULT

(___) WITHDRAW, BY CHECK, MONEY ORDER, ELECTRONIC FUNDS TRANSFER, OR OTHERWISE, MONEY OR PROPERTY OF THE PRINCIPAL DEPOSITED WITH OR LEFT IN THE CUSTODY OF A FINANCIAL INSTITUTION

(___) RECEIVE STATEMENTS OF ACCOUNT, VOUCHERS, NOTICES, AND SIMILAR DOCUMENTS FROM A FINANCIAL INSTITUTION AND ACT WITH RESPECT TO THEM

(___) ENTER A SAFE DEPOSIT BOX OR VAULT AND WITHDRAW OR ADD TO THE CONTENTS

(___) BORROW MONEY AND PLEDGE AS SECURITY PERSONAL PROPERTY OF THE PRINCIPAL NECESSARY TO BORROW MONEY OR PAY, RENEW, OR EXTEND THE TIME OF PAYMENT OF A DEBT OF THE PRINCIPAL OR A DEBT GUARANTEED BY THE PRINCIPAL

(___) MAKE, ASSIGN, DRAW, ENDORSE, DISCOUNT, GUARANTEE, AND NEGOTIATE PROMISSORY NOTES, CHECKS, DRAFTS, AND OTHER NEGOTIABLE OR NONNEGOTIABLE PAPER OF THE PRINCIPAL OR PAYABLE TO THE PRINCIPAL OR THE PRINCIPAL'S ORDER, TRANSFER MONEY, RECEIVE THE CASH OR OTHER PROCEEDS OF THOSE TRANSACTIONS, AND ACCEPT A DRAFT DRAWN BY A PERSON ON THE PRINCIPAL AND PAY THE DRAFT WHEN DUE

(___) RECEIVE FOR THE PRINCIPAL AND ACT ON A SIGHT DRAFT, WAREHOUSE RECEIPT, OTHER DOCUMENT OF TITLE WHETHER TANGIBLE OR ELECTRONIC, OR OTHER NEGOTIABLE OR NONNEGOTIABLE INSTRUMENT

(___) APPLY FOR, RECEIVE, AND USE LETTERS OF CREDIT, CREDIT CARDS AND DEBIT CARDS, ELECTRONIC TRANSACTION AUTHORIZATIONS, AND

TRAVELER'S CHECKS FROM A FINANCIAL INSTITUTION AND GIVE AN INDEMNITY OR OTHER AGREEMENT IN CONNECTION WITH LETTERS OF CREDIT

(___) CONSENT TO AN EXTENSION OF THE TIME OF PAYMENT WITH RESPECT TO COMMERCIAL PAPER OR A FINANCIAL TRANSACTION WITH A FINANCIAL INSTITUTION

(___) ALL OF THE ABOVE

F. OPERATION OF AN ENTITY OR A BUSINESS – WITH RESPECT TO THIS SUBJECT, I AUTHORIZE MY AGENT TO:

(___) OPERATE, BUY, SELL, ENLARGE, REDUCE, OR TERMINATE AN OWNERSHIP INTEREST

(___) PERFORM A DUTY OR DISCHARGE A LIABILITY AND EXERCISE IN PERSON OR BY PROXY A RIGHT, POWER, PRIVILEGE, OR AN OPTION THAT THE PRINCIPAL HAS, MAY HAVE, OR CLAIMS TO HAVE

(___) ENFORCE THE TERMS OF AN OWNERSHIP AGREEMENT

(___) INITIATE, PARTICIPATE IN, SUBMIT TO ALTERNATIVE DISPUTE RESOLUTION, SETTLE, OPPOSE, OR PROPOSE OR ACCEPT A COMPROMISE WITH RESPECT TO LITIGATION TO WHICH THE PRINCIPAL IS A PARTY BECAUSE OF AN OWNERSHIP INTEREST

(___) EXERCISE IN PERSON OR BY PROXY, OR ENFORCE BY LITIGATION OR OTHERWISE, A RIGHT, POWER, PRIVILEGE, OR AN OPTION THE PRINCIPAL HAS OR CLAIMS TO HAVE AS THE HOLDER OF STOCKS AND BONDS

(___) INITIATE, PARTICIPATE IN, SUBMIT TO ALTERNATIVE DISPUTE RESOLUTION, SETTLE, OPPOSE, OR PROPOSE OR ACCEPT A COMPROMISE WITH RESPECT TO LITIGATION TO WHICH THE PRINCIPAL IS A PARTY CONCERNING STOCKS AND BONDS

(___) WITH RESPECT TO AN ENTITY OR BUSINESS OWNED SOLELY BY THE PRINCIPAL:

(1) CONTINUE, MODIFY, RENEGOTIATE, EXTEND, AND TERMINATE A CONTRACT MADE BY OR ON BEHALF OF THE PRINCIPAL WITH RESPECT TO THE ENTITY OR BUSINESS BEFORE EXECUTION OF THIS POWER OF ATTORNEY;

(2) DETERMINE:

(I) THE LOCATION OF THE OPERATION OF THE ENTITY OR BUSINESS;

(II) THE NATURE AND EXTENT OF THE BUSINESS OF THE ENTITY OR BUSINESS;

(III) THE METHODS OF MANUFACTURING, SELLING, MERCHANDISING, FINANCING, ACCOUNTING, AND ADVERTISING EMPLOYED IN THE OPERATION OF THE ENTITY OR BUSINESS;

(IV) THE AMOUNT AND TYPES OF INSURANCE CARRIED BY THE ENTITY OR BUSINESS; AND

(V) THE MODE OF ENGAGING, COMPENSATING, AND DEALING WITH THE EMPLOYEES AND ACCOUNTANTS, ATTORNEYS, OR OTHER ADVISORS OF THE ENTITY OR BUSINESS;

(3) CHANGE THE NAME OR FORM OF ORGANIZATION UNDER WHICH THE ENTITY OR BUSINESS IS OPERATED AND ENTER INTO AN OWNERSHIP AGREEMENT WITH OTHER PERSONS TO TAKE OVER ALL OR PART OF THE OPERATION OF THE ENTITY OR BUSINESS; AND

(4) DEMAND AND RECEIVE MONEY DUE OR CLAIMED BY THE PRINCIPAL OR ON THE PRINCIPAL'S BEHALF IN THE OPERATION OF THE ENTITY OR BUSINESS AND CONTROL AND DISBURSE THE MONEY IN THE OPERATION OF THE ENTITY OR BUSINESS

(___) PUT ADDITIONAL CAPITAL INTO AN ENTITY OR A BUSINESS IN WHICH THE PRINCIPAL HAS AN INTEREST

(___) JOIN IN A PLAN OF REORGANIZATION, CONSOLIDATION, CONVERSION, DOMESTICATION, OR MERGER OF THE ENTITY OR BUSINESS

(___) SELL OR LIQUIDATE ALL OR PART OF AN ENTITY OR BUSINESS

(___) ESTABLISH THE VALUE OF AN ENTITY OR A BUSINESS UNDER A BUYOUT AGREEMENT TO WHICH THE PRINCIPAL IS A PARTY

(___) PREPARE, SIGN, FILE, AND DELIVER REPORTS, COMPILATIONS OF INFORMATION, RETURNS, OR OTHER PAPERS WITH RESPECT TO AN ENTITY OR BUSINESS AND MAKE RELATED PAYMENTS

(___) PAY, COMPROMISE, OR CONTEST TAXES, ASSESSMENTS, FINES, OR PENALTIES AND PERFORM OTHER ACTS TO PROTECT THE PRINCIPAL FROM ILLEGAL OR UNNECESSARY TAXATION, ASSESSMENTS, FINES, OR PENALTIES, WITH RESPECT TO AN ENTITY OR A BUSINESS, INCLUDING ATTEMPTS TO RECOVER, AS PERMITTED BY LAW, MONEY PAID BEFORE OR AFTER THE EXECUTION OF THIS POWER OF ATTORNEY

(___) ALL OF THE ABOVE

G. INSURANCE AND ANNUITIES – WITH RESPECT TO THIS SUBJECT, I AUTHORIZE MY AGENT TO:

(___) CONTINUE, PAY THE PREMIUM OR MAKE A CONTRIBUTION ON, MODIFY, EXCHANGE, RESCIND, RELEASE, OR TERMINATE A CONTRACT PROCURED BY OR ON BEHALF OF THE PRINCIPAL THAT INSURES OR PROVIDES AN ANNUITY TO EITHER THE PRINCIPAL OR ANOTHER PERSON, WHETHER OR NOT THE PRINCIPAL IS A BENEFICIARY UNDER THE CONTRACT

(___) PROCURE NEW, DIFFERENT, AND ADDITIONAL CONTRACTS OF INSURANCE AND ANNUITIES FOR THE PRINCIPAL AND THE PRINCIPAL'S SPOUSE, CHILDREN, AND OTHER DEPENDENTS, AND SELECT THE AMOUNT, TYPE OF INSURANCE OR ANNUITY, AND MODE OF PAYMENT

(___) PAY THE PREMIUM OR MAKE A CONTRIBUTION ON, MODIFY, EXCHANGE, RESCIND, RELEASE, OR TERMINATE A CONTRACT OF INSURANCE OR ANNUITY PROCURED BY THE AGENT

(___) APPLY FOR AND RECEIVE A LOAN SECURED BY A CONTRACT OF INSURANCE OR ANNUITY

(___) SURRENDER AND RECEIVE THE CASH SURRENDER VALUE ON A CONTRACT OF INSURANCE OR ANNUITY

(___) EXERCISE AN ELECTION

(___) EXERCISE INVESTMENT POWERS AVAILABLE UNDER A CONTRACT OF INSURANCE OR ANNUITY

(___) CHANGE THE MANNER OF PAYING PREMIUMS ON A CONTRACT OF INSURANCE OR ANNUITY

(___) CHANGE OR CONVERT THE TYPE OF INSURANCE OR ANNUITY WITH RESPECT TO WHICH THE PRINCIPAL HAS OR CLAIMS TO HAVE AUTHORITY DESCRIBED IN THIS SECTION

(___) APPLY FOR AND PROCURE A BENEFIT OR ASSISTANCE UNDER A STATUTE OR REGULATION TO GUARANTEE OR PAY PREMIUMS OF A CONTRACT OF INSURANCE ON THE LIFE OF THE PRINCIPAL

(___) COLLECT, SELL, ASSIGN, HYPOTHECATE, BORROW AGAINST, OR PLEDGE THE INTEREST OF THE PRINCIPAL IN A CONTRACT OF INSURANCE OR ANNUITY

(___) SELECT THE FORM AND TIMING OF THE PAYMENT OF PROCEEDS FROM A CONTRACT OF INSURANCE OR ANNUITY

(___) PAY, FROM PROCEEDS OR OTHERWISE, COMPROMISE OR CONTEST, AND APPLY FOR REFUNDS IN CONNECTION WITH A TAX OR ASSESSMENT LEVIED BY A TAXING AUTHORITY WITH RESPECT TO A CONTRACT OF INSURANCE OR ANNUITY OR THE PROCEEDS OR LIABILITY FROM THE CONTRACT OF INSURANCE OR ANNUITY ACCRUING BY REASON OF THE TAX OR ASSESSMENT

(___) ALL OF THE ABOVE

H. ESTATES, TRUSTS, AND OTHER BENEFICIAL INTERESTS (INCLUDING TRUSTS, PROBATE ESTATES, GUARDIANSHIPS, CONSERVATORSHIPS, ESCROWS, OR CUSTODIANSHIPS OR FUNDS FROM WHICH THE PRINCIPAL IS, MAY BECOME, OR CLAIMS TO BE ENTITLED TO A SHARE OR PAYMENT) – WITH RESPECT TO THIS SUBJECT, I AUTHORIZE MY AGENT TO:

(___) ACCEPT, RECEIVE, RECEIPT FOR, SELL, ASSIGN, PLEDGE, OR EXCHANGE A SHARE IN OR PAYMENT FROM THE FUND DESCRIBED ABOVE

(___) DEMAND OR OBTAIN MONEY OR ANOTHER THING OF VALUE TO WHICH THE PRINCIPAL IS, MAY BECOME, OR CLAIMS TO BE ENTITLED BY REASON OF THE FUND DESCRIBED ABOVE, BY LITIGATION OR OTHERWISE

(___) EXERCISE FOR THE BENEFIT OF THE PRINCIPAL A PRESENTLY EXERCISABLE GENERAL POWER OF APPOINTMENT HELD BY THE PRINCIPAL

(___) INITIATE, PARTICIPATE IN, SUBMIT TO ALTERNATIVE DISPUTE RESOLUTION, SETTLE, OPPOSE, OR PROPOSE OR ACCEPT A COMPROMISE WITH RESPECT TO LITIGATION TO ASCERTAIN THE MEANING, VALIDITY, OR EFFECT OF A DEED, WILL, DECLARATION OF TRUST, OR OTHER INSTRUMENT OR TRANSACTION AFFECTING THE INTEREST OF THE PRINCIPAL

(___) INITIATE, PARTICIPATE IN, SUBMIT TO ALTERNATIVE DISPUTE RESOLUTION, SETTLE, OPPOSE, OR PROPOSE OR ACCEPT A COMPROMISE WITH RESPECT TO LITIGATION TO REMOVE, SUBSTITUTE, OR SURCHARGE A FIDUCIARY

(___) CONSERVE, INVEST, DISBURSE, OR USE ANYTHING RECEIVED FOR AN AUTHORIZED PURPOSE

(___) TRANSFER AN INTEREST OF THE PRINCIPAL IN REAL PROPERTY, STOCKS AND BONDS, ACCOUNTS WITH FINANCIAL INSTITUTIONS OR SECURITIES INTERMEDIARIES, INSURANCE, ANNUITIES, AND OTHER PROPERTY TO THE TRUSTEE OF A REVOCABLE TRUST CREATED BY THE PRINCIPAL AS SETTLOR

(___) REJECT, RENOUNCE, DISCLAIM, RELEASE, OR CONSENT TO A REDUCTION IN OR MODIFICATION OF A SHARE IN OR PAYMENT FROM THE FUND DESCRIBED ABOVE

(___) ALL OF THE ABOVE

I. CLAIMS AND LITIGATION – WITH RESPECT TO THIS SUBJECT, I AUTHORIZE MY AGENT TO:

(___) ASSERT AND MAINTAIN BEFORE A COURT OR ADMINISTRATIVE AGENCY A CLAIM, CLAIM FOR RELIEF, CAUSE OF ACTION, COUNTERCLAIM, OFFSET, RECOUPMENT, OR DEFENSE, INCLUDING AN ACTION TO RECOVER PROPERTY OR OTHER THING OF VALUE, RECOVER DAMAGES SUSTAINED BY THE PRINCIPAL, ELIMINATE OR MODIFY TAX LIABILITY, OR SEEK AN INJUNCTION, SPECIFIC PERFORMANCE, OR OTHER RELIEF

(___) BRING AN ACTION TO DETERMINE ADVERSE CLAIMS OR INTERVENE OR OTHERWISE PARTICIPATE IN LITIGATION

(___) SEEK AN ATTACHMENT, GARNISHMENT, ORDER OF ARREST, OR OTHER PRELIMINARY, PROVISIONAL, OR INTERMEDIATE RELIEF AND USE AN AVAILABLE PROCEDURE TO EFFECT OR SATISFY A JUDGMENT, ORDER, OR DECREE

(___) MAKE OR ACCEPT A TENDER, OFFER OF JUDGMENT, OR ADMISSION OF FACTS, SUBMIT A CONTROVERSY ON AN AGREED STATEMENT OF FACTS, CONSENT TO EXAMINATION, AND BIND THE PRINCIPAL IN LITIGATION

(___) SUBMIT TO ALTERNATIVE DISPUTE RESOLUTION, SETTLE, AND PROPOSE OR ACCEPT A COMPROMISE

(___) WAIVE THE ISSUANCE AND SERVICE OF PROCESS ON THE PRINCIPAL, ACCEPT SERVICE OF PROCESS, APPEAR FOR THE PRINCIPAL, DESIGNATE PERSONS ON WHICH PROCESS DIRECTED TO THE PRINCIPAL MAY BE SERVED, EXECUTE AND FILE OR DELIVER STIPULATIONS ON THE PRINCIPAL'S BEHALF, VERIFY PLEADINGS, SEEK APPELLATE REVIEW, PROCURE AND GIVE SURETY AND INDEMNITY BONDS, CONTRACT AND PAY FOR THE PREPARATION AND PRINTING OF RECORDS AND BRIEFS, RECEIVE, EXECUTE, AND FILE OR DELIVER A CONSENT, WAIVER, RELEASE, CONFESSION OF JUDGMENT, SATISFACTION OF JUDGMENT, NOTICE, AGREEMENT, OR OTHER INSTRUMENT IN CONNECTION WITH THE PROSECUTION, SETTLEMENT, OR DEFENSE OF A CLAIM OR LITIGATION

(___) ACT FOR THE PRINCIPAL WITH RESPECT TO BANKRUPTCY OR INSOLVENCY, WHETHER VOLUNTARY OR INVOLUNTARY, CONCERNING THE PRINCIPAL OR SOME OTHER PERSON, OR WITH RESPECT TO A REORGANIZATION, RECEIVERSHIP, OR APPLICATION FOR THE APPOINTMENT OF A RECEIVER OR TRUSTEE THAT AFFECTS AN INTEREST OF THE PRINCIPAL IN PROPERTY OR OTHER THING OF VALUE

(___) PAY A JUDGMENT, AWARD, OR ORDER AGAINST THE PRINCIPAL OR A SETTLEMENT MADE IN CONNECTION WITH A CLAIM OR LITIGATION

(___) RECEIVE MONEY OR OTHER THING OF VALUE PAID IN SETTLEMENT OF OR AS PROCEEDS OF A CLAIM OR LITIGATION

(___) ALL OF THE ABOVE

J. PERSONAL AND FAMILY MAINTENANCE – WITH RESPECT TO THIS SUBJECT, I AUTHORIZE MY AGENT TO:

(___) PERFORM THE ACTS NECESSARY TO MAINTAIN THE CUSTOMARY STANDARD OF LIVING OF THE PRINCIPAL, THE PRINCIPAL'S SPOUSE, AND THE FOLLOWING INDIVIDUALS, WHETHER LIVING WHEN THIS POWER OF ATTORNEY IS EXECUTED OR LATER BORN:

(1) THE PRINCIPAL'S CHILDREN;

(2) OTHER INDIVIDUALS LEGALLY ENTITLED TO BE SUPPORTED BY THE PRINCIPAL; AND

(3) THE INDIVIDUALS WHOM THE PRINCIPAL HAS CUSTOMARILY SUPPORTED OR INDICATED THE INTENT TO SUPPORT;

(___) MAKE PERIODIC PAYMENTS OF CHILD SUPPORT AND OTHER FAMILY MAINTENANCE REQUIRED BY A COURT OR GOVERNMENTAL AGENCY OR AN AGREEMENT TO WHICH THE PRINCIPAL IS A PARTY

(___) PROVIDE LIVING QUARTERS FOR THE INDIVIDUALS DESCRIBED ABOVE BY:

(1) PURCHASE, LEASE, OR OTHER CONTRACT; OR

(2) PAYING THE OPERATING COSTS, INCLUDING INTEREST, AMORTIZATION PAYMENTS, REPAIRS, IMPROVEMENTS, AND TAXES, FOR PREMISES OWNED BY THE PRINCIPAL OR OCCUPIED BY THOSE INDIVIDUALS

(___) PROVIDE NORMAL DOMESTIC HELP, USUAL VACATIONS AND TRAVEL EXPENSES, AND FUNDS FOR SHELTER, CLOTHING, FOOD, APPROPRIATE EDUCATION, INCLUDING POSTSECONDARY AND VOCATIONAL EDUCATION, AND OTHER CURRENT LIVING COSTS FOR THE INDIVIDUALS DESCRIBED ABOVE

(___) PAY EXPENSES FOR NECESSARY HEALTH CARE AND CUSTODIAL CARE ON BEHALF OF THE INDIVIDUALS DESCRIBED ABOVE

(___) ACT AS THE PRINCIPAL'S PERSONAL REPRESENTATIVE IN ACCORDANCE WITH THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT, §§ 1171 THROUGH 1179 OF THE SOCIAL SECURITY ACT, 42 U.S.C. § 1320D, AND APPLICABLE REGULATIONS IN MAKING DECISIONS RELATED TO THE PAST, PRESENT, OR FUTURE PAYMENT FOR THE PROVISION OF HEALTH CARE CONSENTED TO BY THE PRINCIPAL OR ANYONE AUTHORIZED UNDER THE LAW OF THIS STATE TO CONSENT TO HEALTH CARE ON BEHALF OF THE PRINCIPAL

(___) CONTINUE PROVISIONS MADE BY THE PRINCIPAL FOR AUTOMOBILES OR OTHER MEANS OF TRANSPORTATION, INCLUDING REGISTERING, LICENSING, INSURING, AND REPLACING THE MEANS OF TRANSPORTATION, FOR THE INDIVIDUALS DESCRIBED ABOVE

(___) MAINTAIN CREDIT AND DEBIT ACCOUNTS FOR THE CONVENIENCE OF THE INDIVIDUALS DESCRIBED ABOVE AND OPEN NEW ACCOUNTS

(___) CONTINUE PAYMENTS INCIDENTAL TO THE MEMBERSHIP OR AFFILIATION OF THE PRINCIPAL IN A RELIGIOUS INSTITUTION, CLUB, SOCIETY, ORDER, OR OTHER ORGANIZATION OR TO CONTINUE CONTRIBUTIONS TO THOSE ORGANIZATIONS

(NOTE: AUTHORITY WITH RESPECT TO PERSONAL AND FAMILY MAINTENANCE IS NEITHER DEPENDENT ON, NOR LIMITED BY, AUTHORITY THAT AN AGENT MAY OR MAY NOT HAVE WITH RESPECT TO GIFTS UNDER THIS POWER OF ATTORNEY.)

(___) ALL OF THE ABOVE

K. BENEFITS FROM GOVERNMENTAL PROGRAMS OR CIVIL OR MILITARY SERVICE (INCLUDING ANY BENEFIT, PROGRAM, OR ASSISTANCE PROVIDED UNDER A STATUTE OR REGULATION INCLUDING SOCIAL SECURITY, MEDICARE, AND MEDICAID) – WITH RESPECT TO THIS SUBJECT, I AUTHORIZE MY AGENT TO:

(___) EXECUTE VOUCHERS IN THE NAME OF THE PRINCIPAL FOR ALLOWANCES AND REIMBURSEMENTS PAYABLE BY THE UNITED STATES OR A FOREIGN GOVERNMENT OR BY A STATE OR SUBDIVISION OF A STATE TO THE PRINCIPAL, INCLUDING ALLOWANCES AND REIMBURSEMENTS FOR TRANSPORTATION OF THE INDIVIDUALS DESCRIBED IN "J. PERSONAL AND FAMILY MAINTENANCE" ABOVE, AND FOR SHIPMENT OF THE HOUSEHOLD EFFECTS OF THOSE INDIVIDUALS

(___) TAKE POSSESSION AND ORDER THE REMOVAL AND SHIPMENT OF PROPERTY OF THE PRINCIPAL FROM A POST, WAREHOUSE, DEPOT, DOCK, OR OTHER PLACE OF STORAGE OR SAFEKEEPING, EITHER GOVERNMENTAL OR PRIVATE, AND EXECUTE AND DELIVER A RELEASE, VOUCHER, RECEIPT, BILL OF LADING, SHIPPING TICKET, CERTIFICATE, OR OTHER INSTRUMENT FOR THAT PURPOSE

(___) ENROLL IN, APPLY FOR, SELECT, REJECT, CHANGE, AMEND, OR DISCONTINUE, ON THE PRINCIPAL'S BEHALF, A BENEFIT OR PROGRAM

(___) PREPARE, FILE, AND MAINTAIN A CLAIM OF THE PRINCIPAL FOR A BENEFIT OR ASSISTANCE, FINANCIAL OR OTHERWISE, TO WHICH THE PRINCIPAL MAY BE ENTITLED UNDER A STATUTE OR REGULATION

(___) INITIATE, PARTICIPATE IN, SUBMIT TO ALTERNATIVE DISPUTE RESOLUTION, SETTLE, OPPOSE, OR PROPOSE OR ACCEPT A COMPROMISE WITH RESPECT TO LITIGATION CONCERNING A BENEFIT OR ASSISTANCE THE PRINCIPAL MAY BE ENTITLED TO RECEIVE UNDER A STATUTE OR REGULATION

(___) RECEIVE THE FINANCIAL PROCEEDS OF A CLAIM DESCRIBED ABOVE AND CONSERVE, INVEST, DISBURSE, OR USE FOR A LAWFUL PURPOSE ANYTHING SO RECEIVED

(___) ALL OF THE ABOVE

L. RETIREMENT PLANS (INCLUDING A PLAN OR ACCOUNT CREATED BY AN EMPLOYER, THE PRINCIPAL, OR ANOTHER INDIVIDUAL TO PROVIDE RETIREMENT BENEFITS OR DEFERRED COMPENSATION OF WHICH THE PRINCIPAL IS A PARTICIPANT, BENEFICIARY, OR OWNER, INCLUDING A PLAN OR ACCOUNT UNDER THE FOLLOWING SECTIONS OF THE INTERNAL REVENUE CODE:

(1) AN INDIVIDUAL RETIREMENT ACCOUNT UNDER INTERNAL REVENUE CODE SECTION 408, 26 U.S.C. § 408;

(2) A ROTH INDIVIDUAL RETIREMENT ACCOUNT UNDER INTERNAL REVENUE CODE SECTION 408A, 26 U.S.C. § 408A;

(3) A DEEMED INDIVIDUAL RETIREMENT ACCOUNT UNDER INTERNAL REVENUE CODE SECTION 408(Q), 26 U.S.C. § 408(Q);

(4) AN ANNUITY OR MUTUAL FUND CUSTODIAL ACCOUNT UNDER INTERNAL REVENUE CODE SECTION 403(B), 26 U.S.C. § 403(B);

(5) A PENSION, PROFIT–SHARING, STOCK BONUS, OR OTHER RETIREMENT PLAN QUALIFIED UNDER INTERNAL REVENUE CODE SECTION 401(A), 26 U.S.C. § 401(A);

(6) A PLAN UNDER INTERNAL REVENUE CODE SECTION 457(B), 26 U.S.C. § 457(B); AND

(7) A NONQUALIFIED DEFERRED COMPENSATION PLAN UNDER INTERNAL REVENUE CODE SECTION 409A, 26 U.S.C. § 409A – WITH RESPECT TO THIS SUBJECT, I AUTHORIZE MY AGENT TO:

(___) SELECT THE FORM AND TIMING OF PAYMENTS UNDER A RETIREMENT PLAN AND WITHDRAW BENEFITS FROM A PLAN

(___) MAKE A ROLLOVER, INCLUDING A DIRECT TRUSTEE–TO–TRUSTEE ROLLOVER, OF BENEFITS FROM ONE RETIREMENT PLAN TO ANOTHER

(___) ESTABLISH A RETIREMENT PLAN IN THE PRINCIPAL'S NAME

(___) MAKE CONTRIBUTIONS TO A RETIREMENT PLAN

(___) EXERCISE INVESTMENT POWERS AVAILABLE UNDER A RETIREMENT PLAN

(___) BORROW FROM, SELL ASSETS TO, OR PURCHASE ASSETS FROM A RETIREMENT PLAN

(___) ALL OF THE ABOVE

M. TAXES – WITH RESPECT TO THIS SUBJECT, I AUTHORIZE MY AGENT TO:

(___) PREPARE, SIGN, AND FILE FEDERAL, STATE, LOCAL, AND FOREIGN INCOME, GIFT, PAYROLL, PROPERTY, FEDERAL INSURANCE CONTRIBUTIONS ACT, AND OTHER TAX RETURNS, CLAIMS FOR REFUNDS, REQUESTS FOR EXTENSION OF TIME, PETITIONS REGARDING TAX MATTERS, AND OTHER TAX–RELATED DOCUMENTS, INCLUDING RECEIPTS, OFFERS, WAIVERS, CONSENTS, INCLUDING CONSENTS AND AGREEMENTS UNDER INTERNAL REVENUE CODE SECTION 2032A, 26 U.S.C. § 2032A, CLOSING AGREEMENTS, AND OTHER POWERS OF ATTORNEY REQUIRED BY THE INTERNAL REVENUE SERVICE OR OTHER TAXING AUTHORITY WITH RESPECT TO A TAX YEAR ON WHICH THE STATUTE OF LIMITATIONS HAS NOT RUN AND THE FOLLOWING 25 TAX YEARS

(___) PAY TAXES DUE, COLLECT REFUNDS, POST BONDS, RECEIVE CONFIDENTIAL INFORMATION, AND CONTEST DEFICIENCIES DETERMINED BY THE INTERNAL REVENUE SERVICE OR OTHER TAXING AUTHORITY

(___) EXERCISE ELECTIONS AVAILABLE TO THE PRINCIPAL UNDER FEDERAL, STATE, LOCAL, OR FOREIGN TAX LAW

(___) ACT FOR THE PRINCIPAL IN ALL TAX MATTERS FOR ALL PERIODS BEFORE THE INTERNAL REVENUE SERVICE, OR OTHER TAXING AUTHORITY

(___) ALL OF THE ABOVE

N. GIFTS (INCLUDING GIFTS TO A TRUST, AN ACCOUNT UNDER THE UNIFORM TRANSFERS TO MINORS ACT, AND A TUITION SAVINGS ACCOUNT OR PREPAID TUITION PLAN AS DEFINED UNDER INTERNAL REVENUE CODE SECTION 529, 26 U.S.C. § 529) – WITH RESPECT TO THIS SUBJECT, I AUTHORIZE MY AGENT TO:

(___) MAKE OUTRIGHT TO, OR FOR THE BENEFIT OF, A PERSON, A GIFT OF PART OR ALL OF THE PRINCIPAL'S PROPERTY, INCLUDING BY THE EXERCISE OF A PRESENTLY EXERCISABLE GENERAL POWER OF APPOINTMENT HELD BY THE PRINCIPAL, IN AN AMOUNT FOR EACH DONEE NOT TO EXCEED THE ANNUAL DOLLAR LIMITS OF THE FEDERAL GIFT TAX EXCLUSION UNDER INTERNAL REVENUE CODE SECTION 2503(B), 26 U.S.C. § 2503(B), WITHOUT REGARD TO WHETHER THE FEDERAL GIFT TAX EXCLUSION APPLIES TO THE GIFT, OR IF THE PRINCIPAL'S SPOUSE AGREES TO CONSENT TO A SPLIT GIFT PURSUANT TO INTERNAL REVENUE CODE SECTION 2513, 26 U.S.C. § 2513, IN AN AMOUNT FOR EACH DONEE NOT TO EXCEED TWICE THE ANNUAL FEDERAL GIFT TAX EXCLUSION LIMIT

(___) CONSENT, PURSUANT TO INTERNAL REVENUE CODE SECTION 2513, 26 U.S.C. § 2513, TO THE SPLITTING OF A GIFT MADE BY THE PRINCIPAL'S SPOUSE IN AN AMOUNT FOR EACH DONEE NOT TO EXCEED THE AGGREGATE ANNUAL GIFT TAX EXCLUSIONS FOR BOTH SPOUSES

(NOTE: AN AGENT MAY ONLY MAKE A GIFT OF THE PRINCIPAL'S PROPERTY AS THE AGENT DETERMINES IS CONSISTENT WITH THE PRINCIPAL'S OBJECTIVES IF ACTUALLY KNOWN BY THE AGENT AND, IF UNKNOWN, AS THE AGENT DETERMINES IS CONSISTENT WITH THE PRINCIPAL'S BEST INTEREST BASED ON ALL RELEVANT FACTORS, INCLUDING:

(1) THE VALUE AND NATURE OF THE PRINCIPAL'S PROPERTY;

(2) THE PRINCIPAL'S FORESEEABLE OBLIGATIONS AND NEED FOR MAINTENANCE;

(3) MINIMIZATION OF TAXES, INCLUDING INCOME, ESTATE, INHERITANCE, GENERATION–SKIPPING TRANSFER, AND GIFT TAXES;

(4) ELIGIBILITY FOR A BENEFIT, A PROGRAM, OR ASSISTANCE UNDER A STATUTE OR REGULATION; AND

(5) THE PRINCIPAL'S PERSONAL HISTORY OF MAKING OR JOINING IN MAKING GIFTS.)

(___) ALL OF THE ABOVE

GRANT OF SPECIFIC AUTHORITY (OPTIONAL)

MY AGENT MAY NOT DO ANY OF THE FOLLOWING SPECIFIC ACTS FOR ME UNLESS I HAVE INITIALED THE SPECIFIC AUTHORITY LISTED BELOW:

(CAUTION: GRANTING ANY OF THE FOLLOWING WILL GIVE YOUR AGENT THE AUTHORITY TO TAKE ACTIONS THAT COULD SIGNIFICANTLY REDUCE YOUR PROPERTY OR CHANGE HOW YOUR PROPERTY IS DISTRIBUTED AT YOUR DEATH. INITIAL ONLY THE SPECIFIC AUTHORITY YOU WANT TO GIVE YOUR AGENT.)

( ) CREATE, *AN INTER VIVOS TRUST, OR* AMEND, REVOKE, OR TERMINATE AN *EXISTING* INTER VIVOS TRUST *IF THE TRUST EXPRESSLY AUTHORIZES THAT ACTION BY THE AGENT*

( ) MAKE A GIFT, SUBJECT TO ANY SPECIAL INSTRUCTIONS IN THIS POWER OF ATTORNEY

( ) CREATE OR CHANGE RIGHTS OF SURVIVORSHIP

( ) CREATE OR CHANGE A BENEFICIARY DESIGNATION

( ) AUTHORIZE ANOTHER PERSON TO EXERCISE THE AUTHORITY GRANTED UNDER THIS POWER OF ATTORNEY

( ) WAIVE THE PRINCIPAL'S RIGHT TO BE A BENEFICIARY OF A JOINT AND SURVIVOR ANNUITY, INCLUDING A SURVIVOR BENEFIT UNDER A RETIREMENT PLAN

( ) EXERCISE FIDUCIARY POWERS THAT THE PRINCIPAL HAS AUTHORITY TO DELEGATE

( ) DISCLAIM OR REFUSE AN INTEREST IN PROPERTY, INCLUDING A POWER OF APPOINTMENT

LIMITATION ON AGENT'S AUTHORITY

AN AGENT THAT IS NOT MY ANCESTOR, SPOUSE, OR DESCENDANT MAY NOT USE MY PROPERTY TO BENEFIT THE AGENT OR A PERSON TO WHOM THE AGENT OWES AN OBLIGATION OF SUPPORT UNLESS I HAVE INCLUDED THAT AUTHORITY IN THE SPECIAL INSTRUCTIONS.

SPECIAL INSTRUCTIONS (OPTIONAL)

YOU MAY GIVE SPECIAL INSTRUCTIONS ON THE FOLLOWING LINES:

_____

_____

_____

_____

_____

_____

_____

EFFECTIVE DATE

THIS POWER OF ATTORNEY IS EFFECTIVE IMMEDIATELY UNLESS I HAVE STATED OTHERWISE IN THE SPECIAL INSTRUCTIONS.

TERMINATION DATE (OPTIONAL)

THIS POWER OF ATTORNEY SHALL TERMINATE ON _____, 20 . (USE A SPECIFIC CALENDAR DATE)

NOMINATION OF GUARDIAN (OPTIONAL)

IF IT BECOMES NECESSARY FOR A COURT TO APPOINT A GUARDIAN OF MY PROPERTY OR GUARDIAN OF MY PERSON, I NOMINATE THE FOLLOWING PERSON(S) FOR APPOINTMENT:

NAME OF NOMINEE FOR GUARDIAN OF MY PROPERTY:

_____

NOMINEE'S ADDRESS: _____

NOMINEE'S TELEPHONE NUMBER: _____

NAME OF NOMINEE FOR GUARDIAN OF MY PERSON:

_____

NOMINEE'S ADDRESS: _____

NOMINEE'S TELEPHONE NUMBER: _____

SIGNATURE AND ACKNOWLEDGMENT

_____ _____

YOUR SIGNATURE DATE

_____

YOUR NAME PRINTED

_____

_____

YOUR ADDRESS

_____

YOUR TELEPHONE NUMBER

STATE OF MARYLAND
(COUNTY) OF _____

THIS DOCUMENT WAS ACKNOWLEDGED BEFORE ME ON

_____,

(DATE)

BY _____.

(NAME OF PRINCIPAL)

_____ (SEAL, IF ANY)

SIGNATURE OF NOTARY
MY COMMISSION EXPIRES: _____

WITNESS ATTESTATION

THE FOREGOING POWER OF ATTORNEY WAS, ON THE DATE WRITTEN ABOVE, PUBLISHED AND DECLARED BY _____
(NAME OF PRINCIPAL)
IN OUR PRESENCE TO BE HIS/HER POWER OF ATTORNEY. WE, IN HIS/HER PRESENCE AND AT HIS/HER REQUEST, AND IN THE PRESENCE OF EACH OTHER, HAVE ATTESTED TO THE SAME AND HAVE SIGNED OUR NAMES AS ATTESTING WITNESSES.

_____
WITNESS #1 SIGNATURE

_____
WITNESS #1 NAME PRINTED

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_____
WITNESS #1 ADDRESS

_____
WITNESS #1 TELEPHONE NUMBER

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WITNESS #2 SIGNATURE

_____
WITNESS #2 NAME PRINTED

_____

_____
WITNESS #2 ADDRESS

_____
WITNESS #2 TELEPHONE NUMBER

THIS DOCUMENT PREPARED BY:

_____

_____

IMPORTANT INFORMATION FOR AGENT

AGENT'S DUTIES

WHEN YOU ACCEPT THE AUTHORITY GRANTED UNDER THIS POWER OF ATTORNEY, A SPECIAL LEGAL RELATIONSHIP IS CREATED BETWEEN YOU AND THE PRINCIPAL. THIS RELATIONSHIP IMPOSES ON YOU LEGAL DUTIES THAT CONTINUE UNTIL YOU RESIGN OR *THE* POWER OF ATTORNEY IS TERMINATED OR REVOKED. YOU MUST:

(1) DO WHAT YOU KNOW THE PRINCIPAL REASONABLY EXPECTS YOU TO DO WITH THE PRINCIPAL'S PROPERTY OR, IF YOU DO NOT KNOW THE PRINCIPAL'S EXPECTATIONS, ACT IN THE PRINCIPAL'S BEST INTEREST;
(2) ACT WITH CARE, COMPETENCE, AND DILIGENCE FOR THE BEST INTEREST OF THE PRINCIPAL;
(3) DO NOTHING BEYOND THE AUTHORITY GRANTED IN THIS POWER OF ATTORNEY; AND
(4) DISCLOSE YOUR IDENTITY AS AN AGENT WHENEVER YOU ACT FOR THE PRINCIPAL BY WRITING OR PRINTING THE NAME OF THE PRINCIPAL AND SIGNING YOUR OWN NAME AS "AGENT" IN THE FOLLOWING MANNER:

_____ _____

(PRINCIPAL'S NAME) BY (YOUR SIGNATURE) AS AGENT

UNLESS THE SPECIAL INSTRUCTIONS IN THIS POWER OF ATTORNEY STATE OTHERWISE, YOU MUST ALSO:

(1) ACT LOYALLY FOR THE PRINCIPAL'S BENEFIT;
(2) AVOID CONFLICTS THAT WOULD IMPAIR YOUR ABILITY TO ACT IN THE PRINCIPAL'S BEST INTEREST;
(3) KEEP A RECORD OF ALL RECEIPTS, DISBURSEMENTS, AND TRANSACTIONS MADE ON BEHALF OF THE PRINCIPAL;
(4) COOPERATE WITH ANY PERSON THAT HAS AUTHORITY TO MAKE HEALTH CARE DECISIONS FOR THE PRINCIPAL TO DO WHAT YOU KNOW THE PRINCIPAL REASONABLY EXPECTS OR, IF YOU DO NOT KNOW THE PRINCIPAL'S EXPECTATIONS, TO ACT IN THE PRINCIPAL'S BEST INTEREST; AND
(5) ATTEMPT TO PRESERVE THE PRINCIPAL'S ESTATE PLAN IF YOU KNOW THE PLAN AND PRESERVING THE PLAN IS CONSISTENT WITH THE PRINCIPAL'S BEST INTEREST.

TERMINATION OF AGENT'S AUTHORITY

YOU MUST STOP ACTING ON BEHALF OF THE PRINCIPAL IF YOU LEARN OF ANY EVENT THAT TERMINATES THIS POWER OF ATTORNEY OR YOUR AUTHORITY UNDER THIS POWER OF ATTORNEY. EVENTS THAT TERMINATE A POWER OF

ATTORNEY OR YOUR AUTHORITY TO ACT UNDER A POWER OF ATTORNEY INCLUDE:

(1) DEATH OF THE PRINCIPAL;
(2) THE PRINCIPAL'S REVOCATION OF THE POWER OF ATTORNEY OR YOUR AUTHORITY;
(3) THE OCCURRENCE OF A TERMINATION EVENT STATED IN THE POWER OF ATTORNEY;
(4) THE PURPOSE OF THE POWER OF ATTORNEY IS FULLY ACCOMPLISHED; OR
(5) IF YOU ARE MARRIED TO THE PRINCIPAL, A LEGAL ACTION IS FILED WITH A COURT TO END YOUR MARRIAGE, OR FOR YOUR LEGAL SEPARATION, UNLESS THE SPECIAL INSTRUCTIONS IN THIS POWER OF ATTORNEY STATE THAT SUCH AN ACTION WILL NOT TERMINATE YOUR AUTHORITY.

LIABILITY OF AGENT

THE MEANING OF THE AUTHORITY GRANTED TO YOU IS DEFINED IN THE MARYLAND POWER OF ATTORNEY ACT, TITLE 17 OF THE ESTATES AND TRUSTS ARTICLE. IF YOU VIOLATE THE MARYLAND POWER OF ATTORNEY ACT, TITLE 17 OF THE ESTATES AND TRUSTS ARTICLE, OR ACT OUTSIDE THE AUTHORITY GRANTED, YOU MAY BE LIABLE FOR ANY DAMAGES CAUSED BY YOUR VIOLATION.

IF THERE IS ANYTHING ABOUT THIS DOCUMENT OR YOUR DUTIES THAT YOU DO NOT UNDERSTAND, YOU SHOULD SEEK LEGAL ADVICE."

17–204.

THE FOLLOWING OPTIONAL FORM MAY BE USED BY AN AGENT TO CERTIFY FACTS CONCERNING A POWER OF ATTORNEY:

"AGENT'S CERTIFICATION AS TO THE VALIDITY OF POWER OF ATTORNEY AND AGENT'S AUTHORITY

STATE OF MARYLAND
(COUNTY) OF _____

I, _____ (NAME OF AGENT), CERTIFY UNDER PENALTY OF PERJURY THAT _____ (NAME OF PRINCIPAL) GRANTED ME AUTHORITY AS AN AGENT OR SUCCESSOR AGENT IN A POWER OF ATTORNEY DATED _____.

I FURTHER CERTIFY THAT TO MY KNOWLEDGE:

(1) THE PRINCIPAL IS ALIVE AND HAS NOT REVOKED THE POWER OF ATTORNEY OR MY AUTHORITY TO ACT UNDER THE POWER OF ATTORNEY AND THE POWER OF ATTORNEY AND MY AUTHORITY TO ACT UNDER THE POWER OF ATTORNEY HAVE NOT TERMINATED;

(2) IF THE POWER OF ATTORNEY WAS DRAFTED TO BECOME EFFECTIVE ON THE HAPPENING OF AN EVENT OR CONTINGENCY, THE EVENT OR CONTINGENCY HAS OCCURRED;

(3) IF I WAS NAMED AS A SUCCESSOR AGENT, THE PRIOR AGENT IS NO LONGER ABLE OR WILLING TO SERVE; AND

(4) _____

_____

_____

_____

(INSERT OTHER RELEVANT STATEMENTS)

SIGNATURE AND ACKNOWLEDGMENT

_____ _____

AGENT'S SIGNATURE DATE

_____

AGENT'S NAME PRINTED

_____

_____

AGENT'S ADDRESS

_____

AGENT'S TELEPHONE NUMBER

THIS DOCUMENT WAS ACKNOWLEDGED BEFORE ME ON _____,

(DATE)

BY _____.

(NAME OF AGENT)

_____ (SEAL, IF ANY)

SIGNATURE OF NOTARY

MY COMMISSION EXPIRES: _____

THIS DOCUMENT PREPARED BY:

_____ _."

~~TITLE 17. UNIFORM POWER OF ATTORNEY ACT.~~

~~SUBTITLE 1. GENERAL PROVISIONS.~~

~~17–101.~~

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

~~(B) (1) "AGENT" MEANS A PERSON GRANTED AUTHORITY TO ACT FOR A PRINCIPAL UNDER A POWER OF ATTORNEY, WHETHER DENOMINATED AN AGENT, ATTORNEY–IN–FACT, OR OTHERWISE.~~

~~(2) "AGENT" INCLUDES AN ORIGINAL AGENT, COAGENT, SUCCESSOR AGENT, AND A PERSON TO WHICH AN AGENT'S AUTHORITY IS DELEGATED.~~

~~(C) "DURABLE" MEANS, WITH RESPECT TO A POWER OF ATTORNEY, NOT TERMINATED BY THE PRINCIPAL'S INCAPACITY.~~

~~(D) "ELECTRONIC" MEANS RELATING TO TECHNOLOGY HAVING ELECTRICAL, DIGITAL, MAGNETIC, WIRELESS, OPTICAL, ELECTROMAGNETIC, OR SIMILAR CAPABILITIES.~~

~~(E) "GOOD FAITH" MEANS HONESTY IN FACT.~~

~~(F) "INCAPACITY" MEANS INABILITY OF AN INDIVIDUAL TO MANAGE PROPERTY OR BUSINESS AFFAIRS EFFECTIVELY BECAUSE THE INDIVIDUAL:~~

~~(1) MEETS THE GROUNDS REQUIRED FOR THE APPOINTMENT OF A GUARDIAN OF THE PROPERTY OF A DISABLED PERSON DESCRIBED IN § 13–201 OF THIS ARTICLE; OR~~

~~(2) IS:~~

~~(I) MISSING;~~

~~(II) DETAINED, INCLUDING INCARCERATED IN A PENAL SYSTEM; OR~~

~~(III) OUTSIDE THE UNITED STATES AND UNABLE TO RETURN.~~

~~(G) "PERSON" MEANS AN INDIVIDUAL, CORPORATION, BUSINESS TRUST, ESTATE, TRUST, PARTNERSHIP, LIMITED LIABILITY COMPANY, ASSOCIATION, JOINT VENTURE, PUBLIC CORPORATION, GOVERNMENT OR GOVERNMENTAL SUBDIVISION, AGENCY, INSTRUMENTALITY, OR OTHER LEGAL OR COMMERCIAL ENTITY.~~

~~(H) "POWER OF ATTORNEY" MEANS A WRITING OR OTHER RECORD THAT GRANTS AUTHORITY TO AN AGENT TO ACT IN THE PLACE OF THE PRINCIPAL, WHETHER OR NOT THE TERM "POWER OF ATTORNEY" IS USED.~~

~~(I) (1) "PRESENTLY EXERCISABLE GENERAL POWER OF APPOINTMENT" MEANS, WITH RESPECT TO PROPERTY OR A PROPERTY INTEREST SUBJECT TO A POWER OF APPOINTMENT, POWER EXERCISABLE AT THE TIME IN QUESTION TO VEST ABSOLUTE OWNERSHIP IN THE PRINCIPAL INDIVIDUALLY, THE PRINCIPAL'S ESTATE, THE PRINCIPAL'S CREDITORS, OR THE CREDITORS OF THE PRINCIPAL'S ESTATE.~~

~~(2) "PRESENTLY EXERCISABLE GENERAL POWER OF APPOINTMENT" INCLUDES A POWER OF APPOINTMENT NOT EXERCISABLE UNTIL THE OCCURRENCE OF A SPECIFIED EVENT, THE SATISFACTION OF AN ASCERTAINABLE STANDARD, OR THE PASSAGE OF A SPECIFIED PERIOD ONLY AFTER THE OCCURRENCE OF THE SPECIFIED EVENT, THE SATISFACTION OF THE ASCERTAINABLE STANDARD, OR THE PASSAGE OF THE SPECIFIED PERIOD.~~

~~(3) "PRESENTLY EXERCISABLE GENERAL POWER OF APPOINTMENT" DOES NOT INCLUDE A POWER EXERCISABLE IN A FIDUCIARY CAPACITY OR ONLY BY WILL.~~

~~(J) "PRINCIPAL" MEANS AN INDIVIDUAL WHO GRANTS AUTHORITY TO AN AGENT IN A POWER OF ATTORNEY.~~

~~(K) "PROPERTY" MEANS ANYTHING THAT MAY BE THE SUBJECT OF OWNERSHIP, WHETHER REAL OR PERSONAL, LEGAL OR EQUITABLE, OR ANY INTEREST OR RIGHT THEREIN.~~

~~(L) "RECORD" MEANS INFORMATION THAT IS INSCRIBED ON A TANGIBLE MEDIUM OR THAT IS STORED IN AN ELECTRONIC OR OTHER MEDIUM AND IS RETRIEVABLE IN PERCEIVABLE FORM.~~

~~(M) "SIGN" MEANS, WITH PRESENT INTENT, TO AUTHENTICATE OR ADOPT A RECORD TO:~~

~~(1) EXECUTE OR ADOPT A TANGIBLE SYMBOL; OR~~

~~(2) ATTACH TO OR LOGICALLY ASSOCIATE WITH THE RECORD AN ELECTRONIC SOUND, SYMBOL, OR PROCESS.~~

~~(N) "STATE" MEANS A STATE OF THE UNITED STATES, THE DISTRICT OF COLUMBIA, PUERTO RICO, THE UNITED STATES VIRGIN ISLANDS, OR ANY TERRITORY OR INSULAR POSSESSION SUBJECT TO THE JURISDICTION OF THE UNITED STATES.~~

~~(O) (1) "STOCKS AND BONDS" MEANS STOCKS, BONDS, MUTUAL FUNDS, AND ALL OTHER TYPES OF SECURITIES AND FINANCIAL INSTRUMENTS, WHETHER HELD DIRECTLY, INDIRECTLY, OR IN ANOTHER MANNER.~~

~~(2) "STOCKS AND BONDS" DOES NOT INCLUDE COMMODITY FUTURES CONTRACTS AND CALL OR PUT OPTIONS ON STOCKS OR STOCK INDEXES.~~

~~17–102.~~

~~THIS TITLE APPLIES TO ALL POWERS OF ATTORNEY EXCEPT:~~

~~(1) A POWER TO THE EXTENT THE POWER IS COUPLED WITH AN INTEREST IN THE SUBJECT OF THE POWER, IS GIVEN AS SECURITY, OR IS GIVEN FOR CONSIDERATION, REGARDLESS OF WHETHER THE POWER IS HELD FOR THE BENEFIT OF THE AGENT OR ANOTHER PERSON, INCLUDING A POWER GIVEN TO OR FOR THE BENEFIT OF A CREDITOR IN CONNECTION WITH A CREDIT TRANSACTION;~~

~~(2) A POWER TO MAKE HEALTH CARE DECISIONS;~~

~~(3) A PROXY OR OTHER DELEGATION TO EXERCISE ANY AND ALL RIGHTS WITH RESPECT TO AN ENTITY, INCLUDING VOTING RIGHTS OR MANAGEMENT RIGHTS OR BOTH, OR A DELEGATION OF AUTHORITY TO EXECUTE, BECOME A PARTY TO, OR AMEND A DOCUMENT OR AGREEMENT GOVERNING AN ENTITY OR ENTITY OWNERSHIP INTEREST;~~

~~(4) A POWER CREATED ON A FORM PRESCRIBED BY A GOVERNMENT OR GOVERNMENTAL SUBDIVISION, AGENCY, OR INSTRUMENTALITY FOR A GOVERNMENTAL PURPOSE;~~

~~(5) A POWER CREATED AS PART OF, OR IN CONNECTION WITH, AN AGREEMENT ESTABLISHING AN ATTORNEY AND CLIENT RELATIONSHIP; AND~~

~~(6) A POWER OF ATTORNEY THAT STATES THAT IT IS NOT SUBJECT TO THIS TITLE.~~

~~17–103.~~

~~A POWER OF ATTORNEY CREATED UNDER THIS TITLE IS DURABLE UNLESS THE POWER OF ATTORNEY EXPRESSLY PROVIDES THAT THE POWER OF ATTORNEY IS TERMINATED BY THE INCAPACITY OF THE PRINCIPAL.~~

~~17–104.~~

~~(A) A POWER OF ATTORNEY SHALL BE SIGNED BY THE PRINCIPAL OR IN THE PRINCIPAL'S CONSCIOUS PRESENCE BY ANOTHER INDIVIDUAL DIRECTED BY THE PRINCIPAL TO SIGN THE PRINCIPAL'S NAME ON THE POWER OF ATTORNEY.~~

~~(B) A SIGNATURE ON A POWER OF ATTORNEY IS PRESUMED TO BE GENUINE IF THE PRINCIPAL ACKNOWLEDGES THE SIGNATURE BEFORE A NOTARY PUBLIC OR OTHER INDIVIDUAL AUTHORIZED BY LAW TO TAKE ACKNOWLEDGMENTS.~~

~~17–105.~~

~~(A) A POWER OF ATTORNEY EXECUTED IN THIS STATE ON OR AFTER OCTOBER 1, 2010, IS VALID IF THE EXECUTION OF THE POWER OF ATTORNEY COMPLIES WITH § 17–104 OF THIS SUBTITLE.~~

~~(B) A POWER OF ATTORNEY EXECUTED IN THIS STATE BEFORE OCTOBER 1, 2010, IS VALID IF THE EXECUTION OF THE POWER OF ATTORNEY COMPLIED WITH THE LAW OF THIS STATE AS THE LAW EXISTED AT THE TIME OF EXECUTION.~~

~~(C) A POWER OF ATTORNEY EXECUTED OTHER THAN IN THIS STATE IS VALID IN THIS STATE IF, WHEN THE POWER OF ATTORNEY WAS EXECUTED, THE EXECUTION COMPLIED WITH:~~

~~(1) THE LAW OF THE JURISDICTION THAT DETERMINES THE MEANING AND EFFECT OF THE POWER OF ATTORNEY IN ACCORDANCE WITH § 17–106 OF THIS SUBTITLE; OR~~

~~(2) THE REQUIREMENTS FOR A MILITARY POWER OF ATTORNEY IN ACCORDANCE WITH 10 U.S.C. § 1044B.~~

~~(D) (1) EXCEPT AS OTHERWISE PROVIDED BY STATUTE OTHER THAN THIS TITLE AND EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A PHOTOCOPY OR ELECTRONICALLY TRANSMITTED COPY OF AN ORIGINAL POWER OF ATTORNEY HAS THE SAME EFFECT AS THE ORIGINAL.~~

~~(2) A CLERK OF COURT MAY REFUSE TO RECORD A PHOTOCOPY OR ELECTRONICALLY TRANSMITTED COPY OF AN ORIGINAL POWER OF ATTORNEY.~~

~~17–106.~~

~~THE MEANING AND EFFECT OF A POWER OF ATTORNEY IS DETERMINED BY THE LAW OF THE JURISDICTION INDICATED IN THE POWER OF ATTORNEY AND, IN THE ABSENCE OF AN INDICATION OF JURISDICTION, BY THE LAW OF THE JURISDICTION IN WHICH THE POWER OF ATTORNEY WAS EXECUTED.~~

~~17–107.~~

~~(A) IN A POWER OF ATTORNEY, A PRINCIPAL MAY NOMINATE A GUARDIAN OF THE PRINCIPAL'S ESTATE IN ACCORDANCE WITH THE PROVISIONS OF § 13–207 OF THIS ARTICLE.~~

~~(B) IF A COURT APPOINTS A GUARDIAN OF THE PRINCIPAL'S ESTATE OR OTHER FIDUCIARY CHARGED WITH THE MANAGEMENT OF SOME OR ALL OF THE PRINCIPAL'S PROPERTY AFTER A PRINCIPAL EXECUTES A POWER OF ATTORNEY:~~

~~(1) THE AGENT IS ACCOUNTABLE TO THE FIDUCIARY AS WELL AS TO THE PRINCIPAL;~~

~~(2) THE POWER OF ATTORNEY IS NOT TERMINATED; AND~~

~~(3) THE AGENT'S AUTHORITY CONTINUES UNLESS LIMITED, SUSPENDED, OR TERMINATED BY THE COURT.~~

~~17–108.~~

~~(A) A POWER OF ATTORNEY IS EFFECTIVE WHEN EXECUTED UNLESS THE PRINCIPAL PROVIDES IN THE POWER OF ATTORNEY THAT THE POWER OF ATTORNEY BECOMES EFFECTIVE AT A FUTURE DATE OR ON THE OCCURRENCE OF A FUTURE EVENT OR CONTINGENCY.~~

~~(B) IF A POWER OF ATTORNEY BECOMES EFFECTIVE ON THE OCCURRENCE OF A FUTURE EVENT OR CONTINGENCY, THE PRINCIPAL, IN THE POWER OF ATTORNEY, MAY AUTHORIZE ONE OR MORE PERSONS TO DETERMINE~~

~~IN A WRITING OR OTHER RECORD THAT THE EVENT OR CONTINGENCY HAS OCCURRED.~~

~~(C) IF A POWER OF ATTORNEY BECOMES EFFECTIVE ON THE PRINCIPAL'S INCAPACITY AND THE PRINCIPAL HAS NOT AUTHORIZED A PERSON TO DETERMINE WHETHER THE PRINCIPAL IS INCAPACITATED, OR THE PERSON AUTHORIZED IS UNABLE OR UNWILLING TO MAKE THE DETERMINATION, THE POWER OF ATTORNEY BECOMES EFFECTIVE ON A DETERMINATION IN A WRITING OR OTHER RECORD BY:~~

~~(1) TWO LICENSED PHYSICIANS WHO HAVE EXAMINED THE PRINCIPAL OR ONE LICENSED PHYSICIAN WHO HAS EXAMINED THE PRINCIPAL AND ONE LICENSED PSYCHOLOGIST WHO HAS EVALUATED THE PRINCIPAL THAT THE PRINCIPAL IS INCAPACITATED WITHIN THE MEANING OF § 17–101(F)(1) OF THIS SUBTITLE; OR~~

~~(2) AN ATTORNEY AT LAW, A JUDGE, OR AN APPROPRIATE GOVERNMENTAL OFFICIAL THAT THE PRINCIPAL IS INCAPACITATED WITHIN THE MEANING OF § 17–101(F)(2) OF THIS SUBTITLE.~~

~~(D) A PERSON AUTHORIZED BY THE PRINCIPAL IN THE POWER OF ATTORNEY TO DETERMINE THAT THE PRINCIPAL IS INCAPACITATED MAY ACT AS THE PRINCIPAL'S PERSONAL REPRESENTATIVE IN ACCORDANCE WITH THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT, §§ 1171 THROUGH 1179 OF THE SOCIAL SECURITY ACT, 42 U.S.C. § 1320D, AND APPLICABLE REGULATIONS, TO OBTAIN ACCESS TO THE PRINCIPAL'S HEALTH CARE INFORMATION AND COMMUNICATE WITH THE PRINCIPAL'S HEALTH CARE PROVIDER.~~

~~17–109.~~

~~(A) A POWER OF ATTORNEY TERMINATES WHEN:~~

~~(1) THE PRINCIPAL DIES;~~

~~(2) THE PRINCIPAL BECOMES INCAPACITATED, IF THE POWER OF ATTORNEY IS NOT DURABLE;~~

~~(3) THE PRINCIPAL REVOKES THE POWER OF ATTORNEY;~~

~~(4) THE POWER OF ATTORNEY PROVIDES THAT IT TERMINATES;~~

~~(5) THE PURPOSE OF THE POWER OF ATTORNEY IS FULLY ACCOMPLISHED, IF THE POWER OF ATTORNEY EXPRESSLY STATES THAT IT IS GIVEN FOR A SPECIFIC PURPOSE; OR~~

~~(6) THE PRINCIPAL REVOKES THE AGENT'S AUTHORITY OR THE AGENT DIES, BECOMES INCAPACITATED, OR RESIGNS, AND THE POWER OF ATTORNEY DOES NOT PROVIDE FOR ANOTHER AGENT TO ACT UNDER THE POWER OF ATTORNEY.~~

~~(B) AN AGENT'S AUTHORITY TERMINATES WHEN:~~

~~(1) THE PRINCIPAL REVOKES THE AUTHORITY;~~

~~(2) THE AGENT DIES, BECOMES INCAPACITATED, OR RESIGNS;~~

~~(3) AN ACTION IS FILED FOR THE DISSOLUTION OR ANNULMENT OF THE AGENT'S MARRIAGE TO THE PRINCIPAL OR THEIR LEGAL SEPARATION, UNLESS THE POWER OF ATTORNEY OTHERWISE PROVIDES; OR~~

~~(4) THE POWER OF ATTORNEY TERMINATES.~~

~~(C) UNLESS THE POWER OF ATTORNEY OTHERWISE PROVIDES, AN AGENT'S AUTHORITY IS EXERCISABLE UNTIL THE AUTHORITY TERMINATES UNDER SUBSECTION (B) OF THIS SECTION, NOTWITHSTANDING A LAPSE OF TIME SINCE THE EXECUTION OF THE POWER OF ATTORNEY.~~

~~(D) (1) TERMINATION OF AN AGENT'S AUTHORITY OR OF A POWER OF ATTORNEY IS NOT EFFECTIVE AS TO THE AGENT OR ANOTHER PERSON THAT, WITHOUT ACTUAL KNOWLEDGE OF THE TERMINATION, ACTS IN GOOD FAITH UNDER THE POWER OF ATTORNEY.~~

~~(2) AN ACT PERFORMED AS DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, UNLESS OTHERWISE INVALID OR UNENFORCEABLE, BINDS THE PRINCIPAL AND THE PRINCIPAL'S SUCCESSORS IN INTEREST.~~

~~(E) (1) INCAPACITY OF THE PRINCIPAL OF A POWER OF ATTORNEY THAT IS NOT DURABLE DOES NOT REVOKE OR TERMINATE THE POWER OF ATTORNEY AS TO AN AGENT OR OTHER PERSON THAT, WITHOUT ACTUAL KNOWLEDGE OF THE INCAPACITY, ACTS IN GOOD FAITH UNDER THE POWER OF ATTORNEY.~~

~~(2) AN ACT PERFORMED AS DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, UNLESS OTHERWISE INVALID OR UNENFORCEABLE, BINDS THE PRINCIPAL AND THE PRINCIPAL'S SUCCESSORS IN INTEREST.~~

~~(F) THE EXECUTION OF A POWER OF ATTORNEY DOES NOT REVOKE A POWER OF ATTORNEY PREVIOUSLY EXECUTED BY THE PRINCIPAL UNLESS THE SUBSEQUENT POWER OF ATTORNEY PROVIDES THAT THE PREVIOUS POWER OF ATTORNEY IS REVOKED OR THAT ALL OTHER POWERS OF ATTORNEY ARE REVOKED.~~

~~17–110.~~

~~(A) (1) A PRINCIPAL MAY DESIGNATE TWO OR MORE PERSONS TO ACT AS COAGENTS.~~

~~(2) UNLESS THE POWER OF ATTORNEY OTHERWISE PROVIDES, EACH COAGENT MAY EXERCISE THE COAGENT'S AUTHORITY INDEPENDENTLY.~~

~~(B) (1) A PRINCIPAL MAY DESIGNATE ONE OR MORE SUCCESSOR AGENTS TO ACT IF AN AGENT RESIGNS, DIES, BECOMES INCAPACITATED, IS NOT QUALIFIED TO SERVE, OR DECLINES TO SERVE.~~

~~(2) A PRINCIPAL MAY GRANT AUTHORITY TO DESIGNATE ONE OR MORE SUCCESSOR AGENTS TO AN AGENT OR OTHER PERSON DESIGNATED BY NAME, OFFICE, OR FUNCTION.~~

~~(3) UNLESS THE POWER OF ATTORNEY OTHERWISE PROVIDES, A SUCCESSOR AGENT:~~

~~(I) HAS THE SAME AUTHORITY AS THAT GRANTED TO THE ORIGINAL AGENT; AND~~

~~(II) MAY NOT ACT UNTIL ALL PREDECESSOR AGENTS HAVE RESIGNED, DIED, BECOME INCAPACITATED, ARE NO LONGER QUALIFIED TO SERVE, OR HAVE DECLINED TO SERVE.~~

~~(C) EXCEPT AS OTHERWISE PROVIDED IN THE POWER OF ATTORNEY AND SUBSECTION (D) OF THIS SECTION, AN AGENT THAT DOES NOT PARTICIPATE IN OR CONCEAL A BREACH OF FIDUCIARY DUTY COMMITTED BY ANOTHER AGENT, INCLUDING A PREDECESSOR AGENT, IS NOT LIABLE FOR THE ACTIONS OF THE OTHER AGENT.~~

~~(D) (1) AN AGENT THAT HAS ACTUAL KNOWLEDGE OF A BREACH OR IMMINENT BREACH OF FIDUCIARY DUTY BY ANOTHER AGENT SHALL NOTIFY THE PRINCIPAL AND, IF THE PRINCIPAL IS INCAPACITATED, TAKE ANY ACTION REASONABLY APPROPRIATE IN THE CIRCUMSTANCES TO SAFEGUARD THE PRINCIPAL'S BEST INTEREST.~~

~~(2) AN AGENT THAT FAILS TO NOTIFY THE PRINCIPAL OR TAKE ACTION AS REQUIRED BY THIS SUBSECTION IS LIABLE FOR THE REASONABLY FORESEEABLE DAMAGES THAT COULD HAVE BEEN AVOIDED IF THE AGENT HAD NOTIFIED THE PRINCIPAL OR TAKEN THE ACTION.~~

~~17–111.~~

~~(A) UNLESS THE POWER OF ATTORNEY OTHERWISE PROVIDES, AN AGENT IS ENTITLED TO REIMBURSEMENT OF EXPENSES REASONABLY INCURRED ON BEHALF OF THE PRINCIPAL, BUT IS NOT ENTITLED TO COMPENSATION.~~

~~(B) IF THE PRINCIPAL INDICATES IN THE POWER OF ATTORNEY THAT THE AGENT IS ENTITLED TO COMPENSATION, THE AGENT MAY RECEIVE COMPENSATION BASED ON WHAT IS REASONABLE UNDER THE CIRCUMSTANCES OR ON SUCH OTHER BASIS AS MAY BE SET FORTH IN THE POWER OF ATTORNEY.~~

~~17–112.~~

~~EXCEPT AS OTHERWISE PROVIDED IN THE POWER OF ATTORNEY, A PERSON ACCEPTS APPOINTMENT AS AN AGENT UNDER A POWER OF ATTORNEY BY EXERCISING AUTHORITY OR PERFORMING DUTIES AS AN AGENT OR BY ANOTHER ASSERTION OR CONDUCT INDICATING ACCEPTANCE.~~

~~17–113.~~

~~(A) NOTWITHSTANDING PROVISIONS IN THE POWER OF ATTORNEY, AN AGENT THAT HAS ACCEPTED APPOINTMENT SHALL:~~

~~(1) ACT IN ACCORDANCE WITH THE PRINCIPAL'S REASONABLE EXPECTATIONS TO THE EXTENT ACTUALLY KNOWN BY THE AGENT AND, OTHERWISE, IN THE PRINCIPAL'S BEST INTERESTS;~~

~~(2) ACT IN GOOD FAITH; AND~~

~~(3) ACT ONLY WITHIN THE SCOPE OF AUTHORITY GRANTED IN THE POWER OF ATTORNEY.~~

~~(B) EXCEPT AS OTHERWISE PROVIDED IN THE POWER OF ATTORNEY, AN AGENT THAT HAS ACCEPTED APPOINTMENT SHALL:~~

~~(1) ACT LOYALLY FOR THE PRINCIPAL'S BENEFIT;~~

~~(2) ACT SO AS NOT TO CREATE A CONFLICT OF INTEREST THAT IMPAIRS THE AGENT'S ABILITY TO ACT IMPARTIALLY IN THE PRINCIPAL'S BEST INTERESTS;~~

~~(3) ACT WITH THE CARE, COMPETENCE, AND DILIGENCE ORDINARILY EXERCISED BY AGENTS IN SIMILAR CIRCUMSTANCES;~~

~~(4) KEEP A RECORD OF ALL RECEIPTS, DISBURSEMENTS, AND TRANSACTIONS MADE ON BEHALF OF THE PRINCIPAL;~~

~~(5) COOPERATE WITH A PERSON THAT HAS AUTHORITY TO MAKE HEALTH CARE DECISIONS FOR THE PRINCIPAL TO CARRY OUT THE PRINCIPAL'S REASONABLE EXPECTATIONS TO THE EXTENT ACTUALLY KNOWN BY THE AGENT AND, OTHERWISE, ACT IN THE PRINCIPAL'S BEST INTERESTS; AND~~

~~(6) ATTEMPT TO PRESERVE THE PRINCIPAL'S ESTATE PLAN, TO THE EXTENT ACTUALLY KNOWN BY THE AGENT, IF PRESERVING THE PLAN IS CONSISTENT WITH THE PRINCIPAL'S BEST INTERESTS BASED ON ALL RELEVANT FACTORS, INCLUDING:~~

~~(I) THE VALUE AND NATURE OF THE PRINCIPAL'S PROPERTY;~~

~~(II) THE PRINCIPAL'S FORESEEABLE OBLIGATIONS AND NEED FOR MAINTENANCE;~~

~~(III) MINIMIZATION OF TAXES, INCLUDING INCOME, ESTATE, INHERITANCE, GENERATION–SKIPPING TRANSFER, AND GIFT TAXES; AND~~

~~(IV) ELIGIBILITY FOR A BENEFIT, A PROGRAM, OR ASSISTANCE UNDER A STATUTE OR REGULATION.~~

~~(C) AN AGENT THAT ACTS IN GOOD FAITH IS NOT LIABLE TO A BENEFICIARY OF THE PRINCIPAL'S ESTATE PLAN FOR FAILURE TO PRESERVE THE PLAN.~~

~~(D) AN AGENT THAT ACTS WITH CARE, COMPETENCE, AND DILIGENCE FOR THE BEST INTERESTS OF THE PRINCIPAL IS NOT LIABLE SOLELY BECAUSE THE AGENT ALSO BENEFITS FROM THE ACT OR HAS AN INDIVIDUAL OR CONFLICTING INTEREST IN RELATION TO THE PROPERTY OR AFFAIRS OF THE PRINCIPAL.~~

~~(E) IF AN AGENT IS SELECTED BY THE PRINCIPAL BECAUSE OF SPECIAL SKILLS OR EXPERTISE POSSESSED BY THE AGENT OR IN RELIANCE ON THE~~

~~AGENT'S REPRESENTATION THAT THE AGENT HAS SPECIAL SKILLS OR EXPERTISE, THE SPECIAL SKILLS OR EXPERTISE SHALL BE CONSIDERED IN DETERMINING WHETHER THE AGENT HAS ACTED WITH CARE, COMPETENCE, AND DILIGENCE UNDER THE CIRCUMSTANCES.~~

~~(F) ABSENT A BREACH OF DUTY TO THE PRINCIPAL, AN AGENT IS NOT LIABLE IF THE VALUE OF THE PRINCIPAL'S PROPERTY DECLINES.~~

~~(G) AN AGENT THAT EXERCISES AUTHORITY TO DELEGATE TO ANOTHER PERSON THE AUTHORITY GRANTED BY THE PRINCIPAL OR THAT ENGAGES ANOTHER PERSON ON BEHALF OF THE PRINCIPAL IS NOT LIABLE FOR AN ACT, ERROR OF JUDGMENT, OR DEFAULT OF THAT PERSON IF THE AGENT EXERCISES CARE, COMPETENCE, AND DILIGENCE IN SELECTING AND MONITORING THE PERSON.~~

~~(H) (1) EXCEPT AS OTHERWISE PROVIDED IN THE POWER OF ATTORNEY, AN AGENT IS NOT REQUIRED TO DISCLOSE RECEIPTS, DISBURSEMENTS, OR TRANSACTIONS CONDUCTED ON BEHALF OF THE PRINCIPAL UNLESS ORDERED BY A COURT OR REQUESTED BY THE PRINCIPAL, A GUARDIAN, A CONSERVATOR, ANOTHER FIDUCIARY ACTING FOR THE PRINCIPAL, A GOVERNMENTAL AGENCY HAVING AUTHORITY TO PROTECT THE WELFARE OF THE PRINCIPAL, OR, ON THE DEATH OF THE PRINCIPAL, BY THE PERSONAL REPRESENTATIVE OR SUCCESSOR IN INTEREST OF THE PRINCIPAL'S ESTATE.~~

~~(2) IF A REQUEST AS DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION IS MADE, WITHIN 30 DAYS THE AGENT SHALL COMPLY WITH THE REQUEST OR PROVIDE A WRITING OR OTHER RECORD SUBSTANTIATING WHY ADDITIONAL TIME IS NEEDED AND SHALL COMPLY WITH THE REQUEST WITHIN AN ADDITIONAL 30 DAYS.~~

~~(I) A PRINCIPAL OR AN INTERESTED PERSON MAY FILE A PETITION UNDER TITLE 15, CHAPTER 500 OF THE MARYLAND RULES IN THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE POWER OF ATTORNEY IS RECORDED TO ENJOIN AN AGENT TO COMPLY WITH THIS SECTION.~~

~~17–114.~~

~~A PROVISION IN A POWER OF ATTORNEY RELIEVING AN AGENT OF LIABILITY FOR BREACH OF DUTY IS BINDING ON THE PRINCIPAL AND THE PRINCIPAL'S SUCCESSORS IN INTEREST EXCEPT TO THE EXTENT THE PROVISION:~~

~~(1) RELIEVES THE AGENT OF LIABILITY FOR BREACH OF DUTY COMMITTED DISHONESTLY, WITH AN IMPROPER MOTIVE, OR WITH RECKLESS INDIFFERENCE TO THE PURPOSES OF THE POWER OF ATTORNEY OR THE BEST INTERESTS OF THE PRINCIPAL; OR~~

~~(2) WAS INSERTED AS A RESULT OF AN ABUSE OF A CONFIDENTIAL OR FIDUCIARY RELATIONSHIP WITH THE PRINCIPAL.~~

~~17–115.~~

~~(A) THE FOLLOWING PERSONS MAY PETITION A COURT TO CONSTRUE A POWER OF ATTORNEY OR REVIEW THE AGENT'S CONDUCT, AND GRANT APPROPRIATE RELIEF:~~

~~(1) THE PRINCIPAL OR THE AGENT;~~

~~(2) A GUARDIAN, CONSERVATOR, OR OTHER FIDUCIARY ACTING FOR THE PRINCIPAL;~~

~~(3) A PERSON AUTHORIZED TO MAKE HEALTH CARE DECISIONS FOR THE PRINCIPAL;~~

~~(4) THE PRINCIPAL'S SPOUSE, PARENT, OR DESCENDANT;~~

~~(5) AN INDIVIDUAL WHO WOULD QUALIFY AS A PRESUMPTIVE HEIR OF THE PRINCIPAL;~~

~~(6) A PERSON NAMED AS A BENEFICIARY TO RECEIVE ANY PROPERTY, BENEFIT, OR CONTRACTUAL RIGHT ON THE PRINCIPAL'S DEATH OR AS A BENEFICIARY OF A TRUST CREATED BY OR FOR THE PRINCIPAL THAT HAS A FINANCIAL INTEREST IN THE PRINCIPAL'S ESTATE;~~

~~(7) A GOVERNMENTAL AGENCY HAVING REGULATORY AUTHORITY TO PROTECT THE WELFARE OF THE PRINCIPAL;~~

~~(8) THE PRINCIPAL'S CAREGIVER OR ANOTHER PERSON THAT DEMONSTRATES SUFFICIENT INTEREST IN THE PRINCIPAL'S WELFARE; AND~~

~~(9) A PERSON ASKED TO ACCEPT THE POWER OF ATTORNEY.~~

~~(B) ON MOTION BY THE PRINCIPAL, THE COURT SHALL DISMISS A PETITION FILED UNDER THIS SECTION, UNLESS THE COURT FINDS THAT THE PRINCIPAL LACKS CAPACITY TO REVOKE THE AGENT'S AUTHORITY OR THE POWER OF ATTORNEY.~~

~~17–116.~~

~~AN AGENT THAT VIOLATES THIS TITLE IS LIABLE TO THE PRINCIPAL OR THE PRINCIPAL'S SUCCESSORS IN INTEREST FOR THE AMOUNT REQUIRED TO:~~

~~(1) RESTORE THE VALUE OF THE PRINCIPAL'S PROPERTY TO WHAT THE VALUE WOULD HAVE BEEN HAD THE VIOLATION NOT OCCURRED; AND~~

~~(2) REIMBURSE THE PRINCIPAL OR THE PRINCIPAL'S SUCCESSORS IN INTEREST FOR THE ATTORNEY'S FEES AND COSTS PAID ON THE AGENT'S BEHALF.~~

~~17–117.~~

~~UNLESS THE POWER OF ATTORNEY PROVIDES A DIFFERENT METHOD FOR AN AGENT'S RESIGNATION, AN AGENT MAY RESIGN BY GIVING NOTICE TO THE PRINCIPAL AND, IF THE PRINCIPAL IS INCAPACITATED:~~

~~(1) TO THE GUARDIAN, IF ONE HAS BEEN APPOINTED FOR THE PRINCIPAL, AND A COAGENT OR SUCCESSOR AGENT; OR~~

~~(2) IF THERE IS NO PERSON AS DESCRIBED IN ITEM (1) OF THIS SECTION, TO:~~

~~(I) THE PRINCIPAL'S CAREGIVER;~~

~~(II) ANOTHER PERSON REASONABLY BELIEVED BY THE AGENT TO HAVE SUFFICIENT INTEREST IN THE PRINCIPAL'S WELFARE; OR~~

~~(III) A GOVERNMENTAL AGENCY HAVING AUTHORITY TO PROTECT THE WELFARE OF THE PRINCIPAL.~~

~~17–118.~~

~~(A) A PERSON THAT IS ASKED TO ACCEPT AN ACKNOWLEDGED POWER OF ATTORNEY MAY REQUEST, AND RELY ON, WITHOUT FURTHER INVESTIGATION AND WITHOUT ANY LIABILITY FOR THE RELIANCE:~~

~~(1) AN AGENT'S CERTIFICATION UNDER PENALTY OF PERJURY OF A FACTUAL MATTER CONCERNING THE PRINCIPAL, AGENT, OR POWER OF ATTORNEY;~~

~~(2) AN ENGLISH TRANSLATION OF THE POWER OF ATTORNEY IF THE POWER OF ATTORNEY CONTAINS, IN WHOLE OR IN PART, LANGUAGE OTHER THAN ENGLISH; AND~~

~~(3) AN OPINION OF COUNSEL AS TO A MATTER OF LAW CONCERNING THE POWER OF ATTORNEY IF THE PERSON MAKING THE REQUEST PROVIDES IN A WRITING OR OTHER RECORD THE REASON FOR THE REQUEST.~~

~~(B) FOR PURPOSES OF THIS SECTION, A PERSON THAT CONDUCTS ACTIVITIES THROUGH EMPLOYEES IS WITHOUT ACTUAL KNOWLEDGE OF A FACT RELATING TO A POWER OF ATTORNEY, A PRINCIPAL, OR AN AGENT IF THE EMPLOYEE CONDUCTING THE TRANSACTION INVOLVING THE POWER OF ATTORNEY IS WITHOUT ACTUAL KNOWLEDGE OF THE FACT.~~

~~17–119.~~

~~(A) IN THIS SECTION, "STATUTORY FORM POWER OF ATTORNEY" MEANS A POWER OF ATTORNEY SUBSTANTIALLY IN THE FORM PROVIDED IN § 17–301 OF THIS TITLE OR THAT MEETS THE REQUIREMENTS FOR A MILITARY POWER OF ATTORNEY IN ACCORDANCE WITH 10 U.S.C. § 1044B.~~

~~(B) (1) A POWER OF ATTORNEY IS ACKNOWLEDGED UNDER THIS SECTION IF PERFORMED IN ACCORDANCE WITH § 17–104(B) OF THIS SUBTITLE.~~

~~(2) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION:~~

~~(I) A PERSON EITHER SHALL ACCEPT AN ACKNOWLEDGED STATUTORY FORM POWER OF ATTORNEY OR REQUEST A CERTIFICATION, A TRANSLATION, OR AN OPINION OF COUNSEL UNDER § 17–118(A) OF THIS SUBTITLE NO LATER THAN 7 BUSINESS DAYS AFTER PRESENTATION OF THE POWER OF ATTORNEY FOR ACCEPTANCE;~~

~~(II) IF A PERSON REQUESTS A CERTIFICATION, A TRANSLATION, OR AN OPINION OF COUNSEL UNDER § 17–118(A) OF THIS SUBTITLE, THE PERSON SHALL ACCEPT THE STATUTORY FORM POWER OF ATTORNEY NO LATER THAN 5 BUSINESS DAYS AFTER RECEIPT OF THE CERTIFICATION, TRANSLATION, OR OPINION OF COUNSEL; AND~~

~~(III) A PERSON MAY NOT REQUIRE AN ADDITIONAL OR DIFFERENT FORM OF POWER OF ATTORNEY FOR AUTHORITY GRANTED IN THE STATUTORY FORM POWER OF ATTORNEY THAT WAS PRESENTED.~~

~~(C) A PERSON IS NOT REQUIRED TO ACCEPT AN ACKNOWLEDGED STATUTORY FORM POWER OF ATTORNEY IF:~~

~~(1) THE PERSON IS NOT OTHERWISE REQUIRED TO ENGAGE IN A TRANSACTION WITH THE PRINCIPAL UNDER THE SAME CIRCUMSTANCES;~~

~~(2) ENGAGING IN A TRANSACTION WITH THE AGENT OR THE PRINCIPAL UNDER THE SAME CIRCUMSTANCES WOULD BE INCONSISTENT WITH FEDERAL LAW;~~

~~(3) THE PERSON HAS ACTUAL KNOWLEDGE OF THE TERMINATION OF THE AUTHORITY OF THE AGENT OR OF THE POWER OF ATTORNEY BEFORE EXERCISE OF THE POWER OF ATTORNEY;~~

~~(4) A REQUEST FOR A CERTIFICATION, A TRANSLATION, OR AN OPINION OF COUNSEL UNDER § 17–118(A) OF THIS SUBTITLE IS REFUSED;~~

~~(5) THE PERSON IN GOOD FAITH BELIEVES THAT THE POWER OF ATTORNEY IS NOT VALID OR THAT THE AGENT DOES NOT HAVE AUTHORITY TO PERFORM THE ACT REQUESTED, WHETHER OR NOT A CERTIFICATION, A TRANSLATION, OR AN OPINION OF COUNSEL UNDER § 17–118(A) OF THIS SUBTITLE HAS BEEN REQUESTED OR PROVIDED; OR~~

~~(6) THE PERSON MAKES, OR HAS ACTUAL KNOWLEDGE THAT ANOTHER PERSON HAS MADE, A REPORT TO THE LOCAL DEPARTMENT OF SOCIAL SERVICES OFFICE STATING A GOOD–FAITH BELIEF THAT THE PRINCIPAL MAY BE SUBJECT TO PHYSICAL OR FINANCIAL ABUSE, NEGLECT, EXPLOITATION, OR ABANDONMENT BY THE AGENT OR A PERSON ACTING FOR OR WITH THE AGENT.~~

~~17–120.~~

~~THIS TITLE DOES NOT SUPERSEDE OTHER LAWS APPLICABLE TO FINANCIAL INSTITUTIONS OR OTHER ENTITIES, AND THE OTHER LAWS CONTROL IF INCONSISTENT WITH THIS TITLE.~~

~~SUBTITLE 2. AUTHORITY.~~

~~17–201.~~

~~(A) AN AGENT UNDER A POWER OF ATTORNEY MAY PERFORM THE FOLLOWING ON BEHALF OF THE PRINCIPAL OR WITH THE PRINCIPAL'S PROPERTY ONLY IF THE POWER OF ATTORNEY EXPRESSLY GRANTS THE AGENT THE AUTHORITY AND EXERCISE OF THE AUTHORITY IS NOT OTHERWISE PROHIBITED BY ANOTHER AGREEMENT OR INSTRUMENT TO WHICH THE AUTHORITY OR PROPERTY IS SUBJECT:~~

~~(1) (I) CREATE A NEW INTER VIVOS TRUST; OR~~

~~(II) IF AN EXISTING INTER VIVOS TRUST EXPRESSLY AUTHORIZES THE ACTION BY AN AGENT, AMEND, REVOKE, OR TERMINATE THE EXISTING INTER VIVOS TRUST;~~

~~(2) MAKE A GIFT;~~

~~(3) CREATE OR CHANGE RIGHTS OF SURVIVORSHIP;~~

~~(4) CREATE OR CHANGE A BENEFICIARY DESIGNATION;~~

~~(5) DELEGATE AUTHORITY GRANTED UNDER THE POWER OF ATTORNEY;~~

~~(6) WAIVE THE PRINCIPAL'S RIGHT TO BE A BENEFICIARY OF A JOINT AND SURVIVOR ANNUITY, INCLUDING A SURVIVOR BENEFIT UNDER A RETIREMENT PLAN; OR~~

~~(7) EXERCISE FIDUCIARY POWERS THAT THE PRINCIPAL HAS AUTHORITY TO DELEGATE.~~

~~(B) NOTWITHSTANDING A GRANT OF AUTHORITY TO PERFORM AN ACT DESCRIBED IN SUBSECTION (A) OF THIS SECTION, UNLESS THE POWER OF ATTORNEY OTHERWISE PROVIDES, AN AGENT THAT IS NOT AN ANCESTOR, A SPOUSE, OR A DESCENDANT OF THE PRINCIPAL MAY NOT EXERCISE AUTHORITY UNDER A POWER OF ATTORNEY TO CREATE IN THE AGENT, OR IN AN INDIVIDUAL TO WHOM THE AGENT OWES A LEGAL OBLIGATION OF SUPPORT, AN INTEREST IN THE PRINCIPAL'S PROPERTY, WHETHER BY GIFT, RIGHT OF SURVIVORSHIP, BENEFICIARY DESIGNATION, DISCLAIMER, OR OTHERWISE.~~

~~(C) SUBJECT TO SUBSECTIONS (A), (B), (D), AND (E) OF THIS SECTION, IF A POWER OF ATTORNEY GRANTS TO AN AGENT AUTHORITY TO PERFORM ALL ACTS THAT A PRINCIPAL COULD PERFORM, THE AGENT HAS THE GENERAL AUTHORITY DESCRIBED IN §§ 17–204 THROUGH 17–216 OF THIS SUBTITLE.~~

~~(D) UNLESS THE POWER OF ATTORNEY OTHERWISE PROVIDES, A GRANT OF AUTHORITY TO MAKE A GIFT IS SUBJECT TO § 17–217 OF THIS SUBTITLE.~~

~~(E) SUBJECT TO SUBSECTIONS (A), (B), AND (D) OF THIS SECTION, IF THE SUBJECTS OVER WHICH AUTHORITY IS GRANTED IN A POWER OF ATTORNEY ARE SIMILAR OR OVERLAP, THE BROADEST AUTHORITY CONTROLS.~~

~~(F) AUTHORITY GRANTED IN A POWER OF ATTORNEY IS EXERCISABLE WITH RESPECT TO PROPERTY THAT THE PRINCIPAL HAS WHEN THE POWER OF ATTORNEY IS EXECUTED OR ACQUIRES LATER, WHETHER OR NOT THE PROPERTY IS LOCATED IN THE STATE AND WHETHER OR NOT THE AUTHORITY IS EXERCISED OR THE POWER OF ATTORNEY IS EXECUTED IN THE STATE.~~

~~(G) AN ACT PERFORMED BY AN AGENT IN ACCORDANCE WITH A POWER OF ATTORNEY HAS THE SAME EFFECT, AND INURES TO THE BENEFIT OF AND BINDS THE PRINCIPAL AND THE PRINCIPAL'S SUCCESSORS IN INTEREST, AS IF THE PRINCIPAL HAD PERFORMED THE ACT.~~

~~**17–202.**~~

~~(A) AN AGENT HAS AUTHORITY DESCRIBED IN THIS TITLE IF THE POWER OF ATTORNEY REFERS TO GENERAL AUTHORITY WITH RESPECT TO THE DESCRIPTIVE TERM FOR THE SUBJECTS STATED IN §§ 17–204 THROUGH 17–217 OF THIS SUBTITLE OR CITES THE SECTION IN WHICH THE AUTHORITY IS DESCRIBED.~~

~~(B) A REFERENCE IN A POWER OF ATTORNEY TO GENERAL AUTHORITY WITH RESPECT TO THE DESCRIPTIVE TERM FOR A SUBJECT IN §§ 17–204 THROUGH 17–217 OF THIS SUBTITLE OR A CITATION TO A SECTION OF §§ 17–204 THROUGH 17–217 OF THIS SUBTITLE INCORPORATES THE ENTIRE SECTION AS IF THE SECTION WERE SET OUT IN FULL IN THE POWER OF ATTORNEY.~~

~~(C) A PRINCIPAL MAY MODIFY AUTHORITY INCORPORATED BY REFERENCE.~~

~~**17–203.**~~

~~EXCEPT AS OTHERWISE PROVIDED IN THE POWER OF ATTORNEY, BY EXECUTING A POWER OF ATTORNEY THAT INCORPORATES BY REFERENCE A SUBJECT DESCRIBED IN §§ 17–204 THROUGH 17–217 OF THIS SUBTITLE OR THAT GRANTS TO AN AGENT AUTHORITY TO PERFORM ALL ACTS THAT A PRINCIPAL COULD PERFORM, IN ACCORDANCE WITH § 17–201(C) OF THIS SUBTITLE, A PRINCIPAL AUTHORIZES THE AGENT, WITH RESPECT TO THAT SUBJECT, TO:~~

~~(1) DEMAND, RECEIVE, AND OBTAIN BY LITIGATION OR OTHERWISE, MONEY OR ANOTHER THING OF VALUE TO WHICH THE PRINCIPAL IS, MAY BECOME, OR CLAIMS TO BE ENTITLED, AND CONSERVE, INVEST, DISBURSE, OR USE ANYTHING SO RECEIVED OR OBTAINED FOR THE PURPOSES INTENDED;~~

~~(2) CONTRACT WITH ANOTHER PERSON, ON TERMS AGREEABLE TO THE AGENT, TO ACCOMPLISH A PURPOSE OF A TRANSACTION AND PERFORM, RESCIND, CANCEL, TERMINATE, REFORM, RESTATE, RELEASE, OR MODIFY THE CONTRACT OR ANOTHER CONTRACT MADE BY OR ON BEHALF OF THE PRINCIPAL;~~

~~(3) EXECUTE, ACKNOWLEDGE, SEAL, DELIVER, FILE, OR RECORD ANY INSTRUMENT OR COMMUNICATION THE AGENT CONSIDERS DESIRABLE TO ACCOMPLISH A PURPOSE OF A TRANSACTION, INCLUDING CREATING A SCHEDULE CONTEMPORANEOUSLY OR AT A LATER TIME LISTING SOME OR ALL OF THE PRINCIPAL'S PROPERTY AND ATTACHING THE SCHEDULE TO THE POWER OF ATTORNEY;~~

~~(4) INITIATE, PARTICIPATE IN, SUBMIT TO ALTERNATIVE DISPUTE RESOLUTION, SETTLE, OPPOSE, OR PROPOSE OR ACCEPT A COMPROMISE WITH RESPECT TO A CLAIM EXISTING IN FAVOR OF OR AGAINST THE PRINCIPAL OR INTERVENE IN LITIGATION RELATING TO THE CLAIM;~~

~~(5) SEEK ON THE PRINCIPAL'S BEHALF THE ASSISTANCE OF A COURT OR OTHER GOVERNMENTAL AGENCY TO CARRY OUT AN ACT AUTHORIZED IN THE POWER OF ATTORNEY;~~

~~(6) ENGAGE, COMPENSATE, AND DISCHARGE AN ATTORNEY, ACCOUNTANT, DISCRETIONARY INVESTMENT MANAGER, EXPERT WITNESS, OR OTHER ADVISOR;~~

~~(7) PREPARE, EXECUTE, AND FILE A RECORD, REPORT, OR OTHER DOCUMENT TO SAFEGUARD OR PROMOTE THE PRINCIPAL'S INTEREST UNDER A STATUTE OR REGULATION;~~

~~(8) COMMUNICATE WITH REPRESENTATIVES OR EMPLOYEES OF A GOVERNMENT OR GOVERNMENTAL SUBDIVISION, AGENCY, OR INSTRUMENTALITY, ON BEHALF OF THE PRINCIPAL;~~

~~(9) ACCESS COMMUNICATIONS INTENDED FOR, AND COMMUNICATE ON BEHALF OF THE PRINCIPAL, WHETHER BY MAIL, ELECTRONIC TRANSMISSION, TELEPHONE, OR OTHER MEANS; AND~~

~~(10) PERFORM LAWFUL ACTS WITH RESPECT TO THE SUBJECT AND ALL PROPERTY RELATED TO THE SUBJECT.~~

~~17–204.~~

~~UNLESS THE POWER OF ATTORNEY OTHERWISE PROVIDES, LANGUAGE IN A POWER OF ATTORNEY GRANTING GENERAL AUTHORITY WITH RESPECT TO REAL PROPERTY AUTHORIZES THE AGENT TO:~~

~~(1) DEMAND, BUY, LEASE, RECEIVE, ACCEPT AS A GIFT OR AS SECURITY FOR AN EXTENSION OF CREDIT, OR OTHERWISE ACQUIRE OR REJECT AN INTEREST IN REAL PROPERTY OR A RIGHT INCIDENT TO REAL PROPERTY;~~

~~(2) SELL, EXCHANGE, CONVEY WITH OR WITHOUT COVENANTS, REPRESENTATIONS, OR WARRANTIES, QUITCLAIM, RELEASE, SURRENDER, RETAIN TITLE FOR SECURITY, ENCUMBER, PARTITION, CONSENT TO PARTITIONING, SUBJECT TO AN EASEMENT OR COVENANT, SUBDIVIDE, APPLY FOR ZONING OR OTHER GOVERNMENTAL PERMITS, PLAT OR CONSENT TO PLATTING, DEVELOP, GRANT AN OPTION CONCERNING, LEASE, SUBLEASE, CONTRIBUTE TO AN ENTITY IN EXCHANGE FOR AN INTEREST IN THAT ENTITY, OR OTHERWISE GRANT OR DISPOSE OF AN INTEREST IN REAL PROPERTY OR A RIGHT INCIDENT TO REAL PROPERTY;~~

~~(3) PLEDGE OR MORTGAGE AN INTEREST IN REAL PROPERTY OR RIGHT INCIDENT TO REAL PROPERTY AS SECURITY TO BORROW MONEY OR PAY, RENEW, OR EXTEND THE TIME OF PAYMENT OF A DEBT OF THE PRINCIPAL OR A DEBT GUARANTEED BY THE PRINCIPAL, INCLUDING A REVERSE MORTGAGE;~~

~~(4) RELEASE, ASSIGN, SATISFY, OR ENFORCE BY LITIGATION OR OTHERWISE A MORTGAGE, DEED OF TRUST, CONDITIONAL SALE CONTRACT, ENCUMBRANCE, LIEN, OR OTHER CLAIM TO REAL PROPERTY THAT EXISTS OR IS ASSERTED;~~

~~(5) MANAGE OR CONSERVE AN INTEREST IN REAL PROPERTY OR A RIGHT INCIDENT TO REAL PROPERTY OWNED OR CLAIMED TO BE OWNED BY THE PRINCIPAL, INCLUDING:~~

~~(I) INSURING AGAINST LIABILITY OR CASUALTY OR OTHER LOSS;~~

~~(II) OBTAINING OR REGAINING POSSESSION OF OR PROTECTING THE INTEREST OR RIGHT BY LITIGATION OR OTHERWISE;~~

~~(III) PAYING, ASSESSING, COMPROMISING, OR CONTESTING TAXES OR ASSESSMENTS OR APPLYING FOR AND RECEIVING REFUNDS IN CONNECTION WITH THEM; AND~~

~~(IV) PURCHASING SUPPLIES, HIRING ASSISTANCE OR LABOR, AND MAKING REPAIRS OR ALTERATIONS TO THE REAL PROPERTY;~~

~~(6) USE, DEVELOP, ALTER, REPLACE, REMOVE, ERECT, OR INSTALL STRUCTURES OR OTHER IMPROVEMENTS ON REAL PROPERTY IN OR INCIDENT TO WHICH THE PRINCIPAL HAS, OR CLAIMS TO HAVE, AN INTEREST OR RIGHT;~~

~~(7) PARTICIPATE IN A REORGANIZATION WITH RESPECT TO REAL PROPERTY OR AN ENTITY THAT OWNS AN INTEREST IN OR A RIGHT INCIDENT TO REAL PROPERTY AND RECEIVE, HOLD, AND ACT WITH RESPECT TO STOCKS AND BONDS OR OTHER PROPERTY RECEIVED IN A PLAN OF REORGANIZATION, INCLUDING:~~

~~(I) SELLING OR OTHERWISE DISPOSING OF THE STOCKS AND BONDS OR OTHER PROPERTY;~~

~~(II) EXERCISING OR SELLING AN OPTION, A RIGHT OF CONVERSION, OR A SIMILAR RIGHT WITH RESPECT TO THE STOCKS AND BONDS OR OTHER PROPERTY; AND~~

~~(III) EXERCISING VOTING RIGHTS IN PERSON OR BY PROXY;~~

~~(8) CHANGE THE FORM OF TITLE OF AN INTEREST IN OR A RIGHT INCIDENT TO REAL PROPERTY; AND~~

~~(9) DEDICATE TO PUBLIC USE, WITH OR WITHOUT CONSIDERATION, EASEMENTS OR OTHER REAL PROPERTY IN WHICH THE PRINCIPAL HAS, OR CLAIMS TO HAVE, AN INTEREST.~~

~~17–205.~~

~~UNLESS THE POWER OF ATTORNEY OTHERWISE PROVIDES, LANGUAGE IN A POWER OF ATTORNEY GRANTING GENERAL AUTHORITY WITH RESPECT TO TANGIBLE PERSONAL PROPERTY AUTHORIZES THE AGENT TO:~~

~~(1) DEMAND, BUY, RECEIVE, ACCEPT AS A GIFT OR AS SECURITY FOR AN EXTENSION OF CREDIT, OR OTHERWISE ACQUIRE OR REJECT OWNERSHIP OR POSSESSION OF TANGIBLE PERSONAL PROPERTY OR AN INTEREST IN TANGIBLE PERSONAL PROPERTY;~~

~~(2) SELL, EXCHANGE, CONVEY WITH OR WITHOUT COVENANTS, REPRESENTATIONS, OR WARRANTIES, QUITCLAIM, RELEASE, SURRENDER, CREATE A SECURITY INTEREST IN, GRANT OPTIONS CONCERNING, LEASE, SUBLEASE, OR OTHERWISE DISPOSE OF TANGIBLE PERSONAL PROPERTY OR AN INTEREST IN TANGIBLE PERSONAL PROPERTY;~~

~~(3) GRANT A SECURITY INTEREST IN TANGIBLE PERSONAL PROPERTY OR AN INTEREST IN TANGIBLE PERSONAL PROPERTY AS SECURITY TO BORROW MONEY OR PAY, RENEW, OR EXTEND THE TIME OF PAYMENT OF A DEBT OF THE PRINCIPAL OR A DEBT GUARANTEED BY THE PRINCIPAL;~~

~~(4) RELEASE, ASSIGN, SATISFY, OR ENFORCE BY LITIGATION OR OTHERWISE, A SECURITY INTEREST, LIEN, OR OTHER CLAIM ON BEHALF OF THE PRINCIPAL, WITH RESPECT TO TANGIBLE PERSONAL PROPERTY OR AN INTEREST IN TANGIBLE PERSONAL PROPERTY;~~

~~(5) MANAGE OR CONSERVE TANGIBLE PERSONAL PROPERTY OR AN INTEREST IN TANGIBLE PERSONAL PROPERTY ON BEHALF OF THE PRINCIPAL, INCLUDING:~~

~~(I) INSURING AGAINST LIABILITY OR CASUALTY OR OTHER LOSS;~~

~~(II) OBTAINING OR REGAINING POSSESSION OF OR PROTECTING THE PROPERTY OR INTEREST, BY LITIGATION OR OTHERWISE;~~

~~(III) PAYING, ASSESSING, COMPROMISING, OR CONTESTING TAXES OR ASSESSMENTS OR APPLYING FOR AND RECEIVING REFUNDS IN CONNECTION WITH TAXES OR ASSESSMENTS;~~

~~(IV) MOVING THE PROPERTY FROM PLACE TO PLACE;~~

~~(V) STORING THE PROPERTY FOR HIRE OR ON A GRATUITOUS BAILMENT; AND~~

~~(VI) USING AND MAKING REPAIRS, ALTERATIONS, OR IMPROVEMENTS TO THE PROPERTY; AND~~

~~(6) CHANGE THE FORM OF TITLE OF AN INTEREST IN TANGIBLE PERSONAL PROPERTY.~~

~~17–206.~~

~~UNLESS THE POWER OF ATTORNEY OTHERWISE PROVIDES, LANGUAGE IN A POWER OF ATTORNEY GRANTING GENERAL AUTHORITY WITH RESPECT TO STOCKS AND BONDS AUTHORIZES THE AGENT TO:~~

~~(1) BUY, SELL, AND EXCHANGE STOCKS AND BONDS;~~

~~(2) ESTABLISH, CONTINUE, MODIFY, OR TERMINATE AN ACCOUNT WITH RESPECT TO STOCKS AND BONDS;~~

~~(3) PLEDGE STOCKS AND BONDS AS SECURITY TO BORROW, PAY, RENEW, OR EXTEND THE TIME OF PAYMENT OF A DEBT OF THE PRINCIPAL;~~

~~(4) RECEIVE CERTIFICATES AND OTHER EVIDENCES OF OWNERSHIP WITH RESPECT TO STOCKS AND BONDS; AND~~

~~(5) EXERCISE VOTING RIGHTS WITH RESPECT TO STOCKS AND BONDS IN PERSON OR BY PROXY, ENTER INTO VOTING TRUSTS, AND CONSENT TO LIMITATIONS ON THE RIGHT TO VOTE.~~

~~17–207.~~

~~UNLESS THE POWER OF ATTORNEY OTHERWISE PROVIDES, LANGUAGE IN A POWER OF ATTORNEY GRANTING GENERAL AUTHORITY WITH RESPECT TO COMMODITIES AND OPTIONS AUTHORIZES THE AGENT TO:~~

~~(1) BUY, SELL, EXCHANGE, ASSIGN, SETTLE, AND EXERCISE COMMODITY FUTURES CONTRACTS AND CALL OR PUT OPTIONS ON STOCKS OR STOCK INDEXES TRADED ON A REGULATED OPTION EXCHANGE; AND~~

~~(2) ESTABLISH, CONTINUE, MODIFY, AND TERMINATE OPTION ACCOUNTS.~~

~~17–208.~~

~~UNLESS THE POWER OF ATTORNEY OTHERWISE PROVIDES, LANGUAGE IN A POWER OF ATTORNEY GRANTING GENERAL AUTHORITY WITH RESPECT TO BANKS AND OTHER FINANCIAL INSTITUTIONS AUTHORIZES THE AGENT TO:~~

~~(1) CONTINUE, MODIFY, AND TERMINATE AN ACCOUNT OR OTHER BANKING ARRANGEMENT MADE BY OR ON BEHALF OF THE PRINCIPAL;~~

~~(2) ESTABLISH, MODIFY, AND TERMINATE AN ACCOUNT OR OTHER BANKING ARRANGEMENT WITH A BANK, TRUST COMPANY, SAVINGS AND LOAN ASSOCIATION, CREDIT UNION, THRIFT COMPANY, BROKERAGE FIRM, OR OTHER FINANCIAL INSTITUTION SELECTED BY THE AGENT;~~

~~(3) CONTRACT FOR SERVICES AVAILABLE FROM A FINANCIAL INSTITUTION, INCLUDING RENTING A SAFE DEPOSIT BOX OR SPACE IN A VAULT;~~

~~(4) WITHDRAW, BY CHECK, MONEY ORDER, ELECTRONIC FUNDS TRANSFER, OR OTHERWISE, MONEY OR PROPERTY OF THE PRINCIPAL DEPOSITED WITH OR LEFT IN THE CUSTODY OF A FINANCIAL INSTITUTION;~~

~~(5) RECEIVE STATEMENTS OF ACCOUNT, VOUCHERS, NOTICES, AND SIMILAR DOCUMENTS FROM A FINANCIAL INSTITUTION AND ACT WITH RESPECT TO THEM;~~

~~(6) ENTER A SAFE DEPOSIT BOX OR VAULT AND WITHDRAW OR ADD TO THE CONTENTS;~~

~~(7) BORROW MONEY AND PLEDGE AS SECURITY PERSONAL PROPERTY OF THE PRINCIPAL NECESSARY TO BORROW MONEY OR PAY, RENEW, OR EXTEND THE TIME OF PAYMENT OF A DEBT OF THE PRINCIPAL OR A DEBT GUARANTEED BY THE PRINCIPAL;~~

~~(8) MAKE, ASSIGN, DRAW, ENDORSE, DISCOUNT, GUARANTEE, AND NEGOTIATE PROMISSORY NOTES, CHECKS, DRAFTS, AND OTHER NEGOTIABLE OR NONNEGOTIABLE PAPER OF THE PRINCIPAL OR PAYABLE TO THE PRINCIPAL OR THE PRINCIPAL'S ORDER, TRANSFER MONEY, RECEIVE THE CASH OR OTHER PROCEEDS OF THOSE TRANSACTIONS, AND ACCEPT A DRAFT DRAWN BY A PERSON ON THE PRINCIPAL AND PAY THE DRAFT WHEN DUE;~~

~~(9) RECEIVE FOR THE PRINCIPAL AND ACT ON A SIGHT DRAFT, WAREHOUSE RECEIPT, OTHER DOCUMENT OF TITLE WHETHER TANGIBLE OR ELECTRONIC, OR OTHER NEGOTIABLE OR NONNEGOTIABLE INSTRUMENT;~~

~~(10) APPLY FOR, RECEIVE, AND USE LETTERS OF CREDIT, CREDIT CARDS AND DEBIT CARDS, ELECTRONIC TRANSACTION AUTHORIZATIONS, AND TRAVELER'S CHECKS FROM A FINANCIAL INSTITUTION AND GIVE AN INDEMNITY OR OTHER AGREEMENT IN CONNECTION WITH LETTERS OF CREDIT; AND~~

~~(11) CONSENT TO AN EXTENSION OF THE TIME OF PAYMENT WITH RESPECT TO COMMERCIAL PAPER OR A FINANCIAL TRANSACTION WITH A FINANCIAL INSTITUTION.~~

~~17–209.~~

~~SUBJECT TO THE TERMS OF A DOCUMENT OR AN AGREEMENT GOVERNING AN ENTITY OR AN ENTITY OWNERSHIP INTEREST, AND UNLESS THE POWER OF ATTORNEY OTHERWISE PROVIDES, LANGUAGE IN A POWER OF ATTORNEY GRANTING GENERAL AUTHORITY WITH RESPECT TO OPERATION OF AN ENTITY OR A BUSINESS AUTHORIZES THE AGENT TO:~~

~~(1) OPERATE, BUY, SELL, ENLARGE, REDUCE, OR TERMINATE AN OWNERSHIP INTEREST;~~

~~(2) PERFORM A DUTY OR DISCHARGE A LIABILITY AND EXERCISE IN PERSON OR BY PROXY A RIGHT, POWER, PRIVILEGE, OR AN OPTION THAT THE PRINCIPAL HAS, MAY HAVE, OR CLAIMS TO HAVE;~~

~~(3) ENFORCE THE TERMS OF AN OWNERSHIP AGREEMENT;~~

~~(4) INITIATE, PARTICIPATE IN, SUBMIT TO ALTERNATIVE DISPUTE RESOLUTION, SETTLE, OPPOSE, OR PROPOSE OR ACCEPT A COMPROMISE WITH RESPECT TO LITIGATION TO WHICH THE PRINCIPAL IS A PARTY BECAUSE OF AN OWNERSHIP INTEREST;~~

~~(5) EXERCISE IN PERSON OR BY PROXY, OR ENFORCE BY LITIGATION OR OTHERWISE, A RIGHT, POWER, PRIVILEGE, OR AN OPTION THE PRINCIPAL HAS OR CLAIMS TO HAVE AS THE HOLDER OF STOCKS AND BONDS;~~

~~(6) INITIATE, PARTICIPATE IN, SUBMIT TO ALTERNATIVE DISPUTE RESOLUTION, SETTLE, OPPOSE, OR PROPOSE OR ACCEPT A COMPROMISE WITH RESPECT TO LITIGATION TO WHICH THE PRINCIPAL IS A PARTY CONCERNING STOCKS AND BONDS;~~

~~(7) WITH RESPECT TO AN ENTITY OR BUSINESS OWNED SOLELY BY THE PRINCIPAL:~~

~~(I) CONTINUE, MODIFY, RENEGOTIATE, EXTEND, AND TERMINATE A CONTRACT MADE BY OR ON BEHALF OF THE PRINCIPAL WITH RESPECT TO THE ENTITY OR BUSINESS BEFORE EXECUTION OF THE POWER OF ATTORNEY;~~

~~(II) DETERMINE:~~

~~1. THE LOCATION OF THE OPERATION OF THE ENTITY OR BUSINESS;~~

~~2. THE NATURE AND EXTENT OF THE BUSINESS OF THE ENTITY OR BUSINESS;~~

~~3. THE METHODS OF MANUFACTURING, SELLING, MERCHANDISING, FINANCING, ACCOUNTING, AND ADVERTISING EMPLOYED IN THE OPERATION OF THE ENTITY OR BUSINESS;~~

~~4. THE AMOUNT AND TYPES OF INSURANCE CARRIED BY THE ENTITY OR BUSINESS; AND~~

~~5. THE MODE OF ENGAGING, COMPENSATING, AND DEALING WITH THE EMPLOYEES AND ACCOUNTANTS, ATTORNEYS, OR OTHER ADVISORS OF THE ENTITY OR BUSINESS;~~

~~(III) CHANGE THE NAME OR FORM OF ORGANIZATION UNDER WHICH THE ENTITY OR BUSINESS IS OPERATED AND ENTER INTO AN OWNERSHIP AGREEMENT WITH OTHER PERSONS TO TAKE OVER ALL OR PART OF THE OPERATION OF THE ENTITY OR BUSINESS; AND~~

~~(IV) DEMAND AND RECEIVE MONEY DUE OR CLAIMED BY THE PRINCIPAL OR ON THE PRINCIPAL'S BEHALF IN THE OPERATION OF THE ENTITY OR BUSINESS AND CONTROL AND DISBURSE THE MONEY IN THE OPERATION OF THE ENTITY OR BUSINESS;~~

~~(8) PUT ADDITIONAL CAPITAL INTO AN ENTITY OR A BUSINESS IN WHICH THE PRINCIPAL HAS AN INTEREST;~~

~~(9) JOIN IN A PLAN OF REORGANIZATION, CONSOLIDATION, CONVERSION, DOMESTICATION, OR MERGER OF THE ENTITY OR BUSINESS;~~

~~(10) SELL OR LIQUIDATE ALL OR PART OF AN ENTITY OR BUSINESS;~~

~~(11) ESTABLISH THE VALUE OF AN ENTITY OR A BUSINESS UNDER A BUYOUT AGREEMENT TO WHICH THE PRINCIPAL IS A PARTY;~~

~~(12) PREPARE, SIGN, FILE, AND DELIVER REPORTS, COMPILATIONS OF INFORMATION, RETURNS, OR OTHER PAPERS WITH RESPECT TO AN ENTITY OR BUSINESS AND MAKE RELATED PAYMENTS; AND~~

~~(13) PAY, COMPROMISE, OR CONTEST TAXES, ASSESSMENTS, FINES, OR PENALTIES AND PERFORM OTHER ACTS TO PROTECT THE PRINCIPAL FROM ILLEGAL OR UNNECESSARY TAXATION, ASSESSMENTS, FINES, OR PENALTIES, WITH RESPECT TO AN ENTITY OR A BUSINESS, INCLUDING ATTEMPTS TO RECOVER, AS PERMITTED BY LAW, MONEY PAID BEFORE OR AFTER THE EXECUTION OF THE POWER OF ATTORNEY.~~

~~17–210.~~

~~UNLESS THE POWER OF ATTORNEY OTHERWISE PROVIDES, LANGUAGE IN A POWER OF ATTORNEY GRANTING GENERAL AUTHORITY WITH RESPECT TO INSURANCE AND ANNUITIES AUTHORIZES THE AGENT TO:~~

~~(1) CONTINUE, PAY THE PREMIUM OR MAKE A CONTRIBUTION ON, MODIFY, EXCHANGE, RESCIND, RELEASE, OR TERMINATE A CONTRACT PROCURED BY OR ON BEHALF OF THE PRINCIPAL THAT INSURES OR PROVIDES AN ANNUITY TO EITHER THE PRINCIPAL OR ANOTHER PERSON, WHETHER OR NOT THE PRINCIPAL IS A BENEFICIARY UNDER THE CONTRACT;~~

~~(2) PROCURE NEW, DIFFERENT, AND ADDITIONAL CONTRACTS OF INSURANCE AND ANNUITIES FOR THE PRINCIPAL AND THE PRINCIPAL'S SPOUSE, CHILDREN, AND OTHER DEPENDENTS, AND SELECT THE AMOUNT, TYPE OF INSURANCE OR ANNUITY, AND MODE OF PAYMENT;~~

~~(3) PAY THE PREMIUM OR MAKE A CONTRIBUTION ON, MODIFY, EXCHANGE, RESCIND, RELEASE, OR TERMINATE A CONTRACT OF INSURANCE OR ANNUITY PROCURED BY THE AGENT;~~

~~(4) APPLY FOR AND RECEIVE A LOAN SECURED BY A CONTRACT OF INSURANCE OR ANNUITY;~~

~~(5) SURRENDER AND RECEIVE THE CASH SURRENDER VALUE ON A CONTRACT OF INSURANCE OR ANNUITY;~~

~~(6) EXERCISE AN ELECTION;~~

~~(7) EXERCISE INVESTMENT POWERS AVAILABLE UNDER A CONTRACT OF INSURANCE OR ANNUITY;~~

~~(8) CHANGE THE MANNER OF PAYING PREMIUMS ON A CONTRACT OF INSURANCE OR ANNUITY;~~

~~(9) CHANGE OR CONVERT THE TYPE OF INSURANCE OR ANNUITY WITH RESPECT TO WHICH THE PRINCIPAL HAS OR CLAIMS TO HAVE AUTHORITY DESCRIBED IN THIS SECTION;~~

~~(10) APPLY FOR AND PROCURE A BENEFIT OR ASSISTANCE UNDER A STATUTE OR REGULATION TO GUARANTEE OR PAY PREMIUMS OF A CONTRACT OF INSURANCE ON THE LIFE OF THE PRINCIPAL;~~

~~(11) COLLECT, SELL, ASSIGN, HYPOTHECATE, BORROW AGAINST, OR PLEDGE THE INTEREST OF THE PRINCIPAL IN A CONTRACT OF INSURANCE OR ANNUITY;~~

~~(12) SELECT THE FORM AND TIMING OF THE PAYMENT OF PROCEEDS FROM A CONTRACT OF INSURANCE OR ANNUITY; AND~~

~~(13) PAY, FROM PROCEEDS OR OTHERWISE, COMPROMISE OR CONTEST, AND APPLY FOR REFUNDS IN CONNECTION WITH A TAX OR ASSESSMENT LEVIED BY A TAXING AUTHORITY WITH RESPECT TO A CONTRACT OF INSURANCE OR ANNUITY OR THE PROCEEDS OR LIABILITY FROM THE CONTRACT OF INSURANCE OR ANNUITY ACCRUING BY REASON OF THE TAX OR ASSESSMENT.~~

~~17–211.~~

~~(A) IN THIS SECTION, "ESTATES, TRUSTS, AND OTHER BENEFICIAL INTERESTS" MEANS A TRUST, PROBATE ESTATE, GUARDIANSHIP, CONSERVATORSHIP, ESCROW, OR CUSTODIANSHIP OR A FUND FROM WHICH THE PRINCIPAL IS, MAY BECOME, OR CLAIMS TO BE ENTITLED TO A SHARE OR PAYMENT.~~

~~(B) UNLESS THE POWER OF ATTORNEY OTHERWISE PROVIDES, LANGUAGE IN A POWER OF ATTORNEY GRANTING GENERAL AUTHORITY WITH RESPECT TO ESTATES, TRUSTS, AND OTHER BENEFICIAL INTERESTS AUTHORIZES THE AGENT TO:~~

~~(1) ACCEPT, RECEIVE, RECEIPT FOR, SELL, ASSIGN, PLEDGE, OR EXCHANGE A SHARE IN OR PAYMENT FROM THE FUND DESCRIBED IN SUBSECTION (A) OF THIS SECTION;~~

~~(2) DEMAND OR OBTAIN MONEY OR ANOTHER THING OF VALUE TO WHICH THE PRINCIPAL IS, MAY BECOME, OR CLAIMS TO BE ENTITLED BY REASON OF THE FUND DESCRIBED IN SUBSECTION (A) OF THIS SECTION, BY LITIGATION OR OTHERWISE;~~

~~(3) EXERCISE FOR THE BENEFIT OF THE PRINCIPAL A PRESENTLY EXERCISABLE GENERAL POWER OF APPOINTMENT HELD BY THE PRINCIPAL;~~

~~(4) INITIATE, PARTICIPATE IN, SUBMIT TO ALTERNATIVE DISPUTE RESOLUTION, SETTLE, OPPOSE, OR PROPOSE OR ACCEPT A COMPROMISE WITH RESPECT TO LITIGATION TO ASCERTAIN THE MEANING, VALIDITY, OR EFFECT OF A DEED, WILL, DECLARATION OF TRUST, OR OTHER INSTRUMENT OR TRANSACTION AFFECTING THE INTEREST OF THE PRINCIPAL;~~

~~(5) INITIATE, PARTICIPATE IN, SUBMIT TO ALTERNATIVE DISPUTE RESOLUTION, SETTLE, OPPOSE, OR PROPOSE OR ACCEPT A~~

~~COMPROMISE WITH RESPECT TO LITIGATION TO REMOVE, SUBSTITUTE, OR SURCHARGE A FIDUCIARY;~~

~~(6) CONSERVE, INVEST, DISBURSE, OR USE ANYTHING RECEIVED FOR AN AUTHORIZED PURPOSE;~~

~~(7) TRANSFER AN INTEREST OF THE PRINCIPAL IN REAL PROPERTY, STOCKS AND BONDS, ACCOUNTS WITH FINANCIAL INSTITUTIONS OR SECURITIES INTERMEDIARIES, INSURANCE, ANNUITIES, AND OTHER PROPERTY TO THE TRUSTEE OF A REVOCABLE TRUST CREATED BY THE PRINCIPAL AS SETTLOR; AND~~

~~(8) REJECT, RENOUNCE, DISCLAIM, RELEASE, OR CONSENT TO A REDUCTION IN OR MODIFICATION OF A SHARE IN OR PAYMENT FROM THE FUND DESCRIBED IN SUBSECTION (A) OF THIS SECTION.~~

~~17–212.~~

~~UNLESS THE POWER OF ATTORNEY OTHERWISE PROVIDES, LANGUAGE IN A POWER OF ATTORNEY GRANTING GENERAL AUTHORITY WITH RESPECT TO CLAIMS AND LITIGATION AUTHORIZES THE AGENT TO:~~

~~(1) ASSERT AND MAINTAIN BEFORE A COURT OR ADMINISTRATIVE AGENCY A CLAIM, CLAIM FOR RELIEF, CAUSE OF ACTION, COUNTERCLAIM, OFFSET, RECOUPMENT, OR DEFENSE, INCLUDING AN ACTION TO RECOVER PROPERTY OR OTHER THING OF VALUE, RECOVER DAMAGES SUSTAINED BY THE PRINCIPAL, ELIMINATE OR MODIFY TAX LIABILITY, OR SEEK AN INJUNCTION, SPECIFIC PERFORMANCE, OR OTHER RELIEF;~~

~~(2) BRING AN ACTION TO DETERMINE ADVERSE CLAIMS OR INTERVENE OR OTHERWISE PARTICIPATE IN LITIGATION;~~

~~(3) SEEK AN ATTACHMENT, GARNISHMENT, ORDER OF ARREST, OR OTHER PRELIMINARY, PROVISIONAL, OR INTERMEDIATE RELIEF AND USE AN AVAILABLE PROCEDURE TO EFFECT OR SATISFY A JUDGMENT, ORDER, OR DECREE;~~

~~(4) MAKE OR ACCEPT A TENDER, OFFER OF JUDGMENT, OR ADMISSION OF FACTS, SUBMIT A CONTROVERSY ON AN AGREED STATEMENT OF FACTS, CONSENT TO EXAMINATION, AND BIND THE PRINCIPAL IN LITIGATION;~~

~~(5) SUBMIT TO ALTERNATIVE DISPUTE RESOLUTION, SETTLE, AND PROPOSE OR ACCEPT A COMPROMISE;~~

~~(6) WAIVE THE ISSUANCE AND SERVICE OF PROCESS ON THE PRINCIPAL, ACCEPT SERVICE OF PROCESS, APPEAR FOR THE PRINCIPAL, DESIGNATE PERSONS ON WHICH PROCESS DIRECTED TO THE PRINCIPAL MAY BE SERVED, EXECUTE AND FILE OR DELIVER STIPULATIONS ON THE PRINCIPAL'S BEHALF, VERIFY PLEADINGS, SEEK APPELLATE REVIEW, PROCURE AND GIVE SURETY AND INDEMNITY BONDS, CONTRACT AND PAY FOR THE PREPARATION AND PRINTING OF RECORDS AND BRIEFS, RECEIVE, EXECUTE, AND FILE OR DELIVER A CONSENT, WAIVER, RELEASE, CONFESSION OF JUDGMENT, SATISFACTION OF JUDGMENT, NOTICE, AGREEMENT, OR OTHER INSTRUMENT IN CONNECTION WITH THE PROSECUTION, SETTLEMENT, OR DEFENSE OF A CLAIM OR LITIGATION;~~

~~(7) ACT FOR THE PRINCIPAL WITH RESPECT TO BANKRUPTCY OR INSOLVENCY, WHETHER VOLUNTARY OR INVOLUNTARY, CONCERNING THE PRINCIPAL OR SOME OTHER PERSON, OR WITH RESPECT TO A REORGANIZATION, RECEIVERSHIP, OR APPLICATION FOR THE APPOINTMENT OF A RECEIVER OR TRUSTEE THAT AFFECTS AN INTEREST OF THE PRINCIPAL IN PROPERTY OR OTHER THING OF VALUE;~~

~~(8) PAY A JUDGMENT, AWARD, OR ORDER AGAINST THE PRINCIPAL OR A SETTLEMENT MADE IN CONNECTION WITH A CLAIM OR LITIGATION; AND~~

~~(9) RECEIVE MONEY OR OTHER THING OF VALUE PAID IN SETTLEMENT OF OR AS PROCEEDS OF A CLAIM OR LITIGATION.~~

~~17–213.~~

~~(A) UNLESS THE POWER OF ATTORNEY OTHERWISE PROVIDES, LANGUAGE IN A POWER OF ATTORNEY GRANTING GENERAL AUTHORITY WITH RESPECT TO PERSONAL AND FAMILY MAINTENANCE AUTHORIZES THE AGENT TO:~~

~~(1) PERFORM THE ACTS NECESSARY TO MAINTAIN THE CUSTOMARY STANDARD OF LIVING OF THE PRINCIPAL, THE PRINCIPAL'S SPOUSE, AND THE FOLLOWING INDIVIDUALS, WHETHER LIVING WHEN THE POWER OF ATTORNEY IS EXECUTED OR LATER BORN:~~

~~(I) THE PRINCIPAL'S CHILDREN;~~

~~(II) OTHER INDIVIDUALS LEGALLY ENTITLED TO BE SUPPORTED BY THE PRINCIPAL; AND~~

~~(III) THE INDIVIDUALS WHOM THE PRINCIPAL HAS CUSTOMARILY SUPPORTED OR INDICATED THE INTENT TO SUPPORT;~~

~~(2) MAKE PERIODIC PAYMENTS OF CHILD SUPPORT AND OTHER FAMILY MAINTENANCE REQUIRED BY A COURT OR GOVERNMENTAL AGENCY OR AN AGREEMENT TO WHICH THE PRINCIPAL IS A PARTY;~~

~~(3) PROVIDE LIVING QUARTERS FOR THE INDIVIDUALS DESCRIBED IN ITEM (1) OF THIS SUBSECTION BY:~~

~~(I) PURCHASE, LEASE, OR OTHER CONTRACT; OR~~

~~(II) PAYING THE OPERATING COSTS, INCLUDING INTEREST, AMORTIZATION PAYMENTS, REPAIRS, IMPROVEMENTS, AND TAXES, FOR PREMISES OWNED BY THE PRINCIPAL OR OCCUPIED BY THOSE INDIVIDUALS;~~

~~(4) PROVIDE NORMAL DOMESTIC HELP, USUAL VACATIONS AND TRAVEL EXPENSES, AND FUNDS FOR SHELTER, CLOTHING, FOOD, APPROPRIATE EDUCATION, INCLUDING POSTSECONDARY AND VOCATIONAL EDUCATION, AND OTHER CURRENT LIVING COSTS FOR THE INDIVIDUALS DESCRIBED IN ITEM (1) OF THIS SUBSECTION;~~

~~(5) PAY EXPENSES FOR NECESSARY HEALTH CARE AND CUSTODIAL CARE ON BEHALF OF THE INDIVIDUALS DESCRIBED IN ITEM (1) OF THIS SUBSECTION;~~

~~(6) ACT AS THE PRINCIPAL'S PERSONAL REPRESENTATIVE IN ACCORDANCE WITH THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT, §§ 1171 THROUGH 1179 OF THE SOCIAL SECURITY ACT, 42 U.S.C. § 1320D, AND APPLICABLE REGULATIONS IN MAKING DECISIONS RELATED TO THE PAST, PRESENT, OR FUTURE PAYMENT FOR THE PROVISION OF HEALTH CARE CONSENTED TO BY THE PRINCIPAL OR ANYONE AUTHORIZED UNDER THE LAW OF THIS STATE TO CONSENT TO HEALTH CARE ON BEHALF OF THE PRINCIPAL;~~

~~(7) CONTINUE PROVISIONS MADE BY THE PRINCIPAL FOR AUTOMOBILES OR OTHER MEANS OF TRANSPORTATION, INCLUDING REGISTERING, LICENSING, INSURING, AND REPLACING THE MEANS OF TRANSPORTATION, FOR THE INDIVIDUALS DESCRIBED IN ITEM (1) OF THIS SUBSECTION;~~

~~(8) MAINTAIN CREDIT AND DEBIT ACCOUNTS FOR THE CONVENIENCE OF THE INDIVIDUALS DESCRIBED IN ITEM (1) OF THIS SUBSECTION AND OPEN NEW ACCOUNTS; AND~~

~~(9) CONTINUE PAYMENTS INCIDENTAL TO THE MEMBERSHIP OR AFFILIATION OF THE PRINCIPAL IN A RELIGIOUS INSTITUTION, CLUB, SOCIETY, ORDER, OR OTHER ORGANIZATION OR TO CONTINUE CONTRIBUTIONS TO THOSE ORGANIZATIONS.~~

~~(B) AUTHORITY WITH RESPECT TO PERSONAL AND FAMILY MAINTENANCE IS NEITHER DEPENDENT ON, NOR LIMITED BY, AUTHORITY THAT AN AGENT MAY OR MAY NOT HAVE WITH RESPECT TO GIFTS UNDER THIS SUBTITLE.~~

~~17–214.~~

~~(A) IN THIS SECTION, "BENEFITS FROM GOVERNMENTAL PROGRAMS OR CIVIL OR MILITARY SERVICE" MEANS ANY BENEFIT, PROGRAM, OR ASSISTANCE PROVIDED UNDER A STATUTE OR REGULATION INCLUDING SOCIAL SECURITY, MEDICARE, AND MEDICAID.~~

~~(B) UNLESS THE POWER OF ATTORNEY OTHERWISE PROVIDES, LANGUAGE IN A POWER OF ATTORNEY GRANTING GENERAL AUTHORITY WITH RESPECT TO BENEFITS FROM GOVERNMENTAL PROGRAMS OR CIVIL OR MILITARY SERVICE AUTHORIZES THE AGENT TO:~~

~~(1) EXECUTE VOUCHERS IN THE NAME OF THE PRINCIPAL FOR ALLOWANCES AND REIMBURSEMENTS PAYABLE BY THE UNITED STATES OR A FOREIGN GOVERNMENT OR BY A STATE OR SUBDIVISION OF A STATE TO THE PRINCIPAL, INCLUDING ALLOWANCES AND REIMBURSEMENTS FOR TRANSPORTATION OF THE INDIVIDUALS DESCRIBED IN § 17–213(A)(1) OF THIS SUBTITLE, AND FOR SHIPMENT OF THE HOUSEHOLD EFFECTS OF THOSE INDIVIDUALS;~~

~~(2) TAKE POSSESSION AND ORDER THE REMOVAL AND SHIPMENT OF PROPERTY OF THE PRINCIPAL FROM A POST, WAREHOUSE, DEPOT, DOCK, OR OTHER PLACE OF STORAGE OR SAFEKEEPING, EITHER GOVERNMENTAL OR PRIVATE, AND EXECUTE AND DELIVER A RELEASE, VOUCHER, RECEIPT, BILL OF LADING, SHIPPING TICKET, CERTIFICATE, OR OTHER INSTRUMENT FOR THAT PURPOSE;~~

~~(3) ENROLL IN, APPLY FOR, SELECT, REJECT, CHANGE, AMEND, OR DISCONTINUE, ON THE PRINCIPAL'S BEHALF, A BENEFIT OR PROGRAM;~~

~~(4) PREPARE, FILE, AND MAINTAIN A CLAIM OF THE PRINCIPAL FOR A BENEFIT OR ASSISTANCE, FINANCIAL OR OTHERWISE, TO WHICH THE PRINCIPAL MAY BE ENTITLED UNDER A STATUTE OR REGULATION;~~

~~(5) INITIATE, PARTICIPATE IN, SUBMIT TO ALTERNATIVE DISPUTE RESOLUTION, SETTLE, OPPOSE, OR PROPOSE OR ACCEPT A COMPROMISE WITH RESPECT TO LITIGATION CONCERNING A BENEFIT OR ASSISTANCE THE PRINCIPAL MAY BE ENTITLED TO RECEIVE UNDER A STATUTE OR REGULATION; AND~~

~~(6) RECEIVE THE FINANCIAL PROCEEDS OF A CLAIM DESCRIBED IN ITEM (4) OF THIS SUBSECTION AND CONSERVE, INVEST, DISBURSE, OR USE FOR A LAWFUL PURPOSE ANYTHING SO RECEIVED.~~

~~17–215.~~

~~(A) IN THIS SECTION, "RETIREMENT PLAN" MEANS A PLAN OR ACCOUNT CREATED BY AN EMPLOYER, THE PRINCIPAL, OR ANOTHER INDIVIDUAL TO PROVIDE RETIREMENT BENEFITS OR DEFERRED COMPENSATION OF WHICH THE PRINCIPAL IS A PARTICIPANT, BENEFICIARY, OR OWNER, INCLUDING A PLAN OR ACCOUNT UNDER THE FOLLOWING SECTIONS OF THE INTERNAL REVENUE CODE:~~

~~(1) AN INDIVIDUAL RETIREMENT ACCOUNT UNDER INTERNAL REVENUE CODE SECTION 408, 26 U.S.C. § 408;~~

~~(2) A ROTH INDIVIDUAL RETIREMENT ACCOUNT UNDER INTERNAL REVENUE CODE SECTION 408A, 26 U.S.C. § 408A;~~

~~(3) A DEEMED INDIVIDUAL RETIREMENT ACCOUNT UNDER INTERNAL REVENUE CODE SECTION 408(Q), 26 U.S.C. § 408(Q);~~

~~(4) AN ANNUITY OR MUTUAL FUND CUSTODIAL ACCOUNT UNDER INTERNAL REVENUE CODE SECTION 403(B), 26 U.S.C. § 403(B);~~

~~(5) A PENSION, PROFIT–SHARING, STOCK BONUS, OR OTHER RETIREMENT PLAN QUALIFIED UNDER INTERNAL REVENUE CODE SECTION 401(A), 26 U.S.C. § 401(A);~~

~~(6) A PLAN UNDER INTERNAL REVENUE CODE SECTION 457(B), 26 U.S.C. § 457(B); AND~~

~~(7) A NONQUALIFIED DEFERRED COMPENSATION PLAN UNDER INTERNAL REVENUE CODE SECTION 409A, 26 U.S.C. § 409A.~~

~~(B) UNLESS THE POWER OF ATTORNEY OTHERWISE PROVIDES, LANGUAGE IN A POWER OF ATTORNEY GRANTING GENERAL AUTHORITY WITH RESPECT TO RETIREMENT PLANS AUTHORIZES THE AGENT TO:~~

~~(1) SELECT THE FORM AND TIMING OF PAYMENTS UNDER A RETIREMENT PLAN AND WITHDRAW BENEFITS FROM A PLAN;~~

~~(2) MAKE A ROLLOVER, INCLUDING A DIRECT TRUSTEE–TO–TRUSTEE ROLLOVER, OF BENEFITS FROM ONE RETIREMENT PLAN TO ANOTHER;~~

~~(3) ESTABLISH A RETIREMENT PLAN IN THE PRINCIPAL'S NAME;~~

~~(4) MAKE CONTRIBUTIONS TO A RETIREMENT PLAN;~~

~~(5) EXERCISE INVESTMENT POWERS AVAILABLE UNDER A RETIREMENT PLAN; AND~~

~~(6) BORROW FROM, SELL ASSETS TO, OR PURCHASE ASSETS FROM A RETIREMENT PLAN.~~

~~17–216.~~

~~UNLESS THE POWER OF ATTORNEY OTHERWISE PROVIDES, LANGUAGE IN A POWER OF ATTORNEY GRANTING GENERAL AUTHORITY WITH RESPECT TO TAXES AUTHORIZES THE AGENT TO:~~

~~(1) PREPARE, SIGN, AND FILE FEDERAL, STATE, LOCAL, AND FOREIGN INCOME, GIFT, PAYROLL, PROPERTY, FEDERAL INSURANCE CONTRIBUTIONS ACT, AND OTHER TAX RETURNS, CLAIMS FOR REFUNDS, REQUESTS FOR EXTENSION OF TIME, PETITIONS REGARDING TAX MATTERS, AND OTHER TAX–RELATED DOCUMENTS, INCLUDING RECEIPTS, OFFERS, WAIVERS, CONSENTS, INCLUDING CONSENTS AND AGREEMENTS UNDER INTERNAL REVENUE CODE SECTION 2032A, 26 U.S.C. § 2032A, CLOSING AGREEMENTS, AND OTHER POWERS OF ATTORNEY REQUIRED BY THE INTERNAL REVENUE SERVICE OR OTHER TAXING AUTHORITY WITH RESPECT TO A TAX YEAR ON WHICH THE STATUTE OF LIMITATIONS HAS NOT RUN AND THE FOLLOWING 25 TAX YEARS;~~

~~(2) PAY TAXES DUE, COLLECT REFUNDS, POST BONDS, RECEIVE CONFIDENTIAL INFORMATION, AND CONTEST DEFICIENCIES DETERMINED BY THE INTERNAL REVENUE SERVICE OR OTHER TAXING AUTHORITY;~~

~~(3) EXERCISE ELECTIONS AVAILABLE TO THE PRINCIPAL UNDER FEDERAL, STATE, LOCAL, OR FOREIGN TAX LAW; AND~~

~~(4) ACT FOR THE PRINCIPAL IN ALL TAX MATTERS FOR ALL PERIODS BEFORE THE INTERNAL REVENUE SERVICE, OR OTHER TAXING AUTHORITY.~~

~~17–217.~~

~~(A) IN THIS SECTION, A GIFT "FOR THE BENEFIT OF" A PERSON INCLUDES A GIFT TO A TRUST, AN ACCOUNT UNDER THE UNIFORM TRANSFERS TO MINORS ACT, AND A TUITION SAVINGS ACCOUNT OR PREPAID TUITION PLAN AS DEFINED UNDER INTERNAL REVENUE CODE SECTION 529, 26 U.S.C. § 529.~~

~~(B) UNLESS THE POWER OF ATTORNEY OTHERWISE PROVIDES, LANGUAGE IN A POWER OF ATTORNEY GRANTING GENERAL AUTHORITY WITH RESPECT TO GIFTS AUTHORIZES THE AGENT ONLY TO:~~

~~(1) MAKE OUTRIGHT TO, OR FOR THE BENEFIT OF, A PERSON, A GIFT OF PART OR ALL OF THE PRINCIPAL'S PROPERTY, INCLUDING BY THE EXERCISE OF A PRESENTLY EXERCISABLE GENERAL POWER OF APPOINTMENT HELD BY THE PRINCIPAL, IN AN AMOUNT FOR EACH DONEE NOT TO EXCEED THE ANNUAL DOLLAR LIMITS OF THE FEDERAL GIFT TAX EXCLUSION UNDER INTERNAL REVENUE CODE SECTION 2503(B), 26 U.S.C. § 2503(B), WITHOUT REGARD TO WHETHER THE FEDERAL GIFT TAX EXCLUSION APPLIES TO THE GIFT, OR IF THE PRINCIPAL'S SPOUSE AGREES TO CONSENT TO A SPLIT GIFT PURSUANT TO INTERNAL REVENUE CODE SECTION 2513, 26 U.S.C. § 2513, IN AN AMOUNT FOR EACH DONEE NOT TO EXCEED TWICE THE ANNUAL FEDERAL GIFT TAX EXCLUSION LIMIT; AND~~

~~(2) CONSENT, PURSUANT TO INTERNAL REVENUE CODE SECTION 2513, 26 U.S.C. § 2513, TO THE SPLITTING OF A GIFT MADE BY THE PRINCIPAL'S SPOUSE IN AN AMOUNT FOR EACH DONEE NOT TO EXCEED THE AGGREGATE ANNUAL GIFT TAX EXCLUSIONS FOR BOTH SPOUSES.~~

~~(C) AN AGENT MAY MAKE A GIFT OF THE PRINCIPAL'S PROPERTY ONLY AS THE AGENT DETERMINES IS CONSISTENT WITH THE PRINCIPAL'S OBJECTIVES IF ACTUALLY KNOWN BY THE AGENT AND, IF UNKNOWN, AS THE AGENT DETERMINES IS CONSISTENT WITH THE PRINCIPAL'S BEST INTEREST BASED ON ALL RELEVANT FACTORS, INCLUDING:~~

~~(1) THE VALUE AND NATURE OF THE PRINCIPAL'S PROPERTY;~~

~~(2) THE PRINCIPAL'S FORESEEABLE OBLIGATIONS AND NEED FOR MAINTENANCE;~~

~~(3) MINIMIZATION OF TAXES, INCLUDING INCOME, ESTATE, INHERITANCE, GENERATION-SKIPPING TRANSFER, AND GIFT TAXES;~~

~~(4) ELIGIBILITY FOR A BENEFIT, A PROGRAM, OR ASSISTANCE UNDER A STATUTE OR REGULATION; AND~~

~~(5) THE PRINCIPAL'S PERSONAL HISTORY OF MAKING OR JOINING IN MAKING GIFTS.~~

~~SUBTITLE 3. STATUTORY FORMS.~~

~~17–301.~~

~~A DOCUMENT SUBSTANTIALLY IN THE FOLLOWING FORM MAY BE USED TO CREATE A STATUTORY FORM POWER OF ATTORNEY THAT HAS THE MEANING AND EFFECT PRESCRIBED BY THIS TITLE:~~

~~"MARYLAND~~
~~STATUTORY FORM POWER OF ATTORNEY~~

~~IMPORTANT INFORMATION AND WARNING~~

~~YOU SHOULD BE VERY CAREFUL IN DECIDING WHETHER OR NOT TO SIGN THIS DOCUMENT. THE POWERS GRANTED BY YOU (THE PRINCIPAL) IN THIS DOCUMENT ARE BROAD AND SWEEPING.~~

~~THIS POWER OF ATTORNEY AUTHORIZES ANOTHER PERSON (YOUR AGENT) TO MAKE DECISIONS CONCERNING YOUR PROPERTY FOR YOU (THE PRINCIPAL). YOUR AGENT WILL BE ABLE TO MAKE DECISIONS AND ACT WITH RESPECT TO YOUR PROPERTY (INCLUDING YOUR MONEY) WHETHER OR NOT YOU ARE ABLE TO ACT FOR YOURSELF. THE MEANING OF AUTHORITY OVER SUBJECTS LISTED ON THIS FORM IS EXPLAINED IN THE UNIFORM POWER OF ATTORNEY ACT, TITLE 17 OF THE ESTATES AND TRUSTS ARTICLE.~~

~~THIS POWER OF ATTORNEY DOES NOT AUTHORIZE THE AGENT TO MAKE HEALTH CARE DECISIONS FOR YOU.~~

~~YOU SHOULD SELECT SOMEONE YOU COMPLETELY TRUST TO SERVE AS YOUR AGENT. UNLESS YOU SPECIFY OTHERWISE, GENERALLY THE AGENT'S AUTHORITY WILL CONTINUE UNTIL YOU DIE OR REVOKE THE POWER OF ATTORNEY OR THE AGENT RESIGNS OR IS UNABLE TO ACT FOR YOU.~~

~~THE POWER OF ATTORNEY WILL TAKE EFFECT IMMEDIATELY UNLESS YOU STATE OTHERWISE IN THE SPECIAL INSTRUCTIONS.~~

~~YOUR AGENT IS NOT ENTITLED TO COMPENSATION UNLESS YOU INDICATE OTHERWISE IN THIS POWER OF ATTORNEY. IF YOU INDICATE THAT YOUR AGENT IS TO RECEIVE COMPENSATION, YOUR AGENT IS ENTITLED TO REASONABLE COMPENSATION OR COMPENSATION AS SPECIFIED IN THE SPECIAL INSTRUCTIONS.~~

~~THIS FORM PROVIDES FOR DESIGNATION OF ONE AGENT. IF YOU WISH TO NAME MORE THAN ONE AGENT YOU MAY NAME A COAGENT IN THE SPECIAL INSTRUCTIONS. COAGENTS ARE NOT REQUIRED TO ACT TOGETHER UNLESS YOU INCLUDE THAT REQUIREMENT IN THE SPECIAL INSTRUCTIONS.~~

~~IF YOUR AGENT IS UNABLE OR UNWILLING TO ACT FOR YOU, YOUR POWER OF ATTORNEY WILL END UNLESS YOU HAVE NAMED A SUCCESSOR AGENT. YOU MAY ALSO NAME A SECOND SUCCESSOR AGENT.~~

~~YOU SHOULD OBTAIN COMPETENT LEGAL ADVICE BEFORE YOU SIGN THIS POWER OF ATTORNEY IF YOU HAVE ANY QUESTIONS ABOUT THE DOCUMENT OR THE AUTHORITY YOU ARE GRANTING TO YOUR AGENT.~~

~~YOU SHOULD OBTAIN COMPETENT LEGAL ADVICE IF YOU WISH TO REVOKE THIS POWER OF ATTORNEY.~~

~~DESIGNATION OF AGENT~~

~~I, _____,~~
~~(NAME OF PRINCIPAL)~~

~~NAME THE FOLLOWING PERSON AS MY AGENT:~~

~~NAME OF AGENT: _____~~
~~AGENT'S ADDRESS: _____~~
~~AGENT'S TELEPHONE NUMBER: _____~~

~~DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)~~

~~IF MY AGENT IS UNABLE OR UNWILLING TO ACT FOR ME, I NAME AS MY SUCCESSOR AGENT:~~

~~NAME OF SUCCESSOR AGENT:~~ _____
~~SUCCESSOR AGENT'S ADDRESS:~~ _____
~~SUCCESSOR AGENT'S TELEPHONE NUMBER:~~ _____

~~IF MY SUCCESSOR AGENT IS UNABLE OR UNWILLING TO ACT FOR ME, I NAME AS MY SECOND SUCCESSOR AGENT:~~

~~NAME OF SECOND SUCCESSOR AGENT:~~ _____

~~SECOND SUCCESSOR AGENT'S ADDRESS:~~ _____

~~SECOND SUCCESSOR AGENT'S TELEPHONE NUMBER:~~ _____

~~GRANT OF GENERAL AUTHORITY~~

~~I GRANT MY AGENT AND ANY SUCCESSOR AGENT GENERAL AUTHORITY TO ACT FOR ME WITH RESPECT TO THE FOLLOWING SUBJECTS AS DEFINED IN THE UNIFORM POWER OF ATTORNEY ACT, TITLE 17 OF THE ESTATES AND TRUSTS ARTICLE:~~

~~(INITIAL EACH SUBJECT YOU WANT TO INCLUDE IN THE AGENT'S GENERAL AUTHORITY. IF YOU WISH TO GRANT GENERAL AUTHORITY OVER ALL OF THE SUBJECTS YOU MAY INITIAL "ALL PRECEDING SUBJECTS" INSTEAD OF INITIALING EACH SUBJECT.)~~

~~(___) REAL PROPERTY~~
~~(___) TANGIBLE PERSONAL PROPERTY~~
~~(___) STOCKS AND BONDS~~
~~(___) COMMODITIES AND OPTIONS~~
~~(___) BANKS AND OTHER FINANCIAL INSTITUTIONS~~
~~(___) OPERATION OF ENTITY OR BUSINESS~~
~~(___) INSURANCE AND ANNUITIES~~
~~(___) ESTATES, TRUSTS, AND OTHER BENEFICIAL INTERESTS~~
~~(___) CLAIMS AND LITIGATION~~
~~(___) PERSONAL AND FAMILY MAINTENANCE~~
~~(___) BENEFITS FROM GOVERNMENTAL PROGRAMS OR CIVIL OR MILITARY SERVICE~~
~~(___) RETIREMENT PLANS~~
~~(___) TAXES~~

~~(___) ALL PRECEDING SUBJECTS~~

~~GRANT OF SPECIFIC AUTHORITY (OPTIONAL)~~

~~MY AGENT MAY NOT DO ANY OF THE FOLLOWING SPECIFIC ACTS FOR ME UNLESS I HAVE INITIALED THE SPECIFIC AUTHORITY LISTED BELOW:~~

~~(CAUTION: GRANTING ANY OF THE FOLLOWING WILL GIVE YOUR AGENT THE AUTHORITY TO TAKE ACTIONS THAT COULD SIGNIFICANTLY REDUCE YOUR PROPERTY OR CHANGE HOW YOUR PROPERTY IS DISTRIBUTED AT YOUR DEATH. INITIAL ONLY THE SPECIFIC AUTHORITY YOU WANT TO GIVE YOUR AGENT.)~~

~~(___) CREATE, AMEND, REVOKE, OR TERMINATE AN INTER VIVOS TRUST~~
~~(___) MAKE A GIFT, SUBJECT TO THE LIMITATIONS OF THE UNIFORM POWER OF ATTORNEY ACT, § 17–217 OF THE ESTATES AND TRUSTS ARTICLE, AND ANY SPECIAL INSTRUCTIONS IN THIS POWER OF ATTORNEY~~
~~(___) CREATE OR CHANGE RIGHTS OF SURVIVORSHIP~~
~~(___) CREATE OR CHANGE A BENEFICIARY DESIGNATION~~
~~(___) AUTHORIZE ANOTHER PERSON TO EXERCISE THE AUTHORITY GRANTED UNDER THIS POWER OF ATTORNEY~~
~~(___) WAIVE THE PRINCIPAL'S RIGHT TO BE A BENEFICIARY OF A JOINT AND SURVIVOR ANNUITY, INCLUDING A SURVIVOR BENEFIT UNDER A RETIREMENT PLAN~~
~~(___) EXERCISE FIDUCIARY POWERS THAT THE PRINCIPAL HAS AUTHORITY TO DELEGATE~~
~~(___) DISCLAIM OR REFUSE AN INTEREST IN PROPERTY, INCLUDING A POWER OF APPOINTMENT~~

~~COMPENSATION OF AGENT~~

~~(___) MY AGENT IS TO SERVE WITHOUT COMPENSATION~~

~~(___) MY AGENT IS TO RECEIVE COMPENSATION THAT IS REASONABLE UNDER THE CIRCUMSTANCES OR COMPENSATION AS SPECIFIED IN THE SPECIAL INSTRUCTIONS~~

~~LIMITATION ON AGENT'S AUTHORITY~~

~~AN AGENT THAT IS NOT MY ANCESTOR, SPOUSE, OR DESCENDANT MAY NOT USE MY PROPERTY TO BENEFIT THE AGENT OR A PERSON TO WHOM THE AGENT OWES AN OBLIGATION OF SUPPORT UNLESS I HAVE INCLUDED THAT AUTHORITY IN THE SPECIAL INSTRUCTIONS.~~

~~SPECIAL INSTRUCTIONS (OPTIONAL)~~

~~YOU MAY GIVE SPECIAL INSTRUCTIONS ON THE FOLLOWING LINES:~~

_____
_____
_____
_____
_____
_____
_____

~~EFFECTIVE DATE~~

~~THIS POWER OF ATTORNEY IS EFFECTIVE IMMEDIATELY UNLESS I HAVE STATED OTHERWISE IN THE SPECIAL INSTRUCTIONS.~~

~~NOMINATION OF GUARDIAN (OPTIONAL)~~

~~IF IT BECOMES NECESSARY FOR A COURT TO APPOINT A GUARDIAN OF MY ESTATE OR GUARDIAN OF MY PERSON, I NOMINATE THE FOLLOWING PERSON(S) FOR APPOINTMENT:~~

~~NAME OF NOMINEE FOR GUARDIAN OF MY ESTATE:~~
_____
~~NOMINEE'S ADDRESS:~~_____
~~NOMINEE'S TELEPHONE NUMBER:~~_____

~~NAME OF NOMINEE FOR GUARDIAN OF MY PERSON:~~
_____
~~NOMINEE'S ADDRESS:~~_____
~~NOMINEE'S TELEPHONE NUMBER:~~_____

~~RELIANCE ON THIS POWER OF ATTORNEY~~

~~ANY PERSON, INCLUDING MY AGENT, MAY RELY ON THE VALIDITY OF THIS POWER OF ATTORNEY OR A COPY OF IT UNLESS THAT PERSON KNOWS IT HAS TERMINATED OR IS INVALID.~~

~~SIGNATURE AND ACKNOWLEDGMENT~~

_____ _____
~~YOUR SIGNATURE~~ ~~DATE~~

_____

~~YOUR NAME PRINTED~~

_____

_____

~~YOUR ADDRESS~~

_____

~~YOUR TELEPHONE NUMBER~~

~~STATE OF MARYLAND~~
~~(COUNTY) OF~~ _____

~~THIS DOCUMENT WAS ACKNOWLEDGED BEFORE ME ON~~
_____,
~~(DATE)~~

~~BY~~ _____.
~~(NAME OF PRINCIPAL)~~

_____ ~~(SEAL, IF ANY)~~
~~SIGNATURE OF NOTARY~~
~~MY COMMISSION EXPIRES:~~ _____

~~THIS DOCUMENT PREPARED BY:~~

_____

_____

~~IMPORTANT INFORMATION FOR AGENT~~

~~AGENT'S DUTIES~~

~~WHEN YOU ACCEPT THE AUTHORITY GRANTED UNDER THIS POWER OF ATTORNEY, A SPECIAL LEGAL RELATIONSHIP IS CREATED BETWEEN YOU AND THE PRINCIPAL. THIS RELATIONSHIP IMPOSES ON YOU LEGAL DUTIES THAT CONTINUE UNTIL YOU RESIGN OR THE POWER OF ATTORNEY IS TERMINATED OR REVOKED. YOU MUST:~~

~~(1) DO WHAT YOU KNOW THE PRINCIPAL REASONABLY EXPECTS YOU TO DO WITH THE PRINCIPAL'S PROPERTY OR, IF YOU DO NOT KNOW THE PRINCIPAL'S EXPECTATIONS, ACT IN THE PRINCIPAL'S BEST INTEREST;~~
~~(2) ACT IN GOOD FAITH;~~
~~(3) DO NOTHING BEYOND THE AUTHORITY GRANTED IN THIS POWER OF ATTORNEY; AND~~

~~(4) DISCLOSE YOUR IDENTITY AS AN AGENT WHENEVER YOU ACT FOR THE PRINCIPAL BY WRITING OR PRINTING THE NAME OF THE PRINCIPAL AND SIGNING YOUR OWN NAME AS "AGENT" IN THE FOLLOWING MANNER:~~

~~_____~~

~~(PRINCIPAL'S NAME) BY (YOUR SIGNATURE) AS AGENT~~

~~UNLESS THE SPECIAL INSTRUCTIONS IN THIS POWER OF ATTORNEY STATE OTHERWISE, YOU MUST ALSO:~~

~~(1) ACT LOYALLY FOR THE PRINCIPAL'S BENEFIT;~~
~~(2) AVOID CONFLICTS THAT WOULD IMPAIR YOUR ABILITY TO ACT IN THE PRINCIPAL'S BEST INTEREST;~~
~~(3) ACT WITH CARE, COMPETENCE, AND DILIGENCE;~~
~~(4) KEEP A RECORD OF ALL RECEIPTS, DISBURSEMENTS, AND TRANSACTIONS MADE ON BEHALF OF THE PRINCIPAL;~~
~~(5) COOPERATE WITH ANY PERSON THAT HAS AUTHORITY TO MAKE HEALTH CARE DECISIONS FOR THE PRINCIPAL TO DO WHAT YOU KNOW THE PRINCIPAL REASONABLY EXPECTS OR, IF YOU DO NOT KNOW THE PRINCIPAL'S EXPECTATIONS, TO ACT IN THE PRINCIPAL'S BEST INTEREST; AND~~
~~(6) ATTEMPT TO PRESERVE THE PRINCIPAL'S ESTATE PLAN IF YOU KNOW THE PLAN AND PRESERVING THE PLAN IS CONSISTENT WITH THE PRINCIPAL'S BEST INTEREST.~~

~~TERMINATION OF AGENT'S AUTHORITY~~

~~YOU MUST STOP ACTING ON BEHALF OF THE PRINCIPAL IF YOU LEARN OF ANY EVENT THAT TERMINATES THIS POWER OF ATTORNEY OR YOUR AUTHORITY UNDER THIS POWER OF ATTORNEY. EVENTS THAT TERMINATE A POWER OF ATTORNEY OR YOUR AUTHORITY TO ACT UNDER A POWER OF ATTORNEY INCLUDE:~~

~~(1) DEATH OF THE PRINCIPAL;~~
~~(2) THE PRINCIPAL'S REVOCATION OF THE POWER OF ATTORNEY OR YOUR AUTHORITY;~~
~~(3) THE OCCURRENCE OF A TERMINATION EVENT STATED IN THE POWER OF ATTORNEY;~~
~~(4) THE PURPOSE OF THE POWER OF ATTORNEY IS FULLY ACCOMPLISHED; OR~~
~~(5) IF YOU ARE MARRIED TO THE PRINCIPAL, A LEGAL ACTION IS FILED WITH A COURT TO END YOUR MARRIAGE, OR FOR YOUR LEGAL SEPARATION, UNLESS THE SPECIAL INSTRUCTIONS IN THIS POWER OF ATTORNEY STATE THAT SUCH AN ACTION WILL NOT TERMINATE YOUR AUTHORITY.~~

~~LIABILITY OF AGENT~~

~~THE MEANING OF THE AUTHORITY GRANTED TO YOU IS DEFINED IN THE UNIFORM POWER OF ATTORNEY ACT, TITLE 17 OF THE ESTATES AND TRUSTS ARTICLE. IF YOU VIOLATE THE UNIFORM POWER OF ATTORNEY ACT, TITLE 17 OF THE ESTATES AND TRUSTS ARTICLE, OR ACT OUTSIDE THE AUTHORITY GRANTED, YOU MAY BE LIABLE FOR ANY DAMAGES CAUSED BY YOUR VIOLATION.~~

~~IF THERE IS ANYTHING ABOUT THIS DOCUMENT OR YOUR DUTIES THAT YOU DO NOT UNDERSTAND, YOU SHOULD SEEK LEGAL ADVICE."~~

~~17–302.~~

~~THE FOLLOWING OPTIONAL FORM MAY BE USED BY AN AGENT TO CERTIFY FACTS CONCERNING A POWER OF ATTORNEY:~~

~~"AGENT'S CERTIFICATION AS TO THE VALIDITY OF POWER OF ATTORNEY AND AGENT'S AUTHORITY~~

~~STATE OF MARYLAND~~
~~(COUNTY) OF _____~~

~~I, _____ (NAME OF AGENT), CERTIFY UNDER PENALTY OF PERJURY THAT _____ (NAME OF PRINCIPAL) GRANTED ME AUTHORITY AS AN AGENT OR SUCCESSOR AGENT IN A POWER OF ATTORNEY DATED _____.~~

~~I FURTHER CERTIFY THAT TO MY KNOWLEDGE:~~

~~(1) THE PRINCIPAL IS ALIVE AND HAS NOT REVOKED THE POWER OF ATTORNEY OR MY AUTHORITY TO ACT UNDER THE POWER OF ATTORNEY AND THE POWER OF ATTORNEY AND MY AUTHORITY TO ACT UNDER THE POWER OF ATTORNEY HAVE NOT TERMINATED;~~

~~(2) IF THE POWER OF ATTORNEY WAS DRAFTED TO BECOME EFFECTIVE ON THE HAPPENING OF AN EVENT OR CONTINGENCY, THE EVENT OR CONTINGENCY HAS OCCURRED;~~

~~(3) IF I WAS NAMED AS A SUCCESSOR AGENT, THE PRIOR AGENT IS NO LONGER ABLE OR WILLING TO SERVE; AND~~

~~(4) _____~~
~~_____~~

~~(INSERT OTHER RELEVANT STATEMENTS)~~

~~SIGNATURE AND ACKNOWLEDGMENT~~

~~AGENT'S SIGNATURE~~ ~~DATE~~

~~AGENT'S NAME PRINTED~~

~~AGENT'S ADDRESS~~

~~AGENT'S TELEPHONE NUMBER~~

~~THIS DOCUMENT WAS ACKNOWLEDGED BEFORE ME ON~~ _____,
~~(DATE)~~
~~BY~~ _____.
~~(NAME OF AGENT)~~

_____ ~~(SEAL, IF ANY)~~
~~SIGNATURE OF NOTARY~~
~~MY COMMISSION EXPIRES:~~ _____

~~THIS DOCUMENT PREPARED BY:~~

_____~~".~~

~~SUBTITLE 4. MISCELLANEOUS PROVISIONS.~~

~~17–401.~~

~~THIS TITLE MAY BE CITED AS THE UNIFORM POWER OF ATTORNEY ACT.~~

~~17–402.~~

~~IN APPLYING AND CONSTRUING THIS TITLE, WHICH IS A UNIFORM ACT, CONSIDERATION SHALL BE GIVEN TO THE NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT TO THE SUBJECT MATTER OF THE LAW AMONG THE STATES THAT ENACT THE LAW.~~

~~17–403.~~

~~THIS TITLE MODIFIES, LIMITS, AND SUPERSEDES THE FEDERAL ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT, 15 U.S.C. § 7001 ET SEQ., BUT DOES NOT MODIFY, LIMIT, OR SUPERSEDE SECTION 7001(C) OF THAT ACT, 15 U.S.C. § 7001(C), OR AUTHORIZE ELECTRONIC DELIVERY OF THE NOTICES DESCRIBED IN SECTION 7003(B) OF THAT ACT, 15 U.S.C. § 7003(B).~~

~~17–404.~~

~~EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, ON OCTOBER 1, 2010:~~

~~(1) THIS TITLE APPLIES TO A POWER OF ATTORNEY CREATED BEFORE, ON, OR AFTER OCTOBER 1, 2010;~~

~~(2) THIS TITLE APPLIES TO A JUDICIAL PROCEEDING CONCERNING A POWER OF ATTORNEY COMMENCED ON OR AFTER OCTOBER 1, 2010;~~

~~(3) THIS TITLE APPLIES TO A JUDICIAL PROCEEDING CONCERNING A POWER OF ATTORNEY COMMENCED BEFORE OCTOBER 1, 2010, UNLESS THE COURT FINDS THAT APPLICATION OF A PROVISION OF THIS TITLE WOULD SUBSTANTIALLY INTERFERE WITH THE EFFECTIVE CONDUCT OF THE JUDICIAL PROCEEDING OR PREJUDICE THE RIGHTS OF A PARTY, IN WHICH CASE THAT PROVISION DOES NOT APPLY AND THE SUPERSEDED LAW APPLIES; AND~~

~~(4) AN ACT DONE BEFORE OCTOBER 1, 2010, IS NOT AFFECTED BY THIS TITLE.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 691

(House Bill 667)

AN ACT concerning

~~Somerset, Wicomico, and Worcester Counties –~~ Vehicle Laws – Exceptional Hauling Permits – Validity in Select Eastern Shore Counties

FOR the purpose of including Dorchester County, Somerset County, Talbot County, Wicomico County, and Worcester County as counties in which an exceptional hauling permit issued by the State Highway Administration is valid for a combination of vehicles that transports certain forestry products, subject to certain axle configuration requirements, increased maximum load limits, weight tolerances, inspection requirements, operation restrictions and requirements, penalties, record keeping and reporting requirements, and fees; *codifying certain provisions of law concerning the authority of the State Highway Administrator with respect to issuing or renewing exceptional hauling permits; codifying a certain provision of law requiring the Administrator to report to the General Assembly in a certain manner regarding any decision to stop issuing or renewing exceptional hauling permits;* and generally relating to vehicle laws and exceptional hauling permits.

BY repealing and reenacting, with amendments,
Article – Transportation
Section 24–113.2
Annotated Code of Maryland
(2009 Replacement Volume and 2009 Supplement)

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

Article – Transportation

24–113.2.

(a) An exceptional hauling permit issued under this section is valid only in**:**

(1) Allegany County **[**and Garrett County**]**, ~~GARRETT COUNTY,~~**; AND**

(2) DORCHESTER COUNTY, SOMERSET COUNTY, TALBOT COUNTY, WICOMICO COUNTY, AND WORCESTER COUNTY.

(b) Notwithstanding any other provision of this title, the State Highway Administration may issue an exceptional hauling permit for a combination of vehicles that:

(1) Carries forestry products that:

(i) Are loaded in fields or other off–highway locations; and

(ii) Are the only load of the vehicle; and

(2) Has an axle configuration of not less than six axles and a front–to–rear centerline axle spacing of not less than 50 feet.

(c) A combination of vehicles operating under the authority of an exceptional hauling permit issued under subsection (b) of this section shall:

(1) Comply with the following weight limits:

(i) A maximum of 20,000 pounds gross weight on a single axle;

(ii) For any consecutive axle configuration of two or more axles on individual vehicles in the combination, the maximum gross weight specified in § 24–109(c) of this subtitle; and

(iii) A maximum of 87,000 pounds gross combination weight;

(2) Twice each year, submit to and pass a North American Standard Driver/Vehicle Level 1 inspection; and

(3) Be allowed a load limit tolerance of only 1,000 pounds for gross combination weight and 15% for axle weights.

(d) While operating a combination of vehicles under the authority of an exceptional hauling permit issued under subsection (b) of this section, a person may not:

(1) Violate a highway restriction issued by a competent authority;

(2) Operate the combination of vehicles on the interstate highway system, as defined in § 8–101(j) of this article;

(3) Operate the combination of vehicles if the combination of vehicles exceeds any tire weight rating or tire speed restriction adopted under § 25–111 of this article; or

(4) Fail to comply with the terms and conditions of the exceptional hauling permit.

(e) While operating a combination of vehicles under the authority of an exceptional hauling permit issued under subsection (b) of this section, a person shall have in the person's possession:

(1) The original exceptional hauling permit issued for the vehicle; and

(2) For each vehicle in the combination of vehicles, a copy of a valid North American Standard Driver/Vehicle Level 1 inspection report issued within the preceding 180 days that shows no out–of–service violations.

(f) (1) A violation of this section, regulations adopted to implement this section, or the terms and conditions of an exceptional hauling permit issued under subsection (b) of this section shall:

(i) Void the authority granted under the exceptional hauling permit;

(ii) Subject the vehicle to all weight requirements and tolerances specified in this article; and

(iii) For a violation of a weight restriction specified in this section that exceeds 5,000 pounds, subject the exceptional hauling permit to immediate confiscation by an officer or authorized civilian employee of the Department of State Police, an officer of the Maryland Transportation Authority Police, or any police officer.

(2) A person who confiscates an exceptional hauling permit under paragraph (1) of this subsection shall immediately notify the State Highway Administration.

(3) On notification of the confiscation of an exceptional hauling permit, the State Highway Administration shall review the confiscation, verify the violation of a weight restriction, and, if the State Highway Administration determines that a violation did occur, revoke the permit.

(4) An owner or operator of a combination of vehicles may appeal the revocation of an exceptional hauling permit to the State Highway Administrator or the Administrator's designee.

(g) (1) On request from the State Highway Administrator or the Administrator's designee, weight and delivery records of the holder of an exceptional hauling permit that are kept in the normal course of business shall be provided by:

(i) The holder of the exceptional hauling permit; or

(ii) A facility that receives forestry products delivered by a vehicle operating under the authority of an exceptional hauling permit.

(2) If the holder of an exceptional hauling permit or a facility that receives forestry products does not comply with a request under this subsection, the State Highway Administration may:

(i) Suspend the holder's exceptional hauling permit; or

(ii) Prohibit a vehicle from delivering forestry products under the authority of the exceptional hauling permit to the noncompliant facility.

(h) (1) An applicant for an exceptional hauling permit shall pay to the State Highway Administration:

(i) $500 for the issuance of a new permit or the annual renewal of a permit;

(ii) $1,000 for the reinstatement of a permit that was revoked under subsection (f)(3) of this section for a first violation; and

(iii) $5,000 for the reinstatement of a permit that was revoked under subsection (f)(3) of this section for a second or subsequent violation within the prior 24 months.

(2) A fee paid under this subsection is nonrefundable.

(i) Except as otherwise provided in this section, an exceptional hauling permit is valid for 1 year from the date of issuance.

(j) In consultation with the Secretary of State Police, the State Highway Administration shall adopt regulations to implement this section.

(K) (1) AN EXCEPTIONAL HAULING PERMIT IS ISSUED UNDER THIS SECTION AT THE DISCRETION OF THE STATE HIGHWAY ADMINISTRATOR.

(2) THE STATE HIGHWAY ADMINISTRATOR MAY STOP ISSUING OR RENEWING EXCEPTIONAL HAULING PERMITS UNDER THIS SECTION IF THE ADMINISTRATOR DETERMINES THAT THE USE OF THE PERMITS IS ADVERSELY AFFECTING ANY PART OF THE STATE HIGHWAY SYSTEM.

(3) THE STATE HIGHWAY ADMINISTRATOR SHALL PROMPTLY REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, REGARDING ANY DECISION TO STOP ISSUING OR RENEWING EXCEPTIONAL HAULING PERMITS UNDER THIS SECTION AND THE REASON FOR THE DECISION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 692

(House Bill 678)

AN ACT concerning

Frederick County – Pay–As–You–Throw Pilot Program

FOR the purpose of authorizing the Board of County Commissioners for Frederick County to enact a pilot program under which a solid waste hauler charges a residential customer a fee for curbside collection based on the volume of the solid waste collected; providing that the pilot program may occur in a municipal corporation only on approval of the governing body of the municipal corporation; and generally relating to solid waste disposal in Frederick County.

BY adding to
The Public Local Laws of Frederick County
Section 2–13–35
Article 11 – Public Local Laws of Maryland
(2004 Edition and September 2009 Supplement, as amended)

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

Article 11 – Frederick County

2–13–35.

(A) THE BOARD BY ORDINANCE MAY ESTABLISH A PILOT PROGRAM UNDER WHICH A SOLID WASTE HAULER CHARGES A RESIDENTIAL CUSTOMER A FEE FOR CURBSIDE COLLECTION BASED ON THE VOLUME OF THE SOLID WASTE COLLECTED.

(B) THE PILOT PROGRAM MAY OCCUR IN A MUNICIPAL CORPORATION ONLY ON APPROVAL OF THE GOVERNING BODY OF THE MUNICIPAL CORPORATION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 693

(House Bill 689)

AN ACT concerning

Natural Resources – POWs and Disabled Veterans – Exception to Trout Stamp Requirement

FOR the purpose of creating an exception for certain holders of a lifetime complimentary angler's license who are former prisoners of war or service disabled veterans to the requirement to obtain a trout stamp before catching or possessing freshwater trout; and generally relating to exceptions to the requirement to obtain trout stamps.

BY repealing and reenacting, without amendments,
Article – Natural Resources
Section 4–607
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 4–614
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

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

Article – Natural Resources

4–607.

(a) (1) The Department may issue annually a complimentary angler's license to the President of the United States, the governor of any state, and any official of the game and fish department of any other state.

(2) The Department may issue a lifetime complimentary angler's license to any Maryland resident who certifies that the resident is a former prisoner of war or 100% service connected disabled American veteran.

(b) Not more than 20 complimentary licenses for each state other than Maryland shall be outstanding at any time.

(c) A complimentary license is not transferable and shall be issued without a fee on forms the Department designates.

(d) For the purposes of this section, "former prisoner of war" means a person who, while serving in the active military, naval, or air service of the United States, was forcibly detained or interned in the line of duty by an enemy government or its agents, or a hostile force, during a period of armed conflict.

4–614.

(a) (1) Except for a holder of a current resident consolidated senior sport fishing license issued under § 4–216 of this title**, A HOLDER OF A LIFETIME COMPLIMENTARY ANGLER'S LICENSE FOR SERVICE DISABLED VETERANS OR FORMER PRISONERS OF WAR ISSUED UNDER § 4–607(A)(2) OF THIS SUBTITLE,** and a person authorized by a disability exemption issued under § 4–217 of this title, a person 16 years old or older may not fish in any special catch–and–return trout management area and may not possess trout while fishing in nontidal waters unless the person first obtains a trout stamp in addition to an angler's license. The stamp shall be obtained from any authorized agent of the Department at a cost of $5. The Department may designate a person engaged in a retail business to sell the trout stamp as an agent under the Department's control and supervision. The trout stamps may be furnished to agents upon consignment if the Department is given adequate security to insure ultimate payment to the Department for the stamps.

(2) The Department may sell expired stamps below face value to the general public for a period of 3 years, after which time the Department shall shred any unsold stamps. All revenues derived from the sale of these stamps shall revert back to the game management fund.

(b) Any resident serving in the armed forces of the United States, while on leave in the State, may fish without a trout stamp during his period of leave if he possesses a copy of his official leave order while fishing.

(c) A person is not required to have a trout stamp to possess trout taken from:

(1) Any privately owned lake or pond that is stocked with trout artificially propagated by commercial hatcheries or purchased from persons licensed to sell fish; or

(2) Any fee fishing lake or pond operated under § 4–11A–20 of this title.

(d) The Department or any authorized agent of the Department may issue a duplicate trout stamp for a fee not exceeding $1 if a person indicates that the trout stamp is lost and is on record for previously purchasing a trout stamp.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 694

(House Bill 704)

AN ACT concerning

Prince George's County – Authorization to Merge the Redevelopment Authority~~,~~ and Revenue Authority~~, and Economic Development Corporation~~

PG 416–10

FOR the purpose of authorizing the governing body of Prince George's County to merge certain government entities; ~~requiring a certain merged entity to be called by a certain name;~~ providing for the powers, duties, and limitations of a certain merged entity; ~~requiring a merger involving a specific entity to comply with applicable law;~~ defining certain terms; providing for a delayed effective date; and generally relating to the organization of Prince George's County government.

BY adding to
The Public Local Laws of Prince George's County
Section 32–101 and 32–102 to be under the new subtitle "Subtitle 32. Economic Development Authority"
Article 17 – Public Local Laws of Maryland
(2003 Edition and 2005 Supplement, as amended)

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

Article 17 – Prince George's County

SUBTITLE 32. ECONOMIC DEVELOPMENT AUTHORITY.

32–101.

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

~~(B) "ECONOMIC DEVELOPMENT CORPORATION" MEANS THE PRINCE GEORGE'S COUNTY ECONOMIC DEVELOPMENT CORPORATION.~~

~~(C)~~ (B) "REDEVELOPMENT AUTHORITY" MEANS THE REDEVELOPMENT AUTHORITY OF PRINCE GEORGE'S COUNTY AUTHORIZED UNDER SUBTITLE 15B OF THE COUNTY CODE.

~~(D)~~ (C) "REVENUE AUTHORITY" MEANS THE REVENUE AUTHORITY OF PRINCE GEORGE'S COUNTY AUTHORIZED UNDER SUBTITLE 21A OF THE COUNTY CODE.

32–102.

(A) THE GOVERNING BODY OF THE COUNTY IS AUTHORIZED, BY ENACTING A LOCAL LAW, TO MERGE THE:

(1) ~~ECONOMIC DEVELOPMENT CORPORATION;~~

~~(2)~~ REDEVELOPMENT AUTHORITY; ~~AND~~

~~(3)~~ (2) REVENUE AUTHORITY; AND

(3) ANY OTHER UNIT OF THE COUNTY GOVERNMENT THE PURPOSE OF WHICH RELATES TO ECONOMIC DEVELOPMENT IN THE COUNTY.

(B) AN ENTITY RESULTING FROM A MERGER UNDER SUBSECTION (A) OF THIS SECTION SHALL~~:~~

~~(1) BE CALLED THE PRINCE GEORGE'S COUNTY BUSINESS AND ECONOMIC DEVELOPMENT AUTHORITY; AND~~

~~(2)~~ ~~HAVE~~ HAVE THE SAME POWERS, DUTIES, AND LIMITATIONS OF THE INDIVIDUAL MERGING ENTITIES AS PROVIDED FOR UNDER SUBTITLES 15B AND 21A OF THE COUNTY CODE, AND ANY APPLICABLE ARTICLES OF INCORPORATION OR COUNTY LAWS.

~~(C) A MERGER UNDER SUBSECTION (A) OF THIS SECTION INVOLVING THE ECONOMIC DEVELOPMENT CORPORATION SHALL COMPLY WITH ANY LAWS APPLICABLE TO THE MERGER OF THE CORPORATION.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October 1, 2010~~ January 1, 2011.

Approved by the Governor, May 20, 2010.

Chapter 695

(House Bill 766)

AN ACT concerning

Capital Debt Affordability

FOR the purpose of altering the due date for the annual report of the Capital Debt Affordability Committee and the annual deadline for the Governor to determine the amount of advisable new State debt; and generally relating to State debt affordability.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 8–112 and 8–113
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – State Finance and Procurement

8–112.

(a) The Committee shall review on a continuing basis the size and condition of the State tax supported debt as well as other debt of State units, including the University System of Maryland, Morgan State University, St. Mary's College of Maryland, and the Baltimore City Community College.

(b) On or before **[**September 10**]** **OCTOBER 1** of each year, the Committee shall submit to the Governor and the General Assembly the Committee's estimate of the total amount of new State debt that prudently may be authorized for the next fiscal year.

(c) In making the estimate, the Committee shall consider:

(1) the amount of State bonds that, during the next fiscal year:

(i) will be outstanding; and

(ii) will be authorized but unissued;

(2) the capital program prepared by the Department of Budget and Management;

(3) capital improvement and school construction needs during the next 5 fiscal years, as projected by the Interagency Committee on School Construction;

(4) projections of debt service requirements during the next 10 fiscal years;

(5) the criteria that recognized bond rating agencies use to judge the quality of issues of State bonds;

(6) any other factor that is relevant to:

(i) the ability of the State to meet its projected debt service requirements for the next 5 fiscal years; or

(ii) the marketability of State bonds;

(7) the effect of authorizations of new State debt on each of the factors set out in this subsection; and

(8) the amount of issuances, debt outstanding, and debt service requirement of other classes of State tax supported debt as well as other debt of State units, including the University System of Maryland, Morgan State University, St. Mary's College of Maryland, and the Baltimore City Community College.

(d) The estimate of the Committee:

(1) is advisory; and

(2) does not bind the General Assembly, the Board, or the Governor.

(e) (1) In addition to its other duties under this section, the Committee shall review on a continuing basis the size and condition of any debt of the University System of Maryland, Morgan State University, St. Mary's College of Maryland, and the Baltimore City Community College.

(2) In preparing an estimate with respect to the authorization of any new State debt, the Committee shall take into account as part of the affordability analysis any debt for academic facilities to be issued by a System.

(3) At the same time that the Committee makes its report as required under subsection (b) of this section, the Committee shall submit to the Governor and the General Assembly the Committee's estimate of the amount of new bonds for academic facilities that prudently may be authorized in the aggregate for the next fiscal year by the University System of Maryland, Morgan State University, St. Mary's College of Maryland, and the Baltimore City Community College.

(4) For purposes of this subtitle, the terms "System" and "academic facilities" have the meanings stated in § 19–101 of the Education Article.

(5) The Committee may request any needed information from a System and shall consider the information in making its estimates, including any information submitted by a System at its own initiative.

(6) This estimate:

(i) is advisory; and

(ii) does not bind the General Assembly, the Board, or the Governor.

8–113.

On or before **[**October 15**]** **NOVEMBER 1** of each year, after considering the current estimate of the Committee, the Governor shall determine:

(1) the total authorizations of new State debt that the Governor considers advisable for the next fiscal year; and

(2) the preliminary allocation of new State debt for:

(i) general construction projects;

(ii) school construction projects; and

(iii) other special projects.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 696

(House Bill 772)

AN ACT concerning

State Retirement and Pension System – Noncontributory Former Vested Members – Vested Retirement Allowance

FOR the purpose of repealing certain provisions of the State Personnel and Pensions Article that permit certain former members of the State Retirement and Pension System to withdraw certain member contributions plus interest and receive a vested retirement allowance based only on certain employer contributions; and generally relating to vested retirement allowances for noncontributory former members of the State Retirement and Pension System.

BY repealing
Article – State Personnel and Pensions
Section 29–303(h)
Annotated Code of Maryland
(2009 Replacement Volume and 2009 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

29–303.

[(h) (1) If a former member who elected a vested allowance requests the return of accumulated contributions before payment of the vested allowance begins, the Board of Trustees shall return the accumulated contributions to the former member.

(2) (i) Except as provided in subparagraphs (ii) and (iii) of this paragraph, when the former member is eligible to begin receiving a vested allowance, the former member shall receive a pension only.

(ii) When accumulated contributions are returned to a former member of the Law Enforcement Officers' Pension System who is subject to the Law Enforcement Officers' Modified Pension Benefit under Title 26, Subtitle 2, Part II of this article, the former member is not entitled to further benefits on account of the former member's previous membership unless the former member purchases the service credit under § 26–307.1 of this article.

(iii) When accumulated contributions are returned to a former member of the Employees' Pension System or Teachers' Pension System who is subject to the contributory pension benefit or the Alternate Contributory Pension Selection, the former member is not entitled to further benefits on account of the former member's previous membership unless the former member purchases the service credit under § 23–306.2 of this article.**]**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 697

(House Bill 773)

AN ACT concerning

Law Enforcement Officers' Pension System – Deferred Retirement Option Program – Participation

FOR the purpose of clarifying that "creditable service" does not include certain unused sick leave with regard to determining eligibility to participate in the Deferred Retirement Option Program (DROP) by certain members of the Law Enforcement Officers' Pension System; clarifying that "creditable service" does not include certain unused sick leave with regard to determining the length of time certain members of the Law Enforcement Officers' Pension System may participate in the DROP; and generally relating to participation in the Deferred Retirement Option Program in the Law Enforcement Officers' Pension System.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 26–401.1(c) and (d)
Annotated Code of Maryland
(2009 Replacement Volume and 2009 Supplement)

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

Article – State Personnel and Pensions

26–401.1.

(c) **(1) IN THIS SUBSECTION, "CREDITABLE SERVICE" DOES NOT INCLUDE CREDIT FOR UNUSED SICK LEAVE AS PROVIDED IN § 20–206 OF THIS ARTICLE.**

(2) A member of the Law Enforcement Officers' Pension System is eligible to participate in the DROP if the member has at least 25 and less than 30 years of creditable service.

(d) **(1) IN THIS SUBSECTION, "CREDITABLE SERVICE" DOES NOT INCLUDE CREDIT FOR UNUSED SICK LEAVE AS PROVIDED IN § 20–206 OF THIS ARTICLE.**

(2) An eligible member may elect to participate in the DROP for a period not to exceed the lesser of:

[(1)**]** **(I)** 5 years;

[(2)**]** **(II)** the difference between 30 years and the member's creditable service as of the date of the member's election to participate in the DROP and retire from the Law Enforcement Officers' Pension System; or

[(3)**]** **(III)** a term selected by the member.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 698

(House Bill 774)

AN ACT concerning

State Retirement and Pension System – Reemployment Earnings Limitation – Exemptions

FOR the purpose of increasing the maximum average final compensation that certain retirees of the State Retirement and Pension System must have at the time of retirement in order to be exempt from a certain reemployment earnings limitation; and generally relating to exemptions from a reemployment earnings limitation for retirees of the State Retirement and Pension System.

BY repealing and reenacting, without amendments,
Article – State Personnel and Pensions
Section 22–406(c)(1) and ~~(3) and~~ (3), 23–407(c)(1) and (3), and 25–403(a)
Annotated Code of Maryland
(2009 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 22–406(c)(4)(ii) ~~and~~, 23–407(c)(4)(i), and 25–403(b)(3)
Annotated Code of Maryland
(2009 Replacement Volume and 2009 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

22–406.

(c) (1) Except as provided in § 22–407 of this subtitle, the Board of Trustees shall reduce the allowance of an individual who accepts employment as provided under subsection (b) of this section if:

(i) 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 vested allowance;

(ii) 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 or vested allowance was also a unit of State government; or

(iii) the individual becomes reemployed within 12 months of receiving an early service retirement allowance under § 22–402 of this subtitle.

(3) A reduction of an early service retirement allowance under paragraph (1)(iii) of this subsection shall be applied only until the individual has received an allowance for 12 months.

(4) Except for an individual whose allowance is subject to a reduction as provided under paragraphs (1)(iii) and (3) of this subsection, the reduction of an allowance under this subsection does not apply to:

(ii) an individual whose average final compensation was less than **[**$10,000**]** **$25,000** and who is reemployed on a **PERMANENT,** temporary**,** or contractual basis;

23–407.

(c) (1) Except as provided in § 23–408 of this subtitle, the Board of Trustees shall reduce the allowance of an individual who accepts employment as provided under subsection (b) of this section if:

(i) 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 vested allowance;

(ii) 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 or vested allowance was also a unit of State government; or

(iii) the individual becomes reemployed within 12 months of receiving an early service retirement allowance or an early vested allowance computed under § 23–402 of this subtitle.

(3) A reduction of an early service retirement allowance or an early vested allowance under paragraph (1)(iii) of this subsection shall be applied only until the individual has received an allowance for 12 months.

(4) Except for an individual whose allowance is subject to a reduction as provided under paragraphs (1)(iii) and (3) of this subsection, the reduction of an allowance under this subsection does not apply to:

(i) an individual whose average final compensation was less than **[**$10,000**] $25,000** and who is reemployed on a **PERMANENT,** temporary**,** or contractual basis;

25–403.

(a) Except as provided in 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 permanent, temporary, or contractual basis, if the individual immediately notifies the Board of Trustees:

(1) of the individual's intention to accept the employment; and

(2) of the compensation that the individual will receive.

(b) (3) The reduction under 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;

(ii) an individual whose average final compensation was less than **[**$10,000**] $25,000** and who is reemployed on a **PERMANENT,** temporary**,** or contractual basis;

(iii) an individual who is serving in an elected position as an official of a participating governmental unit or as a constitutional officer for a county that is a participating governmental unit; or

(iv) a retiree of the Correctional Officers' Retirement System who is reemployed on a contractual basis for not more than 4 years by the Division of Corrections, the Division of Pretrial Detention and Services, or the Patuxent Institution in the Department of Public Safety and Correctional Services as a

correctional officer in a correctional facility defined in § 1–101 of the Correctional Services Article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 699

(House Bill 777)

AN ACT concerning

Local Government – Applicability of Laws to Counties and Baltimore City

FOR the purpose of specifying that certain powers are granted to code home rule and charter home rule counties in addition to powers granted in the Express Powers Act under Article 25A, § 5 of the Annotated Code; providing that the additional powers are supplemental and not intended to limit certain other powers; clarifying that certain other provisions of law apply to certain types of counties; clarifying that certain provisions of law apply to Baltimore City; making stylistic changes; defining certain terms; and generally relating to the applicability of certain provisions of law to certain counties and Baltimore City.

BY renumbering
Article 25 – County Commissioners
Section 1
to be Section 1–1
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article 25A – Chartered Counties of Maryland
Section 4(a)
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article 25B – Home Rule for Code Counties
Section 13
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

BY adding to

Article 25 – County Commissioners
Section 1
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article 25 – County Commissioners
Section 4, 16, 17, 18, 20, 29, 34, 122A, 135, and 153
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 1 of Article 25 – County Commissioners of the Annotated Code of Maryland be renumbered to be Section(s) 1–1.

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

Article 25A – Chartered Counties of Maryland

4.

(a) Whenever any county among the geographical subdivisions of this State, as that term is defined in § 4 of Article XI–A of the Constitution of the State, shall have adopted for itself a charter or form of government under the provisions of said Article XI–A of the Constitution, it shall be entitled to exercise the following express powers**[**, said powers being, as to the counties of Maryland adopting such charter or form of government, granted as a substitute for and in extension of**]** **IN ADDITION TO** the powers codified in Article 25 of the Code, title "County Commissioners"**[**, it being the intent of the General Assembly of Maryland that said Article 25 shall continue to be operative in any and all such counties of Maryland as do not adopt for themselves a charter or form of government under the provisions of said Article XI–A of the Constitution, but that the powers herein granted shall be operative in any and all such counties of Maryland as do adopt such charter or form of government**]**.

Article 25B – Home Rule for Code Counties

13.

If a county adopts code home rule status under the provisions of Article XI–F of the Maryland Constitution and this article, it may exercise those powers enumerated in **[**§ 3 of Article 25, in subtitle "Draining Lands" of**]** Article 25**[**,**]** and in § 5 of Article 25A, except for subsections (A), (P) and (S) of § 5 of Article 25A, of the Annotated Code of Maryland, 1957 Edition as amended; and no county adopting code home rule status shall be excepted. These powers are in addition to any powers any county may now have under any public general or local law applicable to the county.

Article 25 – County Commissioners

1.

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

(B) "CHARTER COUNTY" MEANS A COUNTY THAT HAS ADOPTED HOME RULE UNDER ARTICLE XI–A OF THE MARYLAND CONSTITUTION.

(C) "CODE COUNTY" MEANS A COUNTY THAT HAS ADOPTED HOME RULE UNDER ARTICLE XI–F OF THE MARYLAND CONSTITUTION.

(D) "COMMISSION COUNTY" MEANS A COUNTY THAT HAS NOT ADOPTED HOME RULE.

(E) "GOVERNING BODY" MEANS:

(1) FOR BALTIMORE CITY, THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY;

(2) FOR A CHARTER COUNTY, AS PROVIDED BY THE COUNTY CHARTER, THE COUNTY COUNCIL OR THE COUNTY EXECUTIVE AND THE COUNTY COUNCIL;

(3) FOR A CODE COUNTY, AS PROVIDED BY LOCAL LAW, THE COUNTY COMMISSIONERS;

(4) FOR A COMMISSION COUNTY, THE COUNTY COMMISSIONERS; AND

(5) FOR A MUNICIPALITY, THE BODY DESIGNATED BY THE MUNICIPAL CHARTER.

4.

(A) SUBSECTIONS (B) AND (C) OF THIS SECTION APPLY ONLY TO COMMISSION COUNTIES.

[(a)**] (B)** A copy of all acts, ordinances, and resolutions adopted or passed by the county commissioners of any county under the authority of § 3 of this article, certified by the president of the board of county commissioners and attested by the clerk to said board, shall be filed with the clerk of the court of said county, who shall

record, date, and index the same without charge in a volume to be provided for the purpose by the county commissioners.

[(b)**] (C)** An act, ordinance, or resolution adopted or passed by the county commissioners of any county under the authority of § 3 of this article may not become effective until a copy thereof has been filed with the clerk of the court of the county, and a fair summary of the act, ordinance, or resolution has been published, after adoption or passage, in at least one newspaper of general circulation in the county. Any act, ordinance, or resolution filed as herein required, shall be admissible as evidence in any court proceeding upon certification by the said clerk of the court.

[(c)**] (D)** The Clerk of the Circuit Court of Dorchester County shall record and index all ordinances, resolutions, and regulations adopted by the **[**Board of County Commissioners of**] GOVERNING BODY OF** Dorchester County and there shall be no charge to the county for the recording and indexing thereof.

16.

(A) THIS SECTION APPLIES ONLY TO COMMISSION COUNTIES AND, UNLESS OTHERWISE PROVIDED BY A LOCAL LAW ENACTED BY A CODE COUNTY, CODE COUNTIES.

(B) (1) In case any office of county commissioner shall become vacant in any county by death, resignation or otherwise, the Governor, if such vacancy shall occur during the session of the Senate, shall, by and with the advice and consent of the Senate, appoint, and if such vacancy shall occur during the recess of the Senate, **[**he**] THE GOVERNOR** shall appoint a proper person or proper persons to fill such vacancy or vacancies; and the nomination of the person or persons thus appointed during such recess, or of some other person in his or their place, shall be made to the Senate within thirty days after the next meeting of the legislature.

(2) The Governor shall nominate or appoint the person to fill such vacancy whose name shall be submitted to **[**him**] THE GOVERNOR** in writing by the central committee of the political party with which the county commissioner, so vacating, has been affiliated in the particular county, provided that the nominee or appointee shall be of the same political party as the person whose office is to be filled; and it shall be the duty of the Governor to make **[**said**] THE** nomination or appointment within fifteen days after the submission **[**thereof to him**] OF THE NAME OF THE NOMINEE OR APPOINTEE TO THE GOVERNOR**.

(3) In the event there is no central committee in the county in which the vacancy occurs, the Governor shall appoint to fill the vacancy a person who has all the qualifications required for the office of county commissioner in the particular county.

(4) As to Allegany County, if there is no resident Senator from Allegany County in the Senate of Maryland at the time of the appointment, it shall be by and with the advice and consent of the House of Delegates of Maryland.

17.

(A) THIS SECTION APPLIES ONLY TO CODE COUNTIES AND COMMISSION COUNTIES.

(B) **[**They**]** **THE COUNTY COMMISSIONERS OF A COUNTY** may sue and be sued, and may sue for any injury done to the property of the county, or to recover possession thereof, or may be sued by any claimant of such property.

18.

(A) THIS SECTION APPLIES ONLY TO CODE COUNTIES AND COMMISSION COUNTIES.

(B) The number of county commissioners in each county shall be as fixed by the code of local laws for each county.

20.

(A) THIS SECTION APPLIES ONLY TO COMMISSION COUNTIES.

(B) **[**They**]** **THE COUNTY COMMISSIONERS OF A COUNTY** shall levy all needful taxes on the assessable property within the county liable to taxation and provide for collecting the same, and they may make such levy in whole or in part by estimate; they shall provide for the support of the courts, compensate jurors and county or State witnesses, levy for outpensions allowed by themselves or the trustees of the poor, and such sums as may be necessary to pay accounts allowed by them for the funeral expenses of paupers, and pay and discharge all claims on or against the county which have been expressly or impliedly authorized by law.

29.

(A) THIS SECTION APPLIES ONLY TO COMMISSION COUNTIES.

(B) The county commissioners of any county in this State, in awarding any contract for work to be done and in agreeing and contracting for the doing thereof, shall make every such contract in writing, and shall require and demand of the party or parties with whom said agreement or contract is made full and ample security by bond for the true and proper performance of said work in accordance with the terms and specifications of said agreement or contract.

34.

(A) THIS SECTION AND §§ 35 THROUGH 37 AND 38 THROUGH 49 OF THIS ARTICLE APPLY TO ALL COUNTIES, EXCEPT BALTIMORE CITY.

(B) All applications for building and repairing bridges shall be made by petition to the **[**county commissioners**] GOVERNING BODY OF A COUNTY**.

122A.

(a) **THIS SECTION APPLIES TO ALL COUNTIES, INCLUDING BALTIMORE CITY.**

(B) The **[**county commissioners or county council**] GOVERNING BODY** of each county in the State may adopt and promulgate rules and regulations for the licensing, control, location and maintenance within their respective limits of junkyards, public or private dumps, automobile junkyards, automotive dismantler and recycler facilities, scrap metal processing facilities, or outdoor places where old motor vehicles are stored in quantity or dismantled, and lots on which refuse, trash or junk is deposited.

[(b)**] (C)** Any such rules and regulations shall be framed and designed to protect the residents of the county from unpleasant and unwholesome conditions and neighborhoods, to preserve the beauty and esthetic value of rural or residential areas, to safeguard the public health and welfare, to promote good civic design, and to promote the health, safety, morals, order, convenience and prosperity of the community.

[(c)**] (D)** The rules and regulations may include a requirement that such a junkyard, facility, or dump may not be maintained or operated within the county limits until an annual license therefor has been obtained from the **[**county commissioners or county council**] COUNTY**, at such reasonable fee as may be specified in the rules and regulations.

[(d)**] (E)** Prior to the adoption of any such rules and regulations, due notice of their consideration shall be given in some newspaper of general circulation in the county, in a notice published once a week for not less than four successive weeks. The notice shall specify a time and place at which the county commissioners **[**or**],** county council**, OR CITY COUNCIL OF BALTIMORE CITY** will conduct a public hearing on the contents and adoption of the rules and regulations; and the rules and regulations are not valid unless the public hearing actually is held as advertised.

[(e)**] (F)** (1) Except as provided in paragraph (2) of this subsection, a violation of any such rule or regulation, including the maintenance or operation of any such junkyard, facility, or dump without a license, is a misdemeanor, subject upon conviction to a fine of not less than twenty–five dollars ($25.00). Each day on which a violation continues is a separate offense.

(2) (i) This paragraph applies to a county in the Western Maryland class that has adopted code home rule under Article XI–F of the Maryland Constitution.

(ii) The county commissioners may:

1. Declare a violation of any rule or regulation adopted in accordance with this section to be a civil infraction under Article 25B, § 13C of the Code; or

2. Abate, or contract for the abatement of, a violation of any rule or regulation adopted in accordance with this section at the expense of the owner of the real property where the violation occurred.

(iii) 1. Any unpaid charges imposed on an owner of real property under subparagraph (ii)2 of this paragraph shall be a lien against the real property where the violation occurred.

2. The lien shall be recorded in the office of the clerk for the county where the violation occurred.

135.

(A) THIS SECTION AND §§ 136 THROUGH 138, 140 THROUGH 143, AND 145 THROUGH 152 APPLY TO ALL COUNTIES, EXCEPT BALTIMORE CITY AND QUEEN ANNE'S COUNTY.

(B) All applications for opening, altering or closing roads shall be by petition to the **[**county commissioners**]** **GOVERNING BODY**. **[**Provided that the procedures in this subtitle as to opening or altering of roads shall not be applicable in Queen Anne's County.**]**

153.

(A) THIS SECTION APPLIES TO ALL COUNTIES, INCLUDING BALTIMORE CITY.

(B) The **[**county commissioners of the several counties of this State,**]** **GOVERNING BODY OF EACH COUNTY** shall**[**, within four months after June 1, 1916,**]** erect and thereafter maintain at each intersection of a county road with the State roads and state–aid roads, in their respective counties, a sign or fingerboard, substantially made, on which shall be legibly painted, in letters at least three inches in height, the name of the principal place or places to which such county road leads, with the distance thereto from such State or state–aid roads, such sign or fingerboard to be securely fastened on a substantial post firmly placed in the ground. In all

counties of the State wherein the jurisdiction over the county roads is vested by law in any board or other officials, the duties herein imposed upon the **[**county commissioners**]** **GOVERNING BODY** shall be and become the duties of such "board or other officials".

SECTION 3. AND BE IT FURTHER ENACTED, That the powers in Article 25 of the Code granted to charter home rule counties and code home rule counties under this Act are supplemental to, and are not intended to limit, the powers granted under Article 25A and Article 25B of the Code.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 700

(House Bill 786)

AN ACT concerning

State Highway Administration – Sidewalk <u>or Bicycle Pathway</u> Construction in Priority Funding Areas

FOR the purpose of requiring the State Highway Administration to categorize in a certain manner and give certain funding priority to sidewalk <u>or bicycle pathway</u> construction projects ~~along urban highways~~ in priority funding areas under certain circumstances; <u>authorizing the State to fund the entire cost of certain sidewalk or bicycle pathway construction projects; altering a certain funding formula that applies to sidewalk or bicycle pathway construction projects in priority funding areas under certain circumstances;</u> and generally relating to sidewalk <u>or bicycle pathway</u> construction in priority funding areas.

BY repealing and reenacting, with amendments,
Article – Transportation
Section 8–630
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

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

Article – Transportation

8–630.

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

(2) "Municipal corporation" has the meaning stated in Article 23A, § 9 of the Code.

(3) "Urban highway" means a highway, other than an expressway, that is:

(i) 1. Constructed with a curb and gutter and an enclosed type storm drainage system;

2. Located in an urban area and on which is located a public facility that creates appreciable pedestrian traffic along the highway from adjacent areas;

3. Located within urban boundaries as defined by the U.S. Census Bureau; or

4. Located within the boundaries of a municipal corporation; and

(ii) Part of the State highway system.

(b) (1) Sidewalks shall be constructed at the time of construction or reconstruction of an urban highway, or in response to the request of a local government unless:

(i) The Administration determines that the cost or impacts of constructing the sidewalks would be too great in relation to the need for them or their probable use; or

(ii) The local government indicates that there is no need for sidewalks.

(2) Sidewalks constructed under this section shall be consistent with area master plans and transportation plans adopted by the local planning commission.

~~**(3) IF A LOCAL GOVERNMENT REQUESTS CONSTRUCTION OF SIDEWALKS ALONG AN URBAN HIGHWAY WITHIN AN AREA DESIGNATED AS A PRIORITY FUNDING AREA UNDER § 5–7B–02 OF THE STATE FINANCE AND PROCUREMENT ARTICLE AND THE ADJACENT ROADWAY IS NOT BEING CONCURRENTLY CONSTRUCTED OR RECONSTRUCTED, AND IF THE ADMINISTRATION DETERMINES THAT A SUBSTANTIAL PUBLIC SAFETY RISK EXISTS, THE ADMINISTRATION SHALL CATEGORIZE THE SIDEWALK CONSTRUCTION PROJECT AS "SYSTEM PRESERVATION" AND GIVE**~~

~~CORRESPONDING FUNDING PRIORITY TO THE SIDEWALK CONSTRUCTION PROJECT.~~

(c) (1) If sidewalks or bicycle pathways are constructed or reconstructed as part of a roadway construction or reconstruction project, the Administration shall fund the sidewalk or bicycle pathway construction or reconstruction as a part of the cost of the roadway project.

(2) Except as provided in paragraphs (3) and (4) of this subsection, if sidewalks or bicycle pathways are constructed or reconstructed in response to a request from a local government and the adjacent roadway is not being concurrently constructed or reconstructed, the cost to construct or reconstruct the sidewalk or bicycle pathway shall be shared equally between the State and local governments.

(3) If sidewalks or bicycle pathways within a designated neighborhood as defined in § 6–301 of the Housing and Community Development Article are constructed or reconstructed in response to a request from a local government and the adjacent roadway is not being concurrently constructed or reconstructed, the cost to construct or reconstruct the sidewalk or bicycle pathway may be funded entirely by the State.

(4) (i) This paragraph does not apply to a priority funding area that is a designated neighborhood as defined in § 6–301 of the Housing and Community Development Article.

(ii) If sidewalks or bicycle pathways within an area designated as a priority funding area under § 5–7B–02 of the State Finance and Procurement Article are constructed or reconstructed in response to a request from a local government and the adjacent roadway is not being concurrently constructed or reconstructed, and if the Administration determines ~~that a substantial public safety risk exists and~~ that construction would not occur under this section due to insufficient contribution of funds by the local government, the cost to construct or reconstruct the sidewalk or bicycle pathway shall be shared between the State and local government as follows:

1. 75 percent of the cost shall be funded by the State; and

2. 25 percent of the cost shall be funded by the local government.

(III) IF SIDEWALKS OR BICYCLE PATHWAYS WITHIN AN AREA DESIGNATED AS A PRIORITY FUNDING AREA UNDER § 5–7B–02 OF THE STATE FINANCE AND PROCUREMENT ARTICLE ARE CONSTRUCTED OR RECONSTRUCTED BASED ON A DETERMINATION BY THE ADMINISTRATION THAT A SUBSTANTIAL PUBLIC SAFETY RISK OR SIGNIFICANT IMPEDIMENT TO

PEDESTRIAN ACCESS EXISTS AND THE ADJACENT ROADWAY IS NOT BEING CONCURRENTLY CONSTRUCTED OR RECONSTRUCTED, THEN:

1. THE ADMINISTRATION SHALL CATEGORIZE THE SIDEWALK OR BICYCLE PATHWAY CONSTRUCTION PROJECT AS "SYSTEM PRESERVATION" AND GIVE CORRESPONDING FUNDING PRIORITY TO THE PROJECT; AND

2. THE COST TO CONSTRUCT OR RECONSTRUCT THE SIDEWALK OR BICYCLE PATHWAY MAY BE FUNDED ENTIRELY BY THE STATE.

(5) If sidewalks or bicycle pathways are being constructed or reconstructed in response to a request from a local government and the adjacent roadway is not being concurrently constructed or reconstructed, the local government shall:

(i) Provide public notice and opportunities for community involvement prior to the construction of a sidewalk or bicycle pathway project; and

(ii) Secure any necessary right–of–way that may be needed beyond the right–of–way already owned by the State.

(6) (i) Except as provided in subparagraph (ii) of this paragraph, after sidewalks and bicycle pathways are constructed under this section, they shall be maintained and repaired by the political subdivision in which they are located.

(ii) Subject to approval and the availability of funds, the Administration promptly shall reimburse a political subdivision for the preapproved and documented costs incurred in reconstructing a segment of a sidewalk or bicycle pathway that has deteriorated to the extent that repair is not practical or desirable for public safety.

(d) The Administration may not construct any project that will result in the severance or destruction of an existing major route for pedestrian transportation traffic, unless the project provides for construction of a reasonable alternative route or such a route already exists.

(e) The Administration shall develop guidelines jointly with local governments to carry out the provisions of this section.

(f) The Administration shall maintain and repair all facilities for nighttime illumination that:

(1) Are constructed by the Administration for the safe conduct of vehicular traffic; and

(2) Exist adjacent to urban highways.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 701

(House Bill 796)

AN ACT concerning

Charles County – Property Tax Credit for Homes Formerly Owned by Habitat for Humanity of Charles County

FOR the purpose of authorizing the governing body of Charles County to grant, by law, a property tax credit against the county property tax imposed on certain real property formerly owned by Habitat for Humanity of Charles County under certain circumstances; providing for the amount of the tax credit; authorizing the governing body of Charles County to provide, by law, for any other provision necessary to carry out the tax credit; providing for the application of this Act; and generally relating to a county property tax credit for certain property formerly owned by Habitat for Humanity of Charles County.

BY adding to
Article – Tax – Property
Section 9–310(h)
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

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

Article – Tax – Property

9–310.

(H) (1) THE GOVERNING BODY OF CHARLES COUNTY MAY GRANT, BY LAW, A PROPERTY TAX CREDIT AGAINST THE COUNTY PROPERTY TAX IMPOSED ON REAL PROPERTY THAT:

(I) IS OWNER–OCCUPIED;

(II) WAS FORMERLY OWNED BY HABITAT FOR HUMANITY OF CHARLES COUNTY WITH THE INTENTION OF RELINQUISHING OWNERSHIP;

(III) WAS USED BY HABITAT FOR HUMANITY OF CHARLES COUNTY EXCLUSIVELY FOR THE PURPOSE OF REHABILITATION AND TRANSFER TO A PRIVATE OWNER; AND

(IV) WAS TRANSFERRED TO A PRIVATE OWNER WHO MEETS THE CRITERIA ESTABLISHED BY HABITAT FOR HUMANITY OF CHARLES COUNTY.

(2) THE PROPERTY TAX CREDIT SHALL EQUAL:

(I) 100% OF THE COUNTY PROPERTY TAX FOR THE FIRST TAXABLE YEAR AFTER THE TRANSFER OF OWNERSHIP;

(II) 75% OF THE COUNTY PROPERTY TAX FOR THE SECOND TAXABLE YEAR AFTER THE TRANSFER OF OWNERSHIP;

(III) 50% OF THE COUNTY PROPERTY TAX FOR THE THIRD TAXABLE YEAR AFTER THE TRANSFER OF OWNERSHIP;

(IV) 25% OF THE COUNTY PROPERTY TAX FOR THE FOURTH TAXABLE YEAR AFTER THE TRANSFER OF OWNERSHIP; AND

(V) 0% OF THE COUNTY PROPERTY TAX FOR THE FIFTH TAXABLE YEAR AFTER THE TRANSFER OF OWNERSHIP AND EACH TAXABLE YEAR THEREAFTER.

(3) THE GOVERNING BODY OF CHARLES COUNTY MAY PROVIDE, BY LAW, FOR ANY OTHER PROVISION NECESSARY TO CARRY OUT THE PROPERTY TAX CREDIT UNDER THIS SUBSECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010, and shall be applicable to all taxable years beginning after June 30, 2010.

Approved by the Governor, May 20, 2010.

Chapter 702

(House Bill 804)

AN ACT concerning

Health Insurance – Dental Provider Panels – Provider Contracts

FOR the purpose of prohibiting a provider contract from containing a provision that requires a participating dental provider, as a condition of ~~participating~~ continued participation in certain dental provider panels, to accept ~~a new~~ an added, revised, or amended fee schedule that contains a lower fee; providing for the application of this Act; and generally relating to dental provider panels and provider contracts.

BY repealing and reenacting, without amendments,
Article – Insurance
Section 15–112.2(a)
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

BY adding to
Article – Insurance
Section 15–112.2(f)
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

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.

(3) "Carrier" means:

(i) an insurer;

(ii) a nonprofit health service plan;

(iii) a health maintenance organization; or

(iv) a dental plan organization.

(4) "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.

(5) "Enrollee" means a person entitled to health care benefits from a carrier.

(6) "HMO provider panel" means a provider panel for one or more health maintenance organizations.

(7) "Managed care organization" has the meaning stated in § 15–101 of the Health – General Article.

(8) "Non–HMO provider panel" means a provider panel for one or more nonprofit health service plans or insurers.

(9) "Provider" has the meaning stated in § 19–701 of the Health – General Article.

(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.

(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.

(F) A PROVIDER CONTRACT MAY NOT CONTAIN A PROVISION THAT REQUIRES A PARTICIPATING DENTAL PROVIDER, AS A CONDITION OF ~~PARTICIPATING~~ CONTINUED PARTICIPATION IN A CAPITATED DENTAL PROVIDER PANEL OR A FEE–FOR–SERVICE DENTAL PROVIDER PANEL, TO ACCEPT AN ADDED, REVISED, OR AMENDED FEE SCHEDULE THAT CONTAINS A LOWER FEE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all dental provider contracts issued, renewed, or amended in the State on or after October 1, 2010.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 703

(House Bill 814)

AN ACT concerning

Health Insurance – Individual Health Benefit Plans – Frequency of Premium Increases

FOR the purpose of prohibiting health insurance carriers, with a certain exception, from increasing the premium of an individual on an individual health benefit plan more frequently than once during a certain period of time; providing that an increase in an individual's premium includes an increase due to the individual moving into a higher age band; providing for the application of this Act; and generally relating to premiums for individual health benefit plans.

BY adding to
Article – Health – General
Section 19–706(cccc)
Annotated Code of Maryland
(2009 Replacement Volume)

BY adding to
Article – Insurance
Section 15–1314
Annotated Code of Maryland
(2006 Replacement Volume and 2009 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.

(CCCC) THE PROVISIONS OF § 15–1314 OF THE INSURANCE ARTICLE APPLY TO HEALTH MAINTENANCE ORGANIZATIONS.

Article – Insurance

15–1314.

~~A CARRIER MAY NOT INCREASE THE PREMIUM ON AN INDIVIDUAL HEALTH BENEFIT PLAN MORE FREQUENTLY THAN ONCE EVERY 6 MONTHS.~~

(A) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A CARRIER MAY NOT INCREASE AN INDIVIDUAL'S PREMIUM ON AN INDIVIDUAL HEALTH BENEFIT PLAN MORE FREQUENTLY THAN ONCE EVERY 12 MONTHS.

(B) AN INCREASE IN AN INDIVIDUAL'S PREMIUM DESCRIBED IN SUBSECTION (A) OF THIS SECTION INCLUDES AN INCREASE DUE TO THE INDIVIDUAL MOVING INTO A HIGHER AGE BAND.

(C) A CARRIER MAY INCREASE AN INDIVIDUAL'S PREMIUM ON AN INDIVIDUAL HEALTH BENEFIT PLAN MORE FREQUENTLY THAN ONCE EVERY 12 MONTHS IF THE PREMIUM INCREASE IS DUE SOLELY TO THE ENROLLMENT OF A NEW FAMILY MEMBER TO THE INDIVIDUAL HEALTH BENEFIT PLAN OF THE INDIVIDUAL.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all individual health benefit plans issued, delivered, or renewed in the State on or after October 1, 2010.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 704

(House Bill 815)

AN ACT concerning

Maryland ~~Department of~~ Transportation ~~Authority Police Officers – Police Force – Creation and~~ *Authority Police Officers* – Collective Bargaining

FOR the purpose of ~~authorizing the representatives of certain full–time Maryland Transportation Authority police officers to bargain collectively with the Maryland Transportation Authority concerning wages and benefits; authorizing certain police officers to take certain actions or refrain from taking certain actions in connection with certain labor organizations and collective bargaining activities; establishing procedures for certifying a labor organization as an exclusive representative of Maryland Transportation Authority police officers and for collective bargaining negotiations; requiring certain parties to engage in collective bargaining in good faith; requiring a collective bargaining agreement~~

~~to contain certain matters; requiring a collective bargaining agreement to be ratified before becoming effective; providing for binding arbitration under certain circumstances; providing for the membership, procedures, powers, and duties of the arbitration panel; specifying that the decision of the arbitration panel is binding on both parties; providing for the payment of the costs of an arbitration proceeding under this Act; providing for the construction of certain provisions of this Act;~~ ~~establishing the Maryland Department of Transportation Police Force and abolishing the Maryland Transportation Authority Police Force; providing for the powers and duties of Maryland Department of Transportation police officers; requiring the Secretary of Transportation and the chief police officer of the Maryland Department of Transportation Police Force to adopt certain regulations; requiring the Maryland Department of Transportation Police Force to provide certain police services to certain departmental units; providing for the transfer of certain employees under certain circumstances; providing for pensions for certain employees; authorizing the chief police officer of the Maryland Department of Transportation Police Force to appoint certain employees to exercise certain powers;~~ expanding the application of certain provisions of law relating to collective bargaining to certain Maryland ~~Department of Transportation~~ *Transportation Authority* police officers; providing that the provisions of law do not apply to Maryland ~~Department of Transportation~~ *Transportation Authority* police officers who are supervisory, managerial, or confidential employees, as defined in a certain manner; requiring the Maryland ~~Department of~~ Transportation *Authority* police officers to have a separate bargaining unit; ~~providing for certain transfers under this Act; providing for the continuity of certain units, laws, standards, policies, papers, agreements, and responsibilities; providing for the continuity of certain transactions, rights, duties, and interests; providing for the continuity of certain persons licensed, registered, permitted, and certified under certain departments, offices, and units; providing for the continuity of certain contracts, agreements, grants, or other obligations; requiring the Maryland Transportation Authority to pay certain expenses; requiring the publisher of the Annotated Code of Maryland, in consultation with the Department of Legislative Services, to make technical corrections; requiring the Secretary of Transportation to enter into a certain memorandum of understanding with the Executive Secretary of the Authority; requiring the Secretary to submit a certain report to the Governor and the General Assembly; making technical and conforming changes;~~ and generally relating to ~~the Maryland Department of Transportation Police Force and the~~ collective bargaining rights of Maryland ~~Department of Transportation~~ *Transportation Authority* ~~Authority~~ police officers.

~~BY adding to~~

~~Article – Transportation~~

~~Section 4–208.2~~

~~Annotated Code of Maryland~~

~~(2008 Replacement Volume and 2009 Supplement)~~

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 3–101(b), 3–102(a) and (b)(11) and (12), 3–205(a), and 3–2A–05(a)
Annotated Code of Maryland
(2009 Replacement Volume and 2009 Supplement)

BY adding to
Article – State Personnel and Pensions
Section 3–102(b)(13) and 3–403(f)
Annotated Code of Maryland
(2009 Replacement Volume and 2009 Supplement)

~~BY repealing and reenacting, with amendments,~~
~~Article – Transportation~~
~~Section 2–107~~
~~Annotated Code of Maryland~~
~~(2008 Replacement Volume and 2009 Supplement)~~

~~BY adding to~~
~~Article – Transportation~~
~~Section 2–301 and 2–302~~
~~Annotated Code of Maryland~~
~~(2008 Replacement Volume and 2009 Supplement)~~

~~BY repealing~~
~~Article – Transportation~~
~~Section 4–208 and 4–208.1~~
~~Annotated Code of Maryland~~
~~(2008 Replacement Volume and 2009 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

3–101.

(b) "Board" means:

(1) with regard to any matter relating to employees of any of the units of State government described in § **[**3–102(a)(1) through (4)**] 3–102(A)(1)(I) THROUGH (IV)** of this subtitle **AND EMPLOYEES DESCRIBED IN § 3–102(A)(2) OF THIS SUBTITLE**, the State Labor Relations Board; and

(2) with regard to any matter relating to employees of any State institution of higher education described in § **[**3–102(a)(5)**] 3–102(A)(1)(V)** of this subtitle, the State Higher Education Labor Relations Board.

3–102.

(a) Except as provided in this title or as otherwise provided by law, this title applies to**:**

(1) all employees of:

[(1)**]** **(I)** the principal departments within the Executive Branch of State government;

[(2)**]** **(II)** the Maryland Insurance Administration;

[(3)**]** **(III)** the State Department of Assessments and Taxation;

[(4)**]** **(IV)** the State Lottery Agency; and

[(5)**]** **(V)** the University System of Maryland, Morgan State University, St. Mary's College of Maryland, and Baltimore City Community College**; AND**

(2) ALL FULL–TIME MARYLAND ~~DEPARTMENT OF TRANSPORTATION~~ *TRANSPORTATION AUTHORITY* POLICE OFFICERS AT THE RANK OF FIRST SERGEANT AND BELOW.

(b) This title does not apply to:

(11) any supervisory, managerial, or confidential employee of a unit of State government listed in subsection **[**(a)(1) through (4)**] (A)(1)(I) THROUGH (IV)** of this section, as defined in regulations adopted by the Secretary; **[**or**]**

(12) any supervisory, managerial, or confidential employee of a State institution of higher education listed in subsection **[**(a)(5)**] (A)(1)(V)** of this section, as defined in regulations adopted by the governing board of the institution**; OR**

(13) ANY EMPLOYEE DESCRIBED IN SUBSECTION (A)(2) OF THIS SECTION WHO IS A SUPERVISORY, MANAGERIAL, OR CONFIDENTIAL EMPLOYEE, AS DEFINED IN REGULATIONS ADOPTED BY THE SECRETARY.

3–205.

(a) The Board is responsible for administering and enforcing provisions of this title relating to employees described in § **[**3–102(a)(1) through (4)**] 3–102(A)(1)(I) THROUGH (IV) AND (2)** of this title.

3–2A–05.

(a) The Board is responsible for administering and enforcing provisions of this title relating to employees described in § [3–102(a)(5)] **3–102(A)(1)(V)** of this title.

3–403.

(F) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, MARYLAND ~~DEPARTMENT OF TRANSPORTATION~~ *TRANSPORTATION AUTHORITY* POLICE OFFICERS AT THE RANK OF FIRST SERGEANT AND BELOW SHALL HAVE A SEPARATE BARGAINING UNIT.

~~**Article – Transportation**~~

~~2–107.~~

~~(a) The following units are in the Department:~~

~~(1) Maryland Aviation Administration;~~

~~(2) Maryland Port Administration;~~

~~(3) Maryland Transit Administration;~~

~~(4) State Highway Administration;~~

~~(5) Motor Vehicle Administration;~~

~~(6) Board of Airport Zoning Appeals;~~

~~(7) State Roads Commission;~~

~~(8) Transportation Professional Services Selection Board; [and]~~

~~(9) Maryland Transportation Commission; AND~~

~~**(10) MARYLAND DEPARTMENT OF TRANSPORTATION POLICE FORCE.**~~

~~(b) The Department also includes any other unit that, in accordance with law, is declared to be in the Department.~~

~~**2–301.**~~

~~(A) (1) THERE IS A MARYLAND DEPARTMENT OF TRANSPORTATION POLICE FORCE.~~

~~(2) SUBJECT TO SUBSECTION (B) OF THIS SECTION, A MARYLAND DEPARTMENT OF TRANSPORTATION POLICE OFFICER HAS ALL THE POWERS GRANTED TO A PEACE OFFICER AND A POLICE OFFICER OF THIS STATE.~~

~~(3) FUNDING FOR THE MARYLAND DEPARTMENT OF TRANSPORTATION POLICE FORCE SHALL BE AS PROVIDED IN THE STATE BUDGET.~~

~~(B) (1) A MARYLAND DEPARTMENT OF TRANSPORTATION POLICE OFFICER MAY EXERCISE THE POWERS DESCRIBED IN SUBSECTION (A)(2) OF THIS SECTION ON PROPERTY OWNED, LEASED, OR OPERATED BY OR UNDER THE CONTROL OF THE MARYLAND TRANSPORTATION AUTHORITY, THE MARYLAND AVIATION ADMINISTRATION, AND THE MARYLAND PORT ADMINISTRATION.~~

~~(2) (I) THIS PARAGRAPH DOES NOT APPLY TO A HIGHWAY AS DEFINED IN § 8–101 OF THIS ARTICLE OR OTHER PUBLIC PROPERTY OR WATERWAY OPEN FOR PUBLIC CONVEYANCE.~~

~~(II) FOR PURPOSES OF ESTABLISHING PERIMETER SECURITY SUBJECT TO THE REQUIREMENTS OF PARAGRAPH (3) OF THIS SUBSECTION, A MARYLAND DEPARTMENT OF TRANSPORTATION POLICE OFFICER MAY EXERCISE THE POWERS DESCRIBED IN SUBSECTION (A)(2) OF THIS SECTION:~~

~~1. WITHIN 500 FEET OF PROPERTY DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION; AND~~

~~2. ON OR WITHIN 500 FEET OF ANY OTHER PROPERTY OWNED, LEASED, OPERATED BY, OR UNDER THE CONTROL OF THE DEPARTMENT.~~

~~(3) A MARYLAND DEPARTMENT OF TRANSPORTATION POLICE OFFICER MAY EXERCISE THE POWERS DESCRIBED IN PARAGRAPH (2) OF THIS SUBSECTION IF:~~

~~(I) THE SECRETARY, WITH THE APPROVAL OF THE GOVERNOR, DETERMINES ON THE BASIS OF SPECIFIC AND ARTICULABLE FACTS THAT THE EXERCISE OF THE POWERS IS REASONABLE TO PROTECT AGAINST ACTUAL OR THREATENED PHYSICAL INJURY OR DAMAGE TO STATE EMPLOYEES OR STATE PROPERTY OR ASSETS, AND PROVIDES NOTICE OF THE EXERCISE OF THE POWERS TO THE:~~

~~1. CHIEF OF POLICE, IF ANY, OR THE CHIEF'S DESIGNEE, IN A MUNICIPAL CORPORATION;~~

~~2. CHIEF OF POLICE OR THE CHIEF'S DESIGNEE IN A COUNTY WITH A COUNTY POLICE DEPARTMENT;~~

~~3. SHERIFF OR THE SHERIFF'S DESIGNEE IN A COUNTY WITHOUT A POLICE DEPARTMENT;~~

~~4. POLICE COMMISSIONER OR THE POLICE COMMISSIONER'S DESIGNEE IN BALTIMORE CITY;~~

~~5. SECRETARY OF NATURAL RESOURCES OR THE SECRETARY'S DESIGNEE ON ANY PROPERTY OWNED, LEASED, OPERATED BY, OR UNDER THE CONTROL OF THE DEPARTMENT OF NATURAL RESOURCES;~~

~~6. SECRETARY OF STATE POLICE OR THE SECRETARY'S DESIGNEE; OR~~

~~7. SECRETARY OF A PRINCIPAL DEPARTMENT THAT MAINTAINS A POLICE FORCE OR THE SECRETARY'S DESIGNEE IF THE DEPARTMENT WOULD BE AFFECTED BY THE ACTIONS OF THE MARYLAND DEPARTMENT OF TRANSPORTATION POLICE FORCE; OR~~

~~(II) THE POLICE OFFICER IS ORDERED TO DO SO BY THE GOVERNOR IN ACCORDANCE WITH A PROCLAMATION OR DECLARATION BY THE GOVERNOR OF A STATE OF EMERGENCY UNDER TITLE 14 OF THE PUBLIC SAFETY ARTICLE.~~

~~(4) A MARYLAND DEPARTMENT OF TRANSPORTATION POLICE OFFICER MAY NOT EXERCISE THE POWERS DESCRIBED IN SUBSECTION (A)(2) OF THIS SECTION ON ANY OTHER PROPERTY UNLESS THE POLICE OFFICER IS:~~

~~(I) ENGAGED IN FRESH PURSUIT OF A SUSPECTED OFFENDER;~~

~~(II) SPECIALLY REQUESTED OR PERMITTED TO DO SO IN A POLITICAL SUBDIVISION BY THE CHIEF EXECUTIVE OFFICER OR THE CHIEF POLICE OFFICER; OR~~

~~(III) ORDERED TO DO SO BY THE GOVERNOR.~~

~~(5) THIS SUBSECTION MAY NOT BE CONSTRUED TO PRECLUDE OR LIMIT THE AUTHORITY OF ANY FEDERAL, STATE, OR LOCAL LAW ENFORCEMENT AGENCY, OR ANY OTHER FEDERAL POLICE OR FEDERAL PROTECTIVE SERVICE.~~

~~(C) (1) IN CONSULTATION WITH THE SECRETARY OF STATE POLICE AND THE MARYLAND POLICE TRAINING COMMISSION, THE SECRETARY OF TRANSPORTATION SHALL ADOPT STANDARDS, QUALIFICATIONS, AND PREREQUISITES OF CHARACTER, TRAINING, EDUCATION, HUMAN AND PUBLIC RELATIONS SKILLS, AND EXPERIENCE FOR MARYLAND DEPARTMENT OF TRANSPORTATION POLICE OFFICERS, INCLUDING STANDARDS FOR THE PERFORMANCE OF THEIR DUTIES.~~

~~(2) TO THE EXTENT PRACTICABLE, THE SECRETARY OF TRANSPORTATION SHALL ADOPT STANDARDS THAT ARE SIMILAR TO THE STANDARDS ADOPTED FOR THE DEPARTMENT OF STATE POLICE.~~

~~(3) STANDARDS ADOPTED ON OR AFTER JULY 1, 2010, ON MINIMUM HIRING QUALIFICATIONS OF MARYLAND DEPARTMENT OF TRANSPORTATION POLICE OFFICERS MAY NOT AFFECT THE STATUS OF ANY INDIVIDUAL WHO WAS A QUALIFIED MARYLAND TRANSPORTATION AUTHORITY POLICE OFFICER ON JUNE 30, 2010.~~

~~(D) THE SECRETARY SHALL ADOPT REGULATIONS GOVERNING THE OPERATION AND CONDUCT OF THE MARYLAND DEPARTMENT OF TRANSPORTATION POLICE FORCE AND THE MARYLAND DEPARTMENT OF TRANSPORTATION POLICE OFFICERS.~~

~~(E) THE MARYLAND DEPARTMENT OF TRANSPORTATION POLICE FORCE SHALL PROVIDE POLICE SERVICES TO THE MARYLAND TRANSPORTATION AUTHORITY, THE MARYLAND AVIATION ADMINISTRATION, AND THE MARYLAND PORT ADMINISTRATION.~~

~~(F) (1) A PERSON WHO, AS OF JULY 1, 1977, WAS A MEMBER IN GOOD STANDING OF THE MARYLAND AVIATION ADMINISTRATION POLICE FORCE OF THE DEPARTMENT AND WHO WAS SUBSEQUENTLY AN AIRPORT POLICE EMPLOYEE OF THE STATE POLICE AND AN EMPLOYEE OF THE MARYLAND TRANSPORTATION AUTHORITY POLICE FORCE, SHALL:~~

~~(I) BECOME A MEMBER OF THE MARYLAND DEPARTMENT OF TRANSPORTATION POLICE FORCE, AND SHALL CONTINUE AS A MEMBER OF THAT POLICE FORCE WITHOUT DIMINUTION IN SALARY, EXCEPT FOR SHIFT DIFFERENTIAL, UNTIL RETIREMENT, RESIGNATION, OR TERMINATION; AND~~

~~(II) BE PAID IN ACCORDANCE WITH THE MARYLAND DEPARTMENT OF TRANSPORTATION POLICE FORCE PAY PLAN.~~

~~(2) (I) A PERSON DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION SHALL REMAIN A MEMBER OF THE BALTIMORE CITY FIRE AND POLICE EMPLOYEES RETIREMENT SYSTEM.~~

~~(II) THE DEPARTMENT SHALL REIMBURSE BALTIMORE CITY FOR THE EMPLOYER'S COST FOR THE PENSION COVERAGE.~~

~~(G) (1) A PERSON WHO, AS OF JULY 1, 1998, WAS A MEMBER IN GOOD STANDING OF THE MARYLAND PORT ADMINISTRATION POLICE FORCE OF THE DEPARTMENT AND WHO WAS SUBSEQUENTLY AN EMPLOYEE OF THE MARYLAND TRANSPORTATION AUTHORITY POLICE FORCE SHALL:~~

~~(I) BECOME A MEMBER OF THE MARYLAND DEPARTMENT OF TRANSPORTATION POLICE FORCE AND SHALL CONTINUE AS A MEMBER OF THAT POLICE FORCE WITHOUT DIMINUTION IN SALARY UNTIL RETIREMENT, RESIGNATION, OR TERMINATION OF EMPLOYMENT; AND~~

~~(II) BE PAID IN ACCORDANCE WITH THE MARYLAND DEPARTMENT OF TRANSPORTATION POLICE FORCE PAY PLAN.~~

~~(2) A PERSON DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION MAY ELECT TO JOIN THE LAW ENFORCEMENT OFFICERS' PENSION SYSTEM UNDER THE PROVISIONS OF TITLE 26 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.~~

~~(H) A PERSON WHO, AS OF JULY 1, 2010, WAS A MEMBER IN GOOD STANDING OF THE MARYLAND TRANSPORTATION AUTHORITY POLICE SHALL:~~

~~(1) BECOME A MEMBER OF THE MARYLAND DEPARTMENT OF TRANSPORTATION POLICE FORCE AND SHALL CONTINUE AS A MEMBER OF THAT POLICE FORCE WITHOUT DIMINUTION IN SALARY UNTIL RETIREMENT, RESIGNATION, OR TERMINATION OF EMPLOYMENT; AND~~

~~(2) BE PAID IN ACCORDANCE WITH THE MARYLAND DEPARTMENT OF TRANSPORTATION POLICE FORCE PAY PLAN.~~

~~2–302.~~

~~(A) THE CHIEF POLICE OFFICER OF THE MARYLAND DEPARTMENT OF TRANSPORTATION POLICE FORCE MAY APPOINT EMPLOYEES OF THE~~

~~DEPARTMENT TO EXERCISE THE POWERS SPECIFIED IN SUBSECTION (B) OF THIS SECTION.~~

~~(B) (1) AN EMPLOYEE APPOINTED UNDER THIS SECTION MAY ISSUE CITATIONS TO THE EXTENT AUTHORIZED BY THE CHIEF POLICE OFFICER FOR VIOLATIONS OF THE PROVISIONS OF § 5–426 OF THIS ARTICLE THAT RELATE TO MOTOR VEHICLE PARKING AT BALTIMORE–WASHINGTON INTERNATIONAL THURGOOD MARSHALL AIRPORT.~~

~~(2) THE ISSUANCE OF CITATIONS UNDER THIS SECTION SHALL COMPLY WITH THE REQUIREMENTS OF TITLE 26, SUBTITLE 3 OF THIS ARTICLE.~~

~~(C) THE CHIEF POLICE OFFICER, IN CONSULTATION WITH THE MARYLAND POLICE TRAINING COMMISSION, SHALL ADOPT REGULATIONS ESTABLISHING:~~

~~(1) QUALIFICATIONS FOR EMPLOYEES APPOINTED UNDER THIS SECTION, INCLUDING PREREQUISITES OF CHARACTER, TRAINING, EXPERIENCE, AND EDUCATION; AND~~

~~(2) STANDARDS FOR THE PERFORMANCE OF THE DUTIES ASSIGNED TO EMPLOYEES APPOINTED UNDER THIS SECTION.~~

~~Article – Transportation~~

~~4–208.2.~~

~~(A) THIS SECTION APPLIES TO ALL FULL–TIME MARYLAND TRANSPORTATION AUTHORITY POLICE OFFICERS AT THE RANK OF FIRST SERGEANT AND BELOW.~~

~~(B) MARYLAND TRANSPORTATION AUTHORITY POLICE OFFICERS MAY:~~

~~(1) TAKE PART IN OR REFRAIN FROM TAKING PART IN FORMING, JOINING, SUPPORTING, OR PARTICIPATING IN A LABOR ORGANIZATION OR ITS LAWFUL ACTIVITIES;~~

~~(2) SELECT A LABOR ORGANIZATION AS THEIR EXCLUSIVE REPRESENTATIVE;~~

~~(3) ENGAGE IN COLLECTIVE BARGAINING WITH THE AUTHORITY, OR THE DESIGNEE OF THE AUTHORITY, CONCERNING WAGES, INCLUDING PAY PARITY WITH THE POLICE FORCES OF THE MARYLAND NATURAL RESOURCES POLICE AND THE MARYLAND STATE POLICE, AND BENEFITS, NOT REGULATED~~

~~BY THE AUTHORITY, THROUGH A LABOR ORGANIZATION CERTIFIED AS THEIR EXCLUSIVE REPRESENTATIVE;~~

~~(4) ENTER INTO A COLLECTIVE BARGAINING AGREEMENT, THROUGH THEIR EXCLUSIVE REPRESENTATIVE, COVERING THOSE WAGES AND BENEFITS NOT REGULATED BY THE AUTHORITY; AND~~

~~(5) CERTIFY A LABOR ORGANIZATION AS THEIR EXCLUSIVE REPRESENTATIVE.~~

~~(C) (1) A LABOR ORGANIZATION SHALL BE DEEMED CERTIFIED AS AN EXCLUSIVE REPRESENTATIVE IF:~~

~~(I) A PETITION FOR THE LABOR ORGANIZATION TO BE RECOGNIZED BY THE AUTHORITY IS SIGNED BY AT LEAST 51% OF THE POLICE OFFICERS AT THE RANK OF FIRST SERGEANT AND BELOW INDICATING THEIR DESIRE TO BE REPRESENTED EXCLUSIVELY BY THE PETITIONER FOR THE PURPOSE OF COLLECTIVE BARGAINING; AND~~

~~(II) THE PETITION IS SUBMITTED TO THE AUTHORITY.~~

~~(2) IF THE AUTHORITY DOES NOT CHALLENGE THE VALIDITY OF THE PETITION WITHIN 10 CALENDAR DAYS FOLLOWING THE RECEIPT OF THE PETITION, THE LABOR ORGANIZATION SHALL BE DEEMED CERTIFIED AS THE EXCLUSIVE REPRESENTATIVE.~~

~~(3) (I) IF THE AUTHORITY CHALLENGES THE VALIDITY OF THE PETITION, THE AMERICAN ARBITRATION ASSOCIATION SHALL BE REQUESTED TO APPOINT A NEUTRAL THIRD PARTY TO CONDUCT AN ELECTION AND TO CERTIFY WHETHER THE LABOR ORGANIZATION HAS BEEN SELECTED AS THE EXCLUSIVE REPRESENTATIVE BY A MAJORITY OF THE VOTES CAST IN THE ELECTION.~~

~~(II) THE COSTS ASSOCIATED WITH THE AMERICAN ARBITRATION ASSOCIATION AND THE NEUTRAL THIRD PARTY SHALL BE SHARED EQUALLY BY THE PARTIES.~~

~~(D) (1) FOLLOWING CERTIFICATION OF AN EXCLUSIVE REPRESENTATIVE AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, THE PARTIES SHALL MEET AT REASONABLE TIMES AND ENGAGE IN COLLECTIVE BARGAINING IN GOOD FAITH.~~

~~(2) THE PARTIES SHALL MAKE EVERY REASONABLE EFFORT TO CONCLUDE NEGOTIATIONS IN A TIMELY MANNER.~~

~~(E) (1) A COLLECTIVE BARGAINING AGREEMENT SHALL CONTAIN ALL MATTERS OF AGREEMENT REACHED IN THE COLLECTIVE BARGAINING PROCESS.~~

~~(2) THE AGREEMENT MAY CONTAIN A GRIEVANCE PROCEDURE PROVIDING FOR BINDING ARBITRATION OF GRIEVANCES.~~

~~(3) AN AGREEMENT REACHED IN ACCORDANCE WITH THIS SECTION SHALL BE IN WRITING AND SIGNED BY THE DESIGNATED REPRESENTATIVES OF THE PARTIES INVOLVED IN THE COLLECTIVE BARGAINING NEGOTIATIONS.~~

~~(4) AN AGREEMENT IS NOT EFFECTIVE UNTIL IT IS RATIFIED BY A MAJORITY OF THE VOTES CAST BY THE POLICE OFFICERS IN THE BARGAINING UNIT AND THE AUTHORITY.~~

~~(F) (1) IF THE AUTHORITY AND THE CERTIFIED LABOR ORGANIZATION ARE UNABLE TO REACH A WRITTEN AGREEMENT BY JANUARY 15 OF ANY YEAR ON WAGES AND TERMS AND CONDITIONS OF EMPLOYMENT, THE AUTHORITY OR THE CERTIFIED LABOR ORGANIZATION MAY DEMAND BINDING ARBITRATION BEFORE AN ARBITRATION PANEL IN ACCORDANCE WITH THIS SUBSECTION.~~

~~(2) (I) THE PANEL SHALL BE COMPOSED OF THREE MEMBERS WHO ARE MEMBERS OF THE NATIONAL ACADEMY OF ARBITRATORS.~~

~~(II) WITHIN 3 DAYS AFTER THE REQUEST FOR ARBITRATION, EACH PARTY SHALL SELECT ONE MEMBER OF THE PANEL BY ALTERNATIVE STRIKES FROM A PANEL THAT IS CHOSEN FROM A LIST SUPPLIED BY THE AMERICAN ARBITRATION ASSOCIATION OR THE FEDERAL MEDIATION AND CONCILIATION SERVICE.~~

~~(III) WITHIN 4 ADDITIONAL DAYS, THE THIRD MEMBER, WHO SHALL SERVE AS CHAIR OF THE PANEL, SHALL BE SELECTED:~~

~~1. BY THE TWO ARBITRATORS CHOSEN UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH; AND~~

~~2. IN ACCORDANCE WITH THE PROCEDURES OF THE AMERICAN ARBITRATION ASSOCIATION.~~

~~(3) THE PANEL SHALL BEGIN ARBITRATION PROCEEDINGS WITHIN 15 DAYS AFTER THE CHAIR IS SELECTED AND SHALL MAKE A DECISION ON THE MATTER THAT IS THE SUBJECT OF THE ARBITRATION, BY MAJORITY~~

~~VOTE, WITHIN 30 DAYS AFTER THE COMMENCEMENT OF THE ARBITRATION PROCEEDINGS.~~

~~(4) THE ARBITRATION PANEL SHALL HAVE THE POWER TO ADMINISTER OATHS, COMPEL THE ATTENDANCE OF WITNESSES AND THE PRODUCTION OF EVIDENCE BY SUBPOENA, AND DECLARE THE RECORD CLOSED.~~

~~(5) THE WRITTEN DECISION OF THE ARBITRATION PANEL SHALL BE FINAL AND BINDING ON THE AUTHORITY AND THE CERTIFIED LABOR ORGANIZATION.~~

~~(6) THE AUTHORITY AND THE CERTIFIED LABOR ORGANIZATION SHALL SHARE EQUALLY IN THE COSTS OF AN ARBITRATION PROCEEDING UNDER THIS SUBSECTION.~~

~~(G) THIS SECTION MAY NOT BE CONSTRUED TO AUTHORIZE OR OTHERWISE ALLOW A POLICE OFFICER TO ENGAGE IN A STRIKE AS DEFINED IN § 3–303 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.~~

SECTION 2. ~~AND BE IT FURTHER ENACTED, That, on July 1, 2010, all the functions, powers, duties, assets, liabilities, and employees of the Maryland Transportation Authority Police Force, including all buildings, land and marine vehicles, and equipment owned by the Maryland Transportation Authority that was dedicated to the use of the Maryland Transportation Authority Police Force on April 1, 2010, shall be transferred to the Maryland Department of Transportation Police Force.~~

~~SECTION 3. AND BE IT FURTHER ENACTED, That all expenses incurred by the Maryland Department of Transportation as a direct result of transitioning the Maryland Transportation Authority Police Force into the Maryland Department of Transportation Police Force shall be borne exclusively by the Maryland Transportation Authority.~~

~~SECTION 4. AND BE IT FURTHER ENACTED, That an employee transferred under this Act to the Maryland Department of Transportation Police Force shall be appointed without further examination or qualification. The employee shall be placed in a classification that is comparable in duties and responsibilities to the employee's former position. The employee may not suffer a diminution of salary or wages, accrued leave, whether earned or granted, or seniority rights.~~

~~SECTION 5. AND BE IT FURTHER ENACTED, That nothing in this Act affects the terms of office of an appointed or elected member of any division, board, commission, authority, council, committee, office, or unit. An individual who is a member of a division, board, commission, authority, council, committee, office, or unit on the effective date of this Act shall remain a member for the balance of the term to which the member is appointed or elected, unless the member sooner dies, resigns, or is removed under provisions of law.~~

~~SECTION 6. AND BE IT FURTHER ENACTED, That, except as expressly provided to the contrary in this Act, any transaction affected by or flowing from any statute amended or repealed by this Act, and validly entered into before the effective date of this Act, and every right, duty, or interest following from the transaction, remains valid after the effective date of this Act and may be terminated, completed, consummated, or enforced pursuant to law.~~

~~SECTION 7. AND BE IT FURTHER ENACTED, That the publisher of the Annotated Code of Maryland, in consultation with and subject to the approval of the Department of Legislative Services, shall correct, with no further action required by the General Assembly, cross–references and terminology rendered incorrect by this Act or by any other act of the General Assembly of 2010 that affects provisions enacted by this Act. The publishers shall adequately describe any such correction in an editor's note following the section affected.~~

~~SECTION 8. AND BE IT FURTHER ENACTED, That, except as otherwise provided by law, all existing laws, regulations, proposed regulations, standards, guidelines, policies, orders and other directives, forms, plans, memberships, contracts, property, investigations, and administrative responsibilities associated with the functions of the Maryland Transportation Authority Police Force prior to the effective date of this Act shall continue in effect under the Maryland Department of Transportation Police Force until completed, withdrawn, canceled, modified, or otherwise changed by law.~~

~~SECTION 9. AND BE IT FURTHER ENACTED, That, on or before July 1, 2010, the Secretary of Transportation shall enter into a memorandum of understanding with the Executive Secretary of the Maryland Transportation Authority regarding the provision of law enforcement services by the Maryland Department of Transportation Police Force on or around property owned, leased, or operated by or under the control of the Maryland Transportation Authority.~~

~~SECTION 10. AND BE IT FURTHER ENACTED, That, on or before October 1, 2010, the Secretary of Transportation shall report to the Governor and, in accordance with § 2–1246 of the State Government Article, to the General Assembly, on the provisions in the memorandum of understanding described in Section 9 of this Act.~~

~~SECTION 11. AND BE IT FURTHER ENACTED, That Section(s) 4–208 and 4–208.1 of Article – Transportation of the Annotated Code of Maryland be repealed.~~

~~SECTION 2.~~ 12. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 705

(House Bill 837)

AN ACT concerning

Washington County – Procurement of Professional or Technical Services

FOR the purpose of exempting certain procurement expenditures for professional or technical services for Washington County from the requirements for procurement expenditures over $50,000; repealing language made obsolete by this Act; and generally relating to procurement expenditures for professional or technical services in Washington County.

BY repealing and reenacting, with amendments,
The Public Local Laws of Washington County
Section 1–106(b)(2)
Article 22 – The Public Local Laws of Maryland
(2007 Edition and January 2009 Supplement, as amended)

BY adding to
The Public Local Laws of Washington County
Section 1–106.5
Article 22 – The Public Local Laws of Maryland
(2007 Edition and January 2009 Supplement, as amended)

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

Article 22 – Washington County

1–106.

(b) (2) A contract of purchase or other expenditure shall be awarded to the lowest responsible bidder who submits a responsive **[**bid, unless:

(i) The contract of purchase or other expenditure is for the procurement of professional or technical services, including architectural, design engineering, legal, medical, technological, or technical services; and

(ii) The County Commissioners have authorized the award of the contract on the basis of the qualifications, resources, and experience of the bidder, regardless of whether the bidder is the lowest bidder**]** **BID**.

1–106.5.

THE COUNTY COMMISSIONERS MAY AWARD A CONTRACT OF PURCHASE OR OTHER EXPENDITURE FOR THE PROCUREMENT OF PROFESSIONAL OR TECHNICAL SERVICES, INCLUDING ARCHITECTURAL, DESIGN ENGINEERING, LEGAL, MEDICAL, TECHNOLOGICAL, OR TECHNICAL SERVICES, ON THE BASIS OF THE QUALIFICATIONS, RESOURCES, AND EXPERIENCE OF THE SERVICE PROVIDER AND IS NOT SUBJECT TO THE REQUIREMENTS OF § 1–106 OF THIS SUBTITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 706

(House Bill 855)

AN ACT concerning

Sales and Use Tax – Exemption – Lodging at a Corporate Training Center ~~in Montgomery County~~

~~MC 22–10~~

FOR the purpose of providing an exemption under the sales and use tax for the sale of a right to occupy a room or lodgings as a transient guest at certain facilities ~~in a certain county~~ operated ~~primarily~~ in support of certain facilities or campuses; and generally relating to a sales and use tax exemption for the sale of certain lodging at certain facilities.

BY adding to
Article – Tax – General
Section 11–231
Annotated Code of Maryland
(2004 Replacement Volume and 2009 Supplement)

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

Article – Tax – General

11–231.

THE SALES AND USE TAX DOES NOT APPLY TO THE SALE OF A RIGHT TO OCCUPY A ROOM OR LODGINGS AS A TRANSIENT GUEST AT A DORMITORY OR OTHER LODGING FACILITY ~~IN MONTGOMERY COUNTY~~ THAT:

(1) IS OPERATED ~~PRIMARILY~~ SOLELY IN SUPPORT OF A CORPORATE OR ANY OTHER HEADQUARTERS, TRAINING, CONFERENCE, OR AWARDS FACILITY OR CAMPUS;

(2) PROVIDES LODGING ~~PREDOMINANTLY~~ SOLELY FOR EMPLOYEES, CONTRACTORS, VENDORS, AND OTHER INVITEES OF THE CORPORATION THAT OWNS THE DORMITORY OR LODGING FACILITY; AND

(3) DOES NOT OFFER LODGING SERVICES TO THE GENERAL PUBLIC.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 707

(House Bill 861)

AN ACT concerning

Montgomery County – Enterprise Zones – ~~County~~ Tax Credits

MC 2–10

FOR the purpose of ~~authorizing Montgomery County to allow, by law, a business entity that is not eligible for a certain tax credit to claim a credit against county taxes for certain improvements to properties located in an enterprise zone; requiring the governing body of Montgomery County to provide for calculation of the amount of the credit and to specify which county tax or taxes the credit applies to, the improvements eligible for the credit, the qualifications for eligibility, the conditions of certification, and the process for application for the credit; authorizing Montgomery County to impose limits on the amount of credits issued for any taxable year; authorizing Montgomery County to make the credit refundable; authorizing Montgomery County to provide for the recapture of the credit; and generally relating to the authority of Montgomery County to authorize a credit against county taxes for improvements to property located in an enterprise zone~~ requiring a lessor of real property in Montgomery

County eligible for certain property tax credits to reduce by a certain amount the amount of tax for which the tenant is contractually liable under the lease under certain circumstances; authorizing the governing body of Montgomery County or of a municipal corporation in Montgomery County to grant, by law, a property tax credit against the county or municipal corporation property tax imposed on certain property located in certain enterprise zones; authorizing the governing body of Montgomery County or of a municipal corporation in Montgomery County to provide, by law, for the amount and duration of the credit, additional eligibility criteria and restrictions for the credit, and any other provision necessary to carry out the credit; requiring the governing body of Montgomery County or of a municipal corporation in Montgomery County to define certain improvements eligible for a tax credit; providing for the application of this Act; and generally relating to enterprise zones.

~~BY adding to~~
~~Article – Economic Development~~
~~Section 5–710~~
~~Annotated Code of Maryland~~
~~(2008 Volume and 2009 Supplement)~~

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 9–103(b)
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

BY adding to
Article – Tax – Property
Section 9–317(f)
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

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

~~Article – Economic Development~~

~~5–710.~~

~~(A) IN THIS SECTION, "ELIGIBLE BUSINESS ENTITY" MEANS A PERSON WHO OPERATES OR CONDUCTS A TRADE OR BUSINESS AND IS NOT ELIGIBLE FOR THE PROPERTY TAX CREDIT UNDER § 9–103 OF THE TAX – PROPERTY ARTICLE.~~

~~(B) THE GOVERNING BODY OF MONTGOMERY COUNTY MAY, BY LAW, ALLOW AN ELIGIBLE BUSINESS ENTITY TO CLAIM A CREDIT AGAINST A COUNTY TAX FOR IMPROVEMENTS TO PROPERTY LOCATED IN AN ENTERPRISE ZONE.~~

~~(C) (1) A LAW THAT AUTHORIZES A CREDIT UNDER THIS SECTION SHALL:~~

~~(I) SPECIFY WHICH COUNTY TAX OR TAXES THE CREDIT APPLIES TO;~~

~~(II) DEFINE THE IMPROVEMENTS ELIGIBLE FOR THE TAX CREDIT;~~

~~(III) SPECIFY THE QUALIFICATIONS FOR ELIGIBILITY, CONDITIONS OF CERTIFICATION, AND PROCESS FOR APPLICATION FOR THE TAX CREDIT; AND~~

~~(IV) PROVIDE FOR CALCULATION OF THE AMOUNT OF THE TAX CREDIT.~~

~~(2) A LAW THAT AUTHORIZES A CREDIT UNDER THIS SECTION MAY:~~

~~(I) LIMIT THE TOTAL AMOUNT OF TAX CREDITS THAT MAY BE AUTHORIZED IN A YEAR;~~

~~(II) ALLOW A REFUND OF THE TAX CREDIT IF THE CREDIT OTHERWISE EXCEEDS THE TOTAL TAX PAYABLE; AND~~

~~(III) PROVIDE FOR THE RECAPTURE OF THE CREDIT.~~

~~(D) THE GOVERNING BODY OF MONTGOMERY COUNTY MAY IMPOSE ANY ADDITIONAL LIMITATIONS NECESSARY TO ADMINISTER THE TAX CREDIT.~~

Article – Tax – Property

9–103.

(b) **(1)** The governing body of a county or of a municipal corporation shall grant a tax credit under this section against the property tax imposed on the eligible assessment of qualified property.

(2) IN MONTGOMERY COUNTY THE LESSOR OF REAL PROPERTY ELIGIBLE FOR A CREDIT UNDER THIS SECTION SHALL REDUCE THE AMOUNT OF TAXES FOR WHICH A TENANT IS CONTRACTUALLY LIABLE UNDER THE LEASE AGREEMENT BY THE AMOUNT OF ANY CREDIT ALLOWED UNDER THIS SECTION THAT IS ATTRIBUTABLE TO IMPROVEMENTS MADE BY THE TENANT.

9–317.

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

(II) "ELIGIBLE BUSINESS ENTITY" MEANS A PERSON WHO OPERATES OR CONDUCTS A TRADE OR BUSINESS ON QUALIFIED ENTERPRISE ZONE PROPERTY BUT DOES NOT OWN THE QUALIFIED ENTERPRISE ZONE PROPERTY.

(III) "QUALIFIED ENTERPRISE ZONE PROPERTY" MEANS REAL PROPERTY THAT:

1. IS NOT USED FOR RESIDENTIAL PURPOSES;

2. IS USED IN A TRADE OR BUSINESS BY AN ELIGIBLE BUSINESS ENTITY;

3. IS LOCATED IN AN ENTERPRISE ZONE THAT IS DESIGNATED UNDER TITLE 5, SUBTITLE 7 OF THE ECONOMIC DEVELOPMENT ARTICLE; AND

4. IS ELIGIBLE FOR THE PROPERTY TAX CREDIT UNDER § 9–103 OF THIS TITLE.

(2) SUBJECT TO PARAGRAPHS (4) AND (5) OF THIS SUBSECTION, THE GOVERNING BODY OF MONTGOMERY COUNTY OR OF A MUNICIPAL CORPORATION IN MONTGOMERY COUNTY MAY GRANT, BY LAW, A PROPERTY TAX CREDIT AGAINST THE COUNTY OR MUNICIPAL CORPORATION PROPERTY TAX IMPOSED ON:

(I) IMPROVEMENTS MADE BY AN ELIGIBLE BUSINESS ENTITY TO QUALIFIED ENTERPRISE ZONE PROPERTY; AND

(II) PERSONAL PROPERTY OWNED BY AN ELIGIBLE BUSINESS ENTITY LOCATED ON QUALIFIED ENTERPRISE ZONE PROPERTY.

(3) (I) THE GOVERNING BODY OF MONTGOMERY COUNTY OR OF A MUNICIPAL CORPORATION IN MONTGOMERY COUNTY MAY PROVIDE, BY LAW, FOR:

1. THE AMOUNT AND DURATION OF A CREDIT UNDER THIS SUBSECTION;

2. ADDITIONAL ELIGIBILITY CRITERIA FOR A CREDIT UNDER THIS SUBSECTION; AND

3. ANY OTHER PROVISION NECESSARY TO CARRY OUT A CREDIT UNDER THIS SUBSECTION.

(II) THE GOVERNING BODY OF MONTGOMERY COUNTY OR OF A MUNICIPAL CORPORATION IN MONTGOMERY COUNTY SHALL DEFINE, BY LAW, THE IMPROVEMENTS ELIGIBLE FOR A CREDIT UNDER THIS SUBSECTION.

(4) THE LESSOR OF REAL PROPERTY GRANTED A CREDIT UNDER PARAGRAPH (2)(I) OF THIS SUBSECTION SHALL REDUCE THE AMOUNT OF TAXES FOR WHICH AN ELIGIBLE BUSINESS ENTITY IS CONTRACTUALLY LIABLE UNDER THE LEASE AGREEMENT BY THE AMOUNT OF ANY CREDIT GRANTED UNDER PARAGRAPH (2)(I) OF THIS SUBSECTION FOR IMPROVEMENTS MADE BY THE ELIGIBLE BUSINESS ENTITY.

(5) THE LESSOR OF REAL PROPERTY THAT RECEIVES A CREDIT UNDER § 9–103 OF THIS TITLE MAY NOT BE GRANTED A CREDIT UNDER THIS SUBSECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~July~~ June 1, 2010, and shall be applicable to all taxable years beginning after June 30, 2010.

Approved by the Governor, May 20, 2010.

Chapter 708

(House Bill 863)

AN ACT concerning

Maryland Professional Counselors and Therapists Act – Corrections

FOR the purpose of requiring applicants for a license to practice clinical marriage and family therapy to hold a master's or doctoral degree in a certain field from an accredited educational institution that is approved by the State Board of Professional Counselors and Therapists; altering the number of credit hours in alcohol and drug counselor training that are required for qualification as a certified professional counselor–alcohol and drug or certified association counselor–alcohol and drug; and generally relating to corrections of the Maryland Professional Counselors and Therapists Act.

BY repealing and reenacting, without amendments,
Article – Health Occupations
Section 17–303(a) and 17–402(a)
Annotated Code of Maryland
(2009 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 17–303(d), 17–402(d), and 17–403
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – Health Occupations

17–303.

(a) To qualify for a license to practice clinical marriage and family therapy, an applicant shall be an individual who meets the requirements of this section.

(d) (1) Except as provided in § 17–306 of this subtitle, the applicant shall hold a master's or doctoral degree in a marriage and family field **FROM AN ACCREDITED EDUCATIONAL INSTITUTION THAT IS APPROVED BY THE BOARD** or have completed a program of studies judged by the Board to be substantially equivalent in subject matter and extent of training as required under this section.

(2) In the case of an applicant holding a doctoral degree, the applicant shall have completed a minimum of 90 graduate credit hours in training in marriage and family therapy approved by the Board that includes instruction in the following specialized areas:

(i) Analysis of family systems;

(ii) Family therapy, theory, and techniques;

(iii) Couples therapy, theory, and techniques;

(iv) Gender and ethnicity in marriage and family therapy; and

(v) Sexual issues in marriage and family therapy.

(3) In the case of an applicant holding only a master's degree, the applicant shall have completed a minimum of 60 graduate credit hours in training in

marriage and family therapy approved by the Board that includes instruction in the specialized areas set forth in paragraph (2) of this subsection.

17–402.

(a) Except as provided in § 17–405 of this subtitle, to qualify as a certified professional counselor–alcohol and drug, an applicant shall meet the requirements of this section.

(d) (1) The applicant shall hold a master's or doctoral degree in a health and human services counseling field from an accredited educational institution that is approved by the Board or have completed a program of studies judged by the Board to be substantially equivalent in subject matter and extent of training as required under this section.

(2) In the case of an applicant holding a doctoral degree, the applicant shall have completed a minimum of 90 graduate credit hours in counselor training approved by the Board, including instruction in the following areas:

(i) Counseling theory and ethics;

(ii) Counseling techniques;

(iii) Human growth and development and maladaptive behaviors;

(iv) Group dynamics, processing, and counseling;

(v) Social and cultural foundations;

(vi) Lifestyle and career development;

(vii) Appraisal of individuals;

(viii) Research and evaluation;

(ix) Participation in a supervised practicum in professional counseling;

(x) Marriage and family therapy; and

(xi) Alcohol and drug counseling.

(3) In the case of an applicant holding only a master's degree, the applicant shall have completed a minimum of 60 graduate credit hours in counselor training approved by the Board including instruction in the areas set forth in paragraph (2) of this subsection.

(4) The applicant shall have completed a minimum of **[**26**] 27** credit hours in alcohol and drug counselor training, including instruction in:

(i) Medical aspects of chemical dependency;

(ii) Group counseling;

(iii) Individual counseling;

(iv) Family counseling;

(v) Assessment and treatment planning;

(vi) Ethics for alcohol and drug counselors;

(vii) Human development;

(viii) Abnormal psychology; and

(ix) Courses pertaining to counselor core functions of screening, intake, orientation, case management, crisis intervention, education and prevention, referral, consultation, reports and record keeping, and special alcohol and drug dependency topics.

17–403.

(a) Except as provided in § 17–405 of this subtitle, to qualify as a certified associate counselor–alcohol and drug, an applicant shall:

(1) Hold a bachelor's degree from an accredited educational institution approved by the Board in a health and human services counseling field or have completed a program of studies judged by the Board to be substantially equivalent in subject matter and extent of training to such a program of studies;

(2) Have completed not less than 3 years, with a minimum of 2,000 hours of clinically supervised experience in alcohol and drug counseling approved by the Board, 2 years of which shall have been completed after the award of the bachelor's degree;

(3) Have a minimum of **[**20**] 21** credit hours in alcohol and drug counselor training, including instruction in:

(i) Medical aspects of chemical dependency;

(ii) Group counseling;

(iii) Individual counseling;

(iv) Family counseling;

(v) Assessment and treatment planning;

(vi) Ethics for alcohol and drug counselors;

(vii) Human development;

(viii) Abnormal psychology; and

(ix) Courses pertaining to counselor core functions of screening, intake, orientation, case management, crisis intervention, education and prevention, referral, consultation, reports and record keeping, and special alcohol and drug dependency topics; and

(4) (i) Practice alcohol and drug counseling under the supervision of a certified professional counselor–alcohol and drug or another health care provider approved by the Board; or

(ii) Provide alcohol and drug counseling as an employee of an agency or facility that is accredited by the Joint Commission on Accreditation of Healthcare Organizations or that is certified under Title 8, Subtitle 4 of the Health – General Article.

(b) Except as otherwise provided in this title, the applicant shall pass an examination approved by the Board under this title.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 709

(House Bill 870)

AN ACT concerning

State Board of Physicians – Offices or Facilities for Performing ~~Elective~~ Cosmetic Surgical Procedures

FOR the purpose of authorizing the State Board of Physicians to discipline certain licensees that perform ~~elective~~ cosmetic surgical procedures in offices or

facilities that are not accredited by certain associations or organizations or certified to participate in a certain program; defining certain terms; and generally relating to the State Board of Physicians and offices or facilities for performing ~~elective~~ cosmetic surgical procedures.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 14–101 and 14–404(a)(39) and (40)
Annotated Code of Maryland
(2009 Replacement Volume)

BY adding to
Article – Health Occupations
Section 14–404(a)(41)
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – Health Occupations

14–101.

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

(b) "Board" means the State Board of Physicians.

(c) "Civil action" includes a health care malpractice claim under Title 3, Subtitle 2A of the Courts Article.

(D) (1) "~~ELECTIVE COSMETIC~~ COSMETIC SURGICAL PROCEDURE" MEANS THE USE OF SURGICAL SERVICES TO RESHAPE THE STRUCTURE OF A HUMAN BODY IN ORDER TO CHANGE THE APPEARANCE OF AN INDIVIDUAL.

(2) "~~ELECTIVE COSMETIC~~ COSMETIC SURGICAL PROCEDURE" DOES NOT INCLUDE:

(I) A PROCEDURE DONE UNDER LOCAL ANESTHESIA OR MILD SEDATION; OR

(II) LIPOSUCTION THAT REMOVES LESS THAN ~~500~~ 1,000 CUBIC CENTIMETERS OF ~~FAT~~ ASPIRATE.

[(d)**] (E)** "Faculty" means the Medical and Chirurgical Faculty of the State of Maryland.

[(e)**] (F)** "Hospital" has the meaning stated in § 19–301 of the Health – General Article.

[(f)**] (G)** "License" means, unless the context requires otherwise, a license issued by the Board to practice medicine.

[(g)**] (H)** "Licensed physician" means, unless the context requires otherwise, a physician, including a doctor of osteopathy, who is licensed by the Board to practice medicine.

[(h)**] (I)** "Licensee" means an individual to whom a license is issued, including an individual practicing medicine within or as a professional corporation or professional association.

(J) "MILD SEDATION" MEANS A DRUG–INDUCED STATE DURING WHICH:

(1) A PATIENT IS ABLE TO RESPOND TO VERBAL COMMANDS;

(2) A PATIENT'S VENTILATORY AND CARDIOVASCULAR FUNCTIONS ARE NOT AFFECTED; AND

(3) A PATIENT'S COGNITIVE FUNCTION AND COORDINATION MAY BE IMPAIRED.

[(i)**] (K)** "Perform acupuncture" means to stimulate a certain point or points on or near the surface of the human body by the insertion of needles to prevent or modify the perception of pain or to normalize physiological functions, including pain control, for the treatment of ailments or conditions of the body.

[(j)**] (L)** "Physician" means an individual who practices medicine.

[(k)**] (M)** "Physician Rehabilitation Program" means the program of the Board or the nonprofit entity with which the Board contracts under § 14–401(g) of this title that evaluates and provides assistance to impaired physicians and other health professionals regulated by the Board who are directed by the Board to receive treatment and rehabilitation for alcoholism, chemical dependency, or other physical, emotional, or mental conditions.

[(l)**] (N)** (1) "Practice medicine" means to engage, with or without compensation, in medical:

(i) Diagnosis;

(ii) Healing;

(iii) Treatment; or

(iv) Surgery.

(2) "Practice medicine" includes doing, undertaking, professing to do, and attempting any of the following:

(i) Diagnosing, healing, treating, preventing, prescribing for, or removing any physical, mental, or emotional ailment or supposed ailment of an individual:

1. By physical, mental, emotional, or other process that is exercised or invoked by the practitioner, the patient, or both; or

2. By appliance, test, drug, operation, or treatment;

(ii) Ending of a human pregnancy; and

(iii) Performing acupuncture as provided under § 14–504 of this title.

(3) "Practice medicine" does not include:

(i) Selling any nonprescription drug or medicine;

(ii) Practicing as an optician; or

(iii) Performing a massage or other manipulation by hand, but by no other means.

[(m)**] (O)** "Related institution" has the meaning stated in § 19–301 of the Health – General Article.

14–404.

(a) Subject to the hearing provisions of § 14–405 of this subtitle, the Board, on the affirmative vote of a majority of the quorum, may reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the licensee:

(39) Intentionally misrepresents credentials for the purpose of testifying or rendering an expert opinion in hearings or proceedings before the Board or those otherwise delegated to the Office of Administrative Hearings; **[**or**]**

(40) Fails to keep adequate medical records as determined by appropriate peer review**; OR**

(41) PERFORMS ~~AN ELECTIVE~~ A COSMETIC SURGICAL PROCEDURE IN AN OFFICE OR A FACILITY THAT IS NOT:

(I) ACCREDITED BY:

1. THE AMERICAN ASSOCIATION FOR ACCREDITATION OF AMBULATORY SURGICAL FACILITIES;

2. THE ACCREDITATION ASSOCIATION FOR AMBULATORY HEALTH CARE; OR

3. THE JOINT COMMISSION ON THE ACCREDITATION OF HEALTH CARE ORGANIZATIONS; OR

(II) CERTIFIED TO PARTICIPATE IN THE MEDICARE PROGRAM, AS ENACTED BY TITLE XVIII OF THE SOCIAL SECURITY ACT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 710

(House Bill 891)

AN ACT concerning

Montgomery County ~~Department of Economic Development~~ – Investment Authority

MC 18–10

FOR the purpose of authorizing ~~the Montgomery County Department of Economic Development to make a certain investment in a certain company; requiring the investment to be consistent with certain investment guidelines; and generally relating to the investment authority of the Montgomery County Department of Economic Development~~ Montgomery County to make an equity investment through a certain fund in a company that is located in the county or that agrees to relocate their business to the county; providing that the proceeds of an equity investment made under this Act may be used for certain purposes; providing that the county may not acquire an ownership interest exceeding a certain percentage of any enterprise; requiring the terms of an equity investment approved by the county to be set forth in a funding agreement; requiring a

funding agreement made in accordance with this Act to prohibit the county from taking certain actions; providing that a funding agreement made in accordance with this Act may consist of certain agreements or other documents; requiring that notice of each equity investment made by Montgomery County under a certain provision of this Act be posted in a readily accessible and clearly identified location on the Montgomery County government website within a certain number of days after the date on which the county initiates the investment transaction; and generally relating to equity investments by Montgomery County in certain businesses in the county.

~~BY adding to~~
~~Article 95 – Treasurer~~
~~Section 22P~~
~~Annotated Code of Maryland~~
~~(2003 Replacement Volume and 2009 Supplement)~~

BY adding to
Article – Economic Development
Section 12–401 to be under the new subtitle "Subtitle 4. Montgomery County Equity Investments in Companies Located in the County"
Annotated Code of Maryland
(2008 Volume and 2009 Supplement)

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

~~**Article 95 – Treasurer**~~

~~**22P.**~~

~~**(A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE MONTGOMERY COUNTY DEPARTMENT OF ECONOMIC DEVELOPMENT MAY MAKE AN EQUITY INVESTMENT IN A COMPANY THAT DOES BUSINESS IN MARYLAND.**~~

~~**(B) AN INVESTMENT AUTHORIZED UNDER SUBSECTION (A) OF THIS SECTION SHALL BE CONSISTENT WITH THE LOCAL GOVERNMENT INVESTMENT GUIDELINES ADOPTED BY THE GOVERNING BODY OF MONTGOMERY COUNTY UNDER § 22F OF THIS ARTICLE.**~~

Article – Economic Development

SUBTITLE 4. MONTGOMERY COUNTY EQUITY INVESTMENTS IN COMPANIES LOCATED IN THE COUNTY.

12–401.

(A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, MONTGOMERY COUNTY MAY MAKE AN EQUITY INVESTMENT THROUGH THE COUNTY'S ECONOMIC DEVELOPMENT FUND IN A COMPANY THAT IS LOCATED IN MONTGOMERY COUNTY OR THAT AGREES TO RELOCATE ITS BUSINESS TO MONTGOMERY COUNTY.

(B) THE PROCEEDS OF AN EQUITY INVESTMENT MADE UNDER SUBSECTION (A) OF THIS SECTION MAY BE USED FOR:

(1) WORKING CAPITAL;

(2) SALARIES;

(3) MARKETING MATERIALS;

(4) ACQUISITION OF INVENTORY, EQUIPMENT, OR REAL PROPERTY;

(5) CONSTRUCTION;

(6) RENOVATION;

(7) LEASEHOLD IMPROVEMENTS; OR

(8) RESEARCH AND DEVELOPMENT.

(C) THE COUNTY MAY NOT ACQUIRE AN OWNERSHIP INTEREST EXCEEDING 25% OF ANY ENTERPRISE.

(D) (1) THE TERMS OF AN EQUITY INVESTMENT APPROVED BY THE COUNTY SHALL BE SET FORTH IN A FUNDING AGREEMENT.

(2) A FUNDING AGREEMENT MADE UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL PROHIBIT THE COUNTY FROM:

(I) PARTICIPATING IN THE SELECTION OF THE MANAGEMENT OF THE COMPANY;

(II) ENGAGING IN OVERSIGHT OF THE OPERATION OF THE COMPANY; OR

(III) ASSUMING ANY PRESENT OR FUTURE LIABILITY OF THE COMPANY.

(3) AT THE COUNTY'S DISCRETION, A FUNDING AGREEMENT MADE UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY CONSIST OF:

(I) AN INVESTMENT AGREEMENT;

(II) A LIMITED PARTNERSHIP AGREEMENT;

(III) A PREFERRED STOCK PURCHASE AGREEMENT; OR

(IV) OTHER DOCUMENTS THAT THE COUNTY MAY REQUIRE.

(E) NOTICE OF EACH EQUITY INVESTMENT MADE BY MONTGOMERY COUNTY UNDER SUBSECTION (A) OF THIS SECTION SHALL BE POSTED IN A READILY ACCESSIBLE AND CLEARLY IDENTIFIED LOCATION ON THE MONTGOMERY COUNTY GOVERNMENT WEBSITE WITHIN 5 DAYS AFTER THE DATE ON WHICH THE COUNTY INITIATES THE EQUITY INVESTMENT TRANSACTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 711

(House Bill 899)

AN ACT concerning

Nursing Facility Residents – Home–Based and Community Services – Access Assistance

FOR the purpose of requiring social workers to provide certain nursing facility residents with certain information about certain services under the home– and community–based waiver programs on admission and discharge from the nursing facility; ~~requiring the Department of Health and Mental Hygiene or the Department's designee to provide certain information to certain nursing facility residents within a certain number of days; requiring the Department to provide certain assistance to certain residents within certain time frames;~~ requiring certain employees or representatives of certain designated protection and advocacy systems agencies to have certain access to certain residents; providing for the confidentiality of certain information provided by a nursing facility resident to employees or representatives of designated protection and advocacy systems agencies; ~~prohibiting a nursing facility from denying certain employees~~

~~or representatives access to certain nursing facility residents; providing for a certain penalty and appeal procedures;~~ defining a certain term; and generally relating to providing nursing facility residents access assistance to home–based and community services.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 15–135
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – Health – General

15–135.

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

(2) "DESIGNATED PROTECTION AND ADVOCACY SYSTEMS AGENCY" MEANS A PROTECTION AND ADVOCACY SYSTEMS AGENCY THAT IS DESIGNATED AS AN INDEPENDENT ADVOCATE FOR INDIVIDUALS WITH DISABILITIES UNDER THE FEDERAL DEVELOPMENTAL DISABILITIES ACT.

[(2)**] (3)** "Nursing facility" has the meaning stated in § 15–132(a)(11) of this subtitle.

[(3)**] (4)** "Resident" means an individual receiving long–term care in a nursing facility.

(b) (1) A social worker shall provide to each resident information that:

(i) Explains the availability of services under home– or community–based waiver programs in the State that could enable the resident to live in the community;

(ii) Explains that if the resident's care is partially or fully reimbursed by the Program, the resident may be able to receive long–term care services in the community instead of in the nursing facility;

(iii) Provides information regarding how to obtain case management services or evaluation services related to home– and community–based waiver programs or other options for receiving long–term care services in the community;

(iv) If written, is in large, easily legible type and in formats accessible to the resident; and

(v) Includes a list of legal, advocacy, and government agency resources.

(2) The Department, in consultation with the State agencies that implement the home– and community–based services programs, shall prepare, distribute, and update as necessary the information required under paragraph (1) of this subsection.

(3) The information required under paragraph (1) of this subsection shall be made available to the resident:

(i) Upon admission **[**or**]** **AND** discharge of the resident; and

(ii) When the resident indicates a preference to live in the community, either during the resident's quarterly assessment or at any other time.

(4) The social worker shall request that the resident sign an acknowledgment of receipt of the information provided by the social worker that shall be kept in the resident's medical record.

(c) If a resident indicates an interest in or a preference for living in the community, the nursing facility shall refer the resident to the Department, or the Department's designee, for further assistance.

(d) The Department, or the Department's designee, shall review the quarterly assessments submitted to the Center for Medicare and Medicaid Services of the U.S. Department of Health and Human Services by each nursing facility that participates in the Program to identify individuals indicating a preference to live in the community.

(e) If a resident who would qualify for home– and community–based waiver services under § 15–137 of this subtitle indicates an interest or preference for living in the community, the Department, or the Department's designee, shall provide the resident with:

(1) Additional information regarding home– and community–based services, including services available under a medical assistance waiver and their right to access services under § 15–137 of this subtitle~~**, WITHIN 10 DAYS OF THE RESIDENT'S INITIAL INQUIRY**~~; and

(2) Assistance in:

(i) Completing any application forms or process, as needed~~, WITHIN 10 DAYS OF THE RESIDENT'S INITIAL INQUIRY~~; and

(ii) Moving from a nursing facility to a community–based setting appropriate to the residents' needs and expressed wishes ~~WITHIN 25 DAYS OF THE RESIDENT'S INITIAL INQUIRY OR WITH REASONABLE PROMPTNESS~~.

(f) (1) Subject to paragraph (3) of this subsection, employees or representatives of **DESIGNATED** protection and advocacy **SYSTEMS** agencies and of **CERTIFIED** centers for independent living shall have reasonable and unaccompanied access to residents of public or private nursing facilities in the State that receive reimbursement under the Program for the purpose of providing information, training, and referral to programs and services addressing the needs of people with disabilities, including participation in programs that would enable individuals with disabilities to live outside the nursing facility.

(2) Employees or representatives of **DESIGNATED** protection and advocacy **SYSTEMS** agencies and of **CERTIFIED** centers for independent living shall maintain the confidentiality of the residents and may not disclose the information provided to **OR BY** a resident, except with the express consent of the resident or the resident's legal guardian or health care representative.

(3) Public or private nursing facilities may require the employees or representatives of **DESIGNATED** protection and advocacy **SYSTEMS** agencies and of **CERTIFIED** centers for independent living to provide proof of their employment before authorizing the access required under paragraph (1) of this subsection.

~~(G) (1) A NURSING FACILITY MAY NOT DENY REPRESENTATIVES OF A DESIGNATED PROTECTION AND ADVOCACY SYSTEMS AGENCY ACCESS TO RESIDENTS OF A NURSING FACILITY.~~

~~(2) (I) THE SECRETARY MAY IMPOSE A CIVIL MONEY PENALTY SET BY THE SECRETARY FOR A VIOLATION OF THIS SUBSECTION.~~

~~(II) IF A CIVIL MONEY PENALTY IS IMPOSED UNDER THIS SECTION, THE NURSING FACILITY SHALL HAVE THE RIGHT TO APPEAL FROM AN ORDER IMPOSING THE CIVIL MONEY PENALTY IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.~~

~~[~~(g)~~]~~ ~~(H)~~ On or before January 1 of each year, the Department, and the Department's designee, shall report to the Governor and the General Assembly, in accordance with § 2–1246 of the State Government Article, on:

(1) The Department's efforts to promote home– and community–based services;

(2) The number of nursing facility residents referred or identified under subsections (c) and (d) of this section in the previous year;

(3) The number of nursing facility residents who transitioned from nursing facilities to home– and community–based waiver services;

(4) Any obstacles the Department confronted in assisting nursing home residents to make the transition from a nursing facility to a community–based residence; and

(5) The Department's recommendations for removing the obstacles.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 712

(House Bill 905)

AN ACT concerning

Criminal Law – Prohibitions on Wearing, Carrying, or Transporting Firearms – Exceptions

FOR the purpose of establishing an exception to the prohibition against wearing, carrying, or transporting a handgun for a person who is carrying a certain court order if the handgun is unloaded, the person notifies a certain law enforcement unit that the person is transporting the handgun to the unit in accordance with the court order, and the person transports the handgun directly to the unit; prohibiting a local government from prohibiting a person from transporting a certain firearm, ammunition, or firearm component if the person is carrying a certain court order and, if applicable, the firearm is unloaded, the person notifies a certain law enforcement unit that the person is transporting the firearm, ammunition, or firearm component to the unit in accordance with the court order, and the person transports the firearm, ammunition, or firearm component directly to the unit; authorizing a person who lawfully possesses an assault pistol and who is carrying a certain court order to transport the assault pistol if the assault pistol is unloaded, the person notifies a certain law enforcement unit that the person is transporting the assault pistol to the unit in accordance with the court order, and the person transports the assault pistol directly to the unit; authorizing a person who lawfully possesses a machine gun and who is carrying a certain court order to transport the machine gun if the

machine gun is unloaded, the person notifies a certain law enforcement unit that the person is transporting the machine gun to the unit in accordance with the court order, and the person transports the machine gun directly to the unit; establishing that, notwithstanding any other law, a respondent against whom a certain protective order has been issued and who is carrying the protective order may transport ~~the~~ a firearm if the firearm is unloaded, the ~~person~~ respondent notifies a certain law enforcement unit that the ~~person~~ respondent is transporting the firearm to the unit in accordance with the protective order, and the ~~person~~ respondent transports the firearm directly to the unit; establishing that a respondent who is carrying a certain protective order may transport ~~the~~ a regulated firearm if the regulated firearm is unloaded, the ~~person~~ respondent notifies a certain law enforcement unit that the ~~person~~ respondent is transporting the regulated firearm to the unit in accordance with the protective order, and the ~~person~~ respondent transports the regulated firearm directly to the unit; making stylistic changes; and generally relating to exceptions to the prohibitions on wearing, carrying, or transporting firearms.

BY repealing and reenacting, without amendments,
Article – Criminal Law
Section 4–203(a) and 4–209(a)
Annotated Code of Maryland
(2002 Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 4–203(b)(7) and (8), 4–303, and 4–402(b)
Annotated Code of Maryland
(2002 Volume and 2009 Supplement)

BY adding to
Article – Criminal Law
Section 4–203(b)(9) and 4–209(b)(3)
Annotated Code of Maryland
(2002 Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Family Law
Section 4–506.1
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 5–133(b)(8)
Annotated Code of Maryland
(2003 Volume and 2009 Supplement)

BY adding to
Article – Public Safety
Section 5–133(e)
Annotated Code of Maryland
(2003 Volume and 2009 Supplement)

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

Article – Criminal Law

4–203.

(a) (1) Except as provided in subsection (b) of this section, a person may not:

(i) wear, carry, or transport a handgun, whether concealed or open, on or about the person;

(ii) wear, carry, or knowingly transport a handgun, whether concealed or open, in a vehicle traveling on a road or parking lot generally used by the public, highway, waterway, or airway of the State;

(iii) violate item (i) or (ii) of this paragraph while on public school property in the State; or

(iv) violate item (i) or (ii) of this paragraph with the deliberate purpose of injuring or killing another person.

(2) There is a rebuttable presumption that a person who transports a handgun under paragraph (1)(ii) of this subsection transports the handgun knowingly.

(b) This section does not prohibit:

(7) the wearing, carrying, or transporting of a handgun by a supervisory employee:

(i) in the course of employment;

(ii) within the confines of the business establishment in which the supervisory employee is employed; and

(iii) when so authorized by the owner or manager of the business establishment; **[**or**]**

(8) the carrying or transporting of a signal pistol or other visual distress signal approved by the United States Coast Guard in a vessel on the

waterways of the State or, if the signal pistol or other visual distress signal is unloaded and carried in an enclosed case, in a vehicle**; OR**

(9) THE WEARING, CARRYING, OR TRANSPORTING OF A HANDGUN BY A PERSON WHO IS CARRYING A COURT ORDER REQUIRING THE SURRENDER OF THE HANDGUN, IF:

(I) THE HANDGUN IS UNLOADED;

(II) THE PERSON HAS NOTIFIED THE LAW ENFORCEMENT UNIT, BARRACKS, OR STATION THAT THE HANDGUN IS BEING TRANSPORTED IN ACCORDANCE WITH THE COURT ORDER; AND

(III) THE PERSON TRANSPORTS THE HANDGUN DIRECTLY TO THE LAW ENFORCEMENT UNIT, BARRACKS, OR STATION.

4–209.

(a) Except as otherwise provided in this section, the State preempts the right of a county, municipal corporation, or special taxing district to regulate the purchase, sale, taxation, transfer, manufacture, repair, ownership, possession, and transportation of:

(1) a handgun, rifle, or shotgun; and

(2) ammunition for and components of a handgun, rifle, or shotgun.

(b) **(3) A COUNTY, MUNICIPAL CORPORATION, OR SPECIAL TAXING DISTRICT MAY NOT PROHIBIT THE TRANSPORTATION OF AN ITEM LISTED IN SUBSECTION (A) OF THIS SECTION BY A PERSON WHO IS CARRYING A COURT ORDER REQUIRING THE SURRENDER OF THE ITEM, IF:**

(I) THE HANDGUN, RIFLE, OR SHOTGUN IS UNLOADED;

(II) THE PERSON HAS NOTIFIED THE LAW ENFORCEMENT UNIT, BARRACKS, OR STATION THAT THE ITEM IS BEING TRANSPORTED IN ACCORDANCE WITH THE COURT ORDER; AND

(III) THE PERSON TRANSPORTS THE ITEM DIRECTLY TO THE LAW ENFORCEMENT UNIT, BARRACKS, OR STATION.

4–303.

(a) Except as provided in subsection (b) of this section, a person may not:

(1) transport an assault pistol into the State; or

(2) possess, sell, offer to sell, transfer, purchase, or receive an assault pistol.

(b) A person who lawfully possessed an assault pistol before June 1, 1994**,** and who registered the assault pistol with the Secretary of **[**the**]** State Police before August 1, 1994**,** may**:**

(1) continue to possess the assault pistol**; OR**

(2) WHILE CARRYING A COURT ORDER REQUIRING THE SURRENDER OF THE ASSAULT PISTOL, TRANSPORT THE ASSAULT PISTOL DIRECTLY TO THE LAW ENFORCEMENT UNIT, BARRACKS, OR STATION IF THE PERSON HAS NOTIFIED THE LAW ENFORCEMENT UNIT, BARRACKS, OR STATION THAT THE PERSON IS TRANSPORTING THE ASSAULT PISTOL IN ACCORDANCE WITH A COURT ORDER AND THE ASSAULT PISTOL IS UNLOADED.

4–402.

(b) This subtitle does not prohibit or interfere with:

(1) the manufacture, sale, and transportation of a machine gun for or to a military force or peace officer of the United States, a state, or a political subdivision of a state;

(2) the possession of a machine gun for a scientific purpose;

(3) the possession, as a curiosity, ornament, or keepsake, of a machine gun that cannot be used as a weapon; **[**or**]**

(4) the possession of a machine gun for a purpose that is manifestly not aggressive or offensive**; OR**

(5) THE TRANSPORTATION OF A LAWFULLY POSSESSED MACHINE GUN BY A PERSON WHO IS CARRYING A COURT ORDER REQUIRING THE SURRENDER OF THE MACHINE GUN, IF:

(I) THE MACHINE GUN IS UNLOADED;

(II) THE PERSON HAS NOTIFIED THE LAW ENFORCEMENT UNIT, BARRACKS, OR STATION THAT THE MACHINE GUN IS BEING TRANSPORTED IN ACCORDANCE WITH THE COURT ORDER; AND

(III) THE PERSON TRANSPORTS THE MACHINE GUN DIRECTLY TO THE LAW ENFORCEMENT UNIT, BARRACKS, OR STATION.

Article – Family Law

4–506.1.

(a) If a respondent surrenders a firearm under § 4–505 or § 4–506 of this subtitle, a law enforcement officer shall:

(1) provide to the respondent information on the process for retaking possession of the firearm; and

(2) transport and store the firearm in a protective case, if one is available, and in a manner intended to prevent damage to the firearm during the time the protective order is in effect.

(b) (1) The respondent may retake possession of the firearm at the expiration of a temporary protective order unless:

(i) the respondent is ordered to surrender the firearm in a protective order issued under § 4–506 of this subtitle; or

(ii) the respondent is not otherwise legally entitled to own or possess the firearm.

(2) The respondent may retake possession of the firearm at the expiration of a final protective order unless:

(i) the protective order is extended under § 4–507(a)(2) of this subtitle; or

(ii) the respondent is not otherwise legally entitled to own or possess the firearm.

(C) NOTWITHSTANDING ANY OTHER LAW, A RESPONDENT MAY TRANSPORT A FIREARM IF THE RESPONDENT IS CARRYING A PROTECTIVE ORDER REQUIRING THE SURRENDER OF THE FIREARM AND:

~~(I)~~ (1) THE FIREARM IS UNLOADED;

~~(II)~~ (2) THE RESPONDENT HAS NOTIFIED THE LAW ENFORCEMENT UNIT, BARRACKS, OR STATION THAT THE FIREARM IS BEING TRANSPORTED IN ACCORDANCE WITH THE PROTECTIVE ORDER; AND

~~(III)~~ (3) THE ~~PERSON~~ RESPONDENT TRANSPORTS THE FIREARM DIRECTLY TO THE LAW ENFORCEMENT UNIT, BARRACKS, OR STATION.

Article – Public Safety

5–133.

(b) A person may not possess a regulated firearm if the person:

(8) **EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION,** is a respondent against whom a current non ex parte civil protective order has been entered under § 4–506 of the Family Law Article; or

(E) THIS SECTION DOES NOT APPLY TO A RESPONDENT TRANSPORTING A REGULATED FIREARM IF THE ~~PERSON~~ RESPONDENT IS CARRYING A CIVIL PROTECTIVE ORDER REQUIRING THE SURRENDER OF THE REGULATED FIREARM AND:

(1) THE REGULATED FIREARM IS UNLOADED;

(2) THE RESPONDENT HAS NOTIFIED THE LAW ENFORCEMENT UNIT, BARRACKS, OR STATION THAT THE REGULATED FIREARM IS BEING TRANSPORTED IN ACCORDANCE WITH THE CIVIL PROTECTIVE ORDER; AND

(3) THE ~~PERSON~~ RESPONDENT TRANSPORTS THE REGULATED FIREARM DIRECTLY TO THE LAW ENFORCEMENT UNIT, BARRACKS, OR STATION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Chapter 713

(House Bill 908)

AN ACT concerning

Maryland Clean Energy Center – Miscellaneous Provisions

FOR the purpose of altering the quorum requirement for the Maryland Clean Energy Center Board; altering the minimum vote required for the Board to act; designating employees and officials of the Maryland Clean Energy Center as State personnel under the Maryland Tort Claims Act; *subjecting the Maryland*

Clean Energy Center to the procurement procedures relating to minority business participation; ~~authorizing employees and retirees of the Maryland Clean Energy Center to participate in the State Employee and Retiree Health and Welfare Benefits Program, and requiring the Maryland Clean Energy Center to pay to the State the Center's share of the cost of the Program; authorizing the Maryland Clean Energy Center to participate in the Employees' Pension System;~~ and generally relating to the Maryland Clean Energy Center.

BY repealing and reenacting, with amendments,
Article – Economic Development
Section 10–809 *and 10–814*
Annotated Code of Maryland
(2008 Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 12–101(a)(2)(xii) and (xiii)
Annotated Code of Maryland
(2009 Replacement Volume)

BY adding to
Article – State Government
Section 12–101(a)(2)(xiv)
Annotated Code of Maryland
(2009 Replacement Volume)

~~BY repealing and reenacting, with amendments,~~
~~Article – State Personnel and Pensions~~
~~Section 2–511 and 31–102(2)(xxii) and (xxiii)~~
~~Annotated Code of Maryland~~
~~(2009 Replacement Volume and 2009 Supplement)~~

~~BY repealing and reenacting, without amendments,~~
~~Article – State Personnel and Pensions~~
~~Section 31–101(a) and (f)~~
~~Annotated Code of Maryland~~
~~(2009 Replacement Volume and 2009 Supplement)~~

~~BY adding to~~
~~Article – State Personnel and Pensions~~
~~Section 31–102(2)(xxiv)~~
~~Annotated Code of Maryland~~
~~(2009 Replacement Volume and 2009 Supplement)~~

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

Article – Economic Development

10–809.

(a) The Board shall determine the times and places of its meetings.

(b) (1) **[**Six members**]** ~~**EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A**~~ ***A*** **MAJORITY OF THE APPOINTED AND QUALIFIED MEMBERS** of the Board **[**are**]** **IS** a quorum.

(2) ~~**NO LESS THAN FOUR MEMBERS OF THE BOARD SHALL CONSTITUTE A QUORUM.**~~

~~**(C)**~~ ~~**(1)**~~ ~~**[**The**] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE**~~ ***THE*** Board may act with an affirmative vote of **[**five Board members**]** **A MAJORITY OF THE APPOINTED AND QUALIFIED MEMBERS OF THE BOARD**.

~~**(2)**~~ ~~**THE BOARD MAY NOT ACT WITH AN AFFIRMATIVE VOTE OF LESS THAN FOUR BOARD MEMBERS.**~~

10–814.

(a) Except as provided in subsections (b), (c), and (e) of this section, the Center is exempt from:

(1) Title 10 and Division II of the State Finance and Procurement Article; and

(2) §§ 10–505 and 10–507 of the State Government Article.

(b) The Center is subject to the Public Information Act.

(c) The Board and the officers and employees of the Center are subject to the Public Ethics Law.

(d) The officers and employees of the Center are not subject to the provisions of Division I of the State Personnel and Pensions Article that govern the State Personnel Management System.

(e) The Center, its Board, and employees are subject to Title 12, Subtitle 4 ***AND TITLE 14, SUBTITLE 3*** *of the State Finance and Procurement Article.*

(f) The Center is a public body under Title 5, Subtitle 4 of this article, the Maryland Industrial Development Financing Authority Act, for purposes of applying for, receiving, and making agreements in connection with:

(1) a loan;

(2) a grant;

(3) insurance; or

(4) any other form of financial assistance.

Article – State Government

12–101.

(a) In this subtitle, unless the context clearly requires otherwise, "State personnel" means:

(2) an employee or official of the:

(xii) Somers Cove Marina Commission; **[**and**]**

(xiii) Maryland Workforce Corporation; **AND**

(XIV) MARYLAND CLEAN ENERGY CENTER;

~~**Article – State Personnel and Pensions**~~

~~2–511.~~

~~(a) This section applies to employees of the Maryland Environmental Service, **MARYLAND CLEAN ENERGY CENTER,** and Northeast Maryland Waste Disposal Authority.~~

~~(b) Subject to the regulations adopted under § 2–503 of this subtitle, an employee or, while receiving an allowance under the Employees' Retirement System of the State of Maryland or the Employees' Pension System of the State of Maryland, an employee's surviving spouse:~~

~~(1) may enroll and participate in the health insurance or other benefit options established under the Program; and~~

~~(2) except as provided in subsection (d) of this section, is subject to the same terms and conditions as those provided under § 2–507 of this subtitle.~~

~~(c) While receiving an allowance under the Employees' Retirement System of the State of Maryland or the Employees' Pension System of the State of Maryland, a former employee or a former employee's surviving spouse or dependent child:~~

~~(1) may enroll and participate in the health insurance benefit options established under the Program; and~~

~~(2) except as provided in subsection (d) of this section, is subject to the same terms and conditions as those provided under § 2–508 of this subtitle, with the employee's service with the Maryland Environmental Service~~**~~, MARYLAND CLEAN ENERGY CENTER,~~**~~ and Northeast Maryland Waste Disposal Authority being included as part of the employee's State service.~~

~~(d) For each participant under this section, the Maryland Environmental Service,~~ **~~THE MARYLAND CLEAN ENERGY CENTER,~~** ~~and the Northeast Maryland Waste Disposal Authority or any successor agency, shall pay to the State the respective employer share of the cost of the Program based on the State subsidy allowed under this subtitle.~~

~~31–101.~~

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

~~(f) "Employees' system" means the Employees' Retirement System or the Employees' Pension System.~~

~~31–102.~~

~~Subject to § 22–202(b) of this article, the governmental units that are eligible to participate in the employees' systems are:~~

~~(2) the following governmental units:~~

~~(xxii) subject to § 31–106.1 of this subtitle, the Maryland African American Museum Corporation;~~ **[**~~and~~**]**

~~(xxiii) the Garrett County Office for Children, Youth and Families~~**~~; AND~~**

~~(XXIV) THE MARYLAND CLEAN ENERGY CENTER, AND, TO THE EXTENT AUTHORIZED BY AND IN THE MANNER PRESCRIBED BY FEDERAL LAW, EMPLOYEES HIRED THROUGH THE MARYLAND ENVIRONMENTAL SERVICE WHO ARE ASSIGNED TO THE MARYLAND CLEAN ENERGY CENTER.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.