Laws

of the

State of Maryland

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

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Chapter 164

(Senate Bill 174)

AN ACT concerning

Criminal Law – ~~Use of Firearm in the Commission of a Crime of Violence or a Felony~~ *Restrictions Against Use and Possession of Firearms*

FOR the purpose of ~~prohibiting the use of certain firearms in the commission of certain crimes of violence or felonies;~~ *expanding the prohibition against the use of handguns and certain antique firearms in the commission of certain crimes of violence or felonies to include the use of any firearm, whether loaded or unloaded; altering the predicate crimes and increasing the maximum term of imprisonment applicable to a violation of the prohibition against a person who was previously convicted of a certain crime of violence or drug–related crime possessing a certain regulated firearm; providing that the imposition of certain mandatory minimum sentences are within the discretion of the court under certain circumstances; providing that certain mandatory minimum sentences may not be imposed unless the State's Attorney notifies a certain person in writing at a certain time of the State's intention to seek a certain sentence; prohibiting a person from possessing a rifle or shotgun if the person was previously convicted of a certain crime of violence or drug–related crime; establishing certain penalties; providing that each violation of a certain provision of law is a separate crime;* defining a certain term; and generally relating to the use ~~of certain firearms in the commission of certain crimes of violence or felonies~~ *and possession of firearms*.

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 4–204
Annotated Code of Maryland
(2002 Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 5–133(c)
Annotated Code of Maryland
(2003 Volume and 2010 Supplement)

BY repealing and reenacting, without amendments,
Article – Public Safety
Section 5–143
Annotated Code of Maryland
(2003 Volume and 2010 Supplement)

BY adding to

Article – Public Safety
Section 5–206
Annotated Code of Maryland
(2003 Volume and 2010 Supplement)

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

Article – Criminal Law

4–204.

(a) **(1) IN THIS SECTION, "FIREARM" MEANS:**

(I) A WEAPON THAT EXPELS, IS DESIGNED TO EXPEL, OR MAY READILY BE CONVERTED TO EXPEL A PROJECTILE BY THE ACTION OF AN EXPLOSIVE; OR

(II) THE FRAME OR RECEIVER OF SUCH A WEAPON.

(2) "FIREARM" INCLUDES AN ANTIQUE FIREARM, HANDGUN, RIFLE, SHOTGUN, SHORT–BARRELED RIFLE, SHORT–BARRELED SHOTGUN, STARTER GUN, OR ANY OTHER FIREARM, WHETHER LOADED OR UNLOADED.

(B) A person may not use **[**an antique firearm capable of being concealed on the person or any handgun**]** **A FIREARM** in the commission of a crime of violence, as defined in § 5–101 of the Public Safety Article, or any felony, whether the **[**antique firearm or handgun**]** **FIREARM** is operable or inoperable at the time of the crime.

[(b)**]** **(C)** (1) (i) A person who violates this section is guilty of a misdemeanor and, in addition to any other penalty imposed for the crime of violence or felony, shall be sentenced to imprisonment for not less than 5 years and not exceeding 20 years.

(ii) The court may not impose less than the minimum sentence of 5 years and, except as otherwise provided in § 4–305 of the Correctional Services Article, the person is not eligible for parole in less than 5 years.

(2) For each subsequent violation, the sentence shall be consecutive to and not concurrent with any other sentence imposed for the crime of violence or felony.

Article – Public Safety

5–133.

(c) (1) A person may not possess a regulated firearm if the person was previously convicted of:

(i) a crime of violence; or

*(ii) a violation of § 5–602, § 5–603, § 5–604, § 5–605, **[**§ 5–606, § 5–607, § 5–608, § 5–609,**]** § 5–612, § 5–613, or § 5–614 of the Criminal Law Article.*

*(2) **(I) [**A**] SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, A** person who violates this subsection is guilty of a felony and on conviction is subject to imprisonment for not less than 5 years**[**, no part of which may be suspended.*

*(3) A person sentenced under paragraph (1) of this subsection may not be eligible for parole**] AND NOT EXCEEDING 15 YEARS.***

(II) THE COURT MAY NOT SUSPEND ANY PART OF THE MANDATORY MINIMUM SENTENCE OF 5 YEARS.

(III) EXCEPT AS OTHERWISE PROVIDED IN § 4–305 OF THE CORRECTIONAL SERVICES ARTICLE, THE PERSON IS NOT ELIGIBLE FOR PAROLE DURING THE MANDATORY MINIMUM SENTENCE.

(3) AT THE TIME OF THE COMMISSION OF THE OFFENSE, IF A PERIOD OF MORE THAN 5 YEARS HAS ELAPSED SINCE THE PERSON COMPLETED SERVING THE SENTENCE FOR THE MOST RECENT CONVICTION UNDER SUBSECTION (C)(1)(I) OR (II) OF THIS SECTION, INCLUDING ALL IMPRISONMENT, MANDATORY SUPERVISION, PROBATION, AND PAROLE:

(I) THE IMPOSITION OF THE MANDATORY MINIMUM SENTENCE IS WITHIN THE DISCRETION OF THE COURT; AND

(II) THE MANDATORY MINIMUM SENTENCE MAY NOT BE IMPOSED UNLESS THE STATE'S ATTORNEY NOTIFIES THE PERSON IN WRITING AT LEAST 30 DAYS BEFORE TRIAL OF THE STATE'S INTENTION TO SEEK THE MANDATORY MINIMUM SENTENCE.

(4) Each violation of this subsection is a separate crime.

5–143.

(a) Except as otherwise provided in this subtitle, a dealer or other person may not knowingly participate in the illegal sale, rental, transfer, purchase, possession, or receipt of a regulated firearm in violation of this subtitle.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding $10,000 or both.

(c) Each violation of this section is a separate crime.

5–206.

(A) A PERSON MAY NOT POSSESS A RIFLE OR SHOTGUN IF THE PERSON WAS PREVIOUSLY CONVICTED OF:

(1) A CRIME OF VIOLENCE; OR

(2) A VIOLATION OF § 5–602, § 5–603, § 5–604, § 5–605, § 5–612, § 5–613, OR § 5–614 OF THE CRIMINAL LAW ARTICLE.

(B) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 15 YEARS.

(C) EACH VIOLATION OF THIS SUBSECTION IS A SEPARATE CRIME.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 165

(House Bill 241)

AN ACT concerning

Criminal Law – Restrictions Against Use and Possession of Firearms

FOR the purpose of expanding the prohibition against the use of handguns and certain antique firearms in the commission of certain crimes of violence or felonies to include the use of any firearm, whether loaded or unloaded; altering the predicate crimes and increasing the maximum term of imprisonment applicable to a violation of the prohibition against a ~~certain~~ person who was previously convicted of a certain crime of violence or drug–related crime possessing a certain regulated firearm; providing that the imposition of certain mandatory minimum sentences are within the discretion of the court under certain circumstances; providing that certain mandatory minimum sentences may not be imposed unless the State's Attorney notifies a certain person in writing at a

certain time of the State's intention to seek a certain sentence; prohibiting a person from possessing a rifle or shotgun if the person was previously convicted of a certain crime of violence or drug–related crime; establishing certain penalties; ~~prohibiting a certain court from suspending any part of a certain sentence; providing that a certain person is not eligible for parole during a certain mandatory minimum sentence, with a certain exception;~~ providing that each violation of a certain provision of law is a separate crime; defining a certain term; and generally relating to the use and possession of firearms.

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 4–204
Annotated Code of Maryland
(2002 Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 5–133(c)
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(2) "FIREARM" INCLUDES AN ANTIQUE FIREARM, HANDGUN, RIFLE, SHOTGUN, SHORT–BARRELED RIFLE, SHORT–BARRELED SHOTGUN, STARTER GUN, OR ANY OTHER FIREARM, WHETHER LOADED OR UNLOADED.

(B) A person may not use **[**an antique firearm capable of being concealed on the person or any handgun**] A FIREARM** in the commission of a crime of violence, as defined in § 5–101 of the Public Safety Article, or any felony, whether the **[**antique firearm or handgun**] FIREARM** is operable or inoperable at the time of the crime.

[(b)**] (C)** (1) (i) A person who violates this section is guilty of a misdemeanor and, in addition to any other penalty imposed for the crime of violence or felony, shall be sentenced to imprisonment for not less than 5 years and not exceeding 20 years.

(ii) The court may not impose less than the minimum sentence of 5 years and, except as otherwise provided in § 4–305 of the Correctional Services Article, the person is not eligible for parole in less than 5 years.

(2) For each subsequent violation, the sentence shall be consecutive to and not concurrent with any other sentence imposed for the crime of violence or felony.

Article – Public Safety

5–133.

(c) (1) A person may not possess a regulated firearm if the person was previously convicted of:

(i) a crime of violence; or

(ii) a violation of § 5–602, § 5–603, § 5–604, § 5–605, ~~§ 5–606, § 5–607, § 5–608, § 5–609,~~ § 5–612, § 5–613, or § 5–614 of the Criminal Law Article.

(2) **(I) [**A**] SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, A** person who violates this subsection is guilty of a felony and on conviction is subject to imprisonment for not less than 5 years**[**, no part of which may be suspended.

(3) A person sentenced under paragraph (1) of this subsection may not be eligible for parole**] AND NOT EXCEEDING 15 YEARS.**

(II) THE COURT MAY NOT SUSPEND ANY PART OF THE MANDATORY MINIMUM SENTENCE OF 5 YEARS.

(III) EXCEPT AS OTHERWISE PROVIDED IN § 4–305 OF THE CORRECTIONAL SERVICES ARTICLE, THE PERSON IS NOT ELIGIBLE FOR PAROLE DURING THE MANDATORY MINIMUM SENTENCE.

(3) AT THE TIME OF THE COMMISSION OF THE OFFENSE, IF A PERIOD OF MORE THAN 5 YEARS HAS ELAPSED SINCE THE PERSON COMPLETED SERVING THE SENTENCE FOR THE MOST RECENT CONVICTION UNDER SUBSECTION (C)(1)(I) OR (II) OF THIS SECTION, INCLUDING ALL IMPRISONMENT, MANDATORY SUPERVISION, PROBATION, AND PAROLE:

(I) THE IMPOSITION OF THE MANDATORY MINIMUM SENTENCE IS WITHIN THE DISCRETION OF THE COURT; AND

(II) THE MANDATORY MINIMUM SENTENCE MAY NOT BE IMPOSED UNLESS THE STATE'S ATTORNEY NOTIFIES THE PERSON IN WRITING AT LEAST 30 DAYS BEFORE TRIAL OF THE STATE'S INTENTION TO SEEK THE MANDATORY MINIMUM SENTENCE.

(4) Each violation of this subsection is a separate crime.

5–143.

(a) Except as otherwise provided in this subtitle, a dealer or other person may not knowingly participate in the illegal sale, rental, transfer, purchase, possession, or receipt of a regulated firearm in violation of this subtitle.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding $10,000 or both.

(c) Each violation of this section is a separate crime.

5–206.

(A) A PERSON MAY NOT POSSESS A RIFLE OR SHOTGUN IF THE PERSON WAS PREVIOUSLY CONVICTED OF:

(1) A CRIME OF VIOLENCE; OR

(2) A VIOLATION OF § 5–602, § 5–603, § 5–604, § 5–605, ~~§ 5–606, § 5–607, § 5–608, § 5–609,~~ § 5–612, § 5–613, OR § 5–614 OF THE CRIMINAL LAW ARTICLE.

(B) ~~(1) SUBJECT TO SUBSECTION (C) OF THIS SECTION, A~~ A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY AND ON CONVICTION IS

SUBJECT TO IMPRISONMENT ~~FOR NOT LESS THAN 5 YEARS AND~~ NOT EXCEEDING 15 YEARS.

~~**(2) THE COURT MAY NOT SUSPEND ANY PART OF THE MANDATORY MINIMUM SENTENCE OF 5 YEARS.**~~

~~**(3) EXCEPT AS OTHERWISE PROVIDED IN § 4-305 OF THE CORRECTIONAL SERVICES ARTICLE, THE PERSON IS NOT ELIGIBLE FOR PAROLE DURING THE MANDATORY MINIMUM SENTENCE.**~~

~~**(C) AT THE TIME OF THE COMMISSION OF THE OFFENSE, IF A PERIOD OF MORE THAN 5 YEARS HAS ELAPSED SINCE THE PERSON COMPLETED SERVING THE SENTENCE FOR THE MOST RECENT CONVICTION UNDER SUBSECTION (A)(1) OR (2) OF THIS SECTION, INCLUDING ALL IMPRISONMENT, MANDATORY SUPERVISION, PROBATION, AND PAROLE:**~~

~~**(1) THE IMPOSITION OF THE MANDATORY MINIMUM SENTENCE IS WITHIN THE DISCRETION OF THE COURT; AND**~~

~~**(2) THE MANDATORY MINIMUM SENTENCE MAY NOT BE IMPOSED UNLESS THE STATE'S ATTORNEY NOTIFIES THE PERSON IN WRITING AT LEAST 30 DAYS BEFORE TRIAL OF THE STATE'S INTENTION TO SEEK THE MANDATORY MINIMUM SENTENCE.**~~

~~**(D)**~~ **(C) EACH VIOLATION OF THIS SUBSECTION IS A SEPARATE CRIME.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 166

(Senate Bill 883)

AN ACT concerning

Prescription Drug Monitoring Program

FOR the purpose of establishing the Prescription Drug Monitoring Program in the Department of Health and Mental Hygiene; establishing the mission of the Program; requiring the Program to carry out its mission by monitoring the prescribing and dispensing of certain substances by certain prescribers and

dispensers; establishing the powers and duties of the Department and the Secretary of Health and Mental Hygiene under the Program; requiring dispensers to submit electronically certain information to the Program except in certain circumstances; establishing the Advisory Board on Prescription Drug Monitoring to assist in the design, implementation, and evaluation of the Program; establishing the membership, chair, terms of members, staff support, reimbursement, and responsibilities of the Board; specifying the terms of the initial appointed members of the Board; requiring the Secretary by regulation to establish training protocols and guidelines to assist in the interpretation and evaluation of prescription monitoring data; establishing a technical advisory committee to the Program; establishing the membership and duties of the technical advisory committee; providing that prescription monitoring data are confidential and privileged and not subject to certain means of legal compulsion except under certain circumstances; requiring the Program to disclose prescription monitoring data to certain agencies and persons under certain circumstances; requiring the technical advisory committee to review certain information and provide certain guidance before the Program discloses information to certain agencies and persons; authorizing the Program to disclose prescription monitoring data for certain purposes under certain circumstances; authorizing the Office of the Attorney General to seek certain relief to maintain the confidentiality of prescription monitoring data; authorizing the Program to provide prescription monitoring data to another state's prescription drug monitoring program under certain circumstances; authorizing the Program to request, receive, and use prescription monitoring data from another state's prescription drug monitoring program; authorizing the Program to enter into certain agreements with other states' prescription drug monitoring programs; prohibiting prescription monitoring data from being used as the basis for imposing clinical practice standards; establishing immunity from liability for certain agencies and persons relating to the operation and use of the Program; establishing penalties and disciplinary action for violations of the requirements of the Program; providing that the release of prescription monitoring data in a certain manner is not a violation of the requirements of the Program; providing for the termination of certain provisions of this Act and certain regulations, subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act; requiring a certain evaluation of the Program to be made on or before a certain date; requiring the Program to develop a mechanism to allow certain persons to correct erroneous data reported to the Program; requiring the Department and the Board to report to the Governor and certain committees of the General Assembly on or before a certain date on certain matters relating to the Program; declaring the intent of the General Assembly regarding technology used by the Program; defining certain terms; and generally relating to the establishment and operation of the Prescription Drug Monitoring Program.

BY renumbering
Article – State Government
Section 8–403(b)(54) through (68), respectively

to be Section 8–403(b)(55) through (69), respectively
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

BY adding to
Article – Health – General
Section 21–2A–01 through ~~21–2A–09~~ 21–2A–10 to be under the new subtitle "Subtitle 2A. Prescription Drug Monitoring Program"
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, without amendments,
Article – State Government
Section 8–403(a)
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

BY adding to
Article – State Government
Section 8–403(b)(54)
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

Preamble

WHEREAS, Thousands of Marylanders suffer from chronic pain and other conditions that make access to pain medications and other pharmaceutical therapies necessary and beneficial; and

WHEREAS, Increasing numbers of Maryland adults and adolescents are engaging in prescription drug abuse and diversion to the detriment of their health and welfare; and

WHEREAS, Maryland should have a Prescription Drug Monitoring Program that supports the lawful use of controlled substances without interfering with legitimate professional practice and patient care; and

WHEREAS, A Prescription Drug Monitoring Program should assist health care and public health~~, public health, and law enforcement~~ professionals in the identification~~, treatment,~~ and prevention of prescription drug abuse and in the identification and investigation of unlawful prescription drug diversion; and

WHEREAS, Data concerning monitored prescription drugs under a Prescription Drug Monitoring Program would be available for research purposes, including research about the effects of the Prescription Drug Monitoring Program; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 8–403(b)(54) through (68), Respectively, of Article – State Government of the Annotated Code of Maryland be renumbered to be Section(s) 8–403(b)(55) through (69), respectively.

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

Article – Health – General

SUBTITLE 2A. PRESCRIPTION DRUG MONITORING PROGRAM.

21–2A–01.

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

(B) "BOARD" MEANS THE ADVISORY BOARD ON PRESCRIPTION DRUG MONITORING.

(C) (1) "DISPENSE" HAS THE MEANING STATED IN § 12–101 OF THE HEALTH OCCUPATIONS ARTICLE.

(2) "DISPENSE" DOES NOT INCLUDE:

(I) DIRECTLY ADMINISTERING A MONITORED PRESCRIPTION DRUG TO A PATIENT; OR

(II) GIVING OUT PRESCRIPTION DRUG SAMPLES.

(D) (1) "DISPENSER" MEANS A PERSON AUTHORIZED BY LAW TO DISPENSE A MONITORED PRESCRIPTION DRUG TO A PATIENT OR THE PATIENT'S AGENT IN THE STATE.

(2) "DISPENSER" INCLUDES A NONRESIDENT PHARMACY.

(3) "DISPENSER" DOES NOT INCLUDE:

(I) A LICENSED HOSPITAL PHARMACY THAT ONLY DISPENSES A MONITORED PRESCRIPTION DRUG FOR DIRECT ADMINISTRATION TO AN INPATIENT OF THE HOSPITAL; ~~AND~~

(II) AN OPIOID MAINTENANCE PROGRAM;

(III) A VETERINARIAN LICENSED UNDER TITLE 2, SUBTITLE 3 OF THE AGRICULTURE ARTICLE WHEN PRESCRIBING CONTROLLED SUBSTANCES FOR ANIMALS IN THE USUAL COURSE OF PROVIDING PROFESSIONAL SERVICES;

(IV) A PHARMACY ISSUED A WAIVER PERMIT UNDER COMAR 10.34.17.03 THAT PROVIDES PHARMACEUTICAL SPECIALTY SERVICES EXCLUSIVELY TO PERSONS LIVING IN ASSISTED LIVING FACILITIES, COMPREHENSIVE CARE FACILITIES, AND DEVELOPMENTAL DISABILITIES FACILITIES; AND

(V) A PHARMACY THAT:

1. DISPENSES MEDICATIONS TO AN INPATIENT HOSPICE; AND

2. HAS BEEN GRANTED A WAIVER UNDER § 21–2A–03(F) OF THIS SUBTITLE.

(E) "LICENSING ENTITY" MEANS AN ENTITY AUTHORIZED UNDER THE HEALTH OCCUPATIONS ARTICLE TO LICENSE, REGULATE, OR DISCIPLINE A PRESCRIBER OR DISPENSER.

(F) "MONITORED PRESCRIPTION DRUG" MEANS A PRESCRIPTION DRUG THAT CONTAINS A SCHEDULE II, SCHEDULE III, SCHEDULE IV, OR SCHEDULE V CONTROLLED DANGEROUS SUBSTANCE DESIGNATED UNDER TITLE 5, SUBTITLE 4 OF THE CRIMINAL LAW ARTICLE.

(G) "OPIOID MAINTENANCE PROGRAM" MEANS A PROGRAM THAT:

(1) IS LICENSED BY THE STATE UNDER § 8–404 OF THIS ARTICLE;

(2) IS AUTHORIZED TO TREAT PATIENTS WITH OPIOID DEPENDENCE WITH A MEDICATION APPROVED BY THE FEDERAL FOOD AND DRUG ADMINISTRATION FOR OPIOID DEPENDENCE;

(3) COMPLIES WITH:

(I) THE CODE OF FEDERAL REGULATIONS 42, PART 8;

(II) COMAR 10.47.02.11; AND

(III) REQUIREMENTS FOR THE SECURE STORAGE AND ACCOUNTING OF OPIOID MEDICATION IMPOSED BY THE FEDERAL DRUG

ENFORCEMENT ADMINISTRATION AND THE STATE DIVISION OF DRUG CONTROL; AND

(4) HAS BEEN GRANTED A CERTIFICATION FOR OPERATION BY THE DEPARTMENT, THE FEDERAL SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION, AND THE FEDERAL CENTER FOR SUBSTANCE ABUSE TREATMENT.

~~(G)~~ (H) "PRESCRIBER" MEANS A LICENSED HEALTH CARE PROFESSIONAL AUTHORIZED BY LAW TO PRESCRIBE A MONITORED PRESCRIPTION DRUG.

~~(H)~~ (I) "PRESCRIPTION DRUG" HAS THE MEANING STATED IN § 21–201 OF THIS TITLE.

~~(I)~~ (J) "PRESCRIPTION MONITORING DATA" MEANS THE INFORMATION SUBMITTED TO THE PROGRAM FOR A MONITORED PRESCRIPTION DRUG.

~~(J)~~ (K) "PROGRAM" MEANS THE PRESCRIPTION DRUG MONITORING PROGRAM ESTABLISHED UNDER THIS SUBTITLE.

21–2A–02.

(A) THERE IS A PRESCRIPTION DRUG MONITORING PROGRAM IN THE DEPARTMENT.

(B) THE MISSION OF THE PROGRAM IS TO:

(1) ASSIST PRESCRIBERS, DISPENSERS, AND PUBLIC HEALTH PROFESSIONALS IN:

(I) THE IDENTIFICATION~~, TREATMENT,~~ AND PREVENTION OF PRESCRIPTION DRUG ABUSE; AND

(II) THE IDENTIFICATION AND INVESTIGATION OF UNLAWFUL PRESCRIPTION DRUG DIVERSION; AND

(2) PROMOTE A BALANCED USE OF PRESCRIPTION MONITORING DATA TO ASSIST APPROPRIATE LAW ENFORCEMENT ACTIVITIES WHILE PRESERVING THE PROFESSIONAL PRACTICE OF HEALTH CARE PROVIDERS AND THE ACCESS OF PATIENTS TO OPTIMAL PHARMACEUTICAL CARE.

(C) TO CARRY OUT ITS MISSION, THE PROGRAM SHALL MONITOR THE PRESCRIBING AND DISPENSING OF ALL SCHEDULE II, SCHEDULE III, SCHEDULE IV, AND SCHEDULE V CONTROLLED DANGEROUS SUBSTANCES BY ALL PRESCRIBERS AND DISPENSERS IN THE STATE.

21–2A–03.

(A) THE DEPARTMENT SHALL IMPLEMENT THE PROGRAM, SUBJECT TO THE AVAILABILITY OF FUNDS.

(B) THE SECRETARY MAY:

(1) ASSIGN RESPONSIBILITY FOR THE OPERATION OF THE PROGRAM TO ANY UNIT IN THE DEPARTMENT; AND

(2) CONTRACT WITH ANY QUALIFIED PERSON FOR THE EFFICIENT AND ECONOMICAL OPERATION OF THE PROGRAM.

(C) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, EACH DISPENSER SHALL SUBMIT PRESCRIPTION MONITORING DATA TO THE PROGRAM BY ELECTRONIC MEANS, IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE SECRETARY.

(D) THE SECRETARY, FOR GOOD CAUSE SHOWN, MAY AUTHORIZE A DISPENSER TO SUBMIT PRESCRIPTION MONITORING DATA BY AN ALTERNATIVE FORM OF SUBMISSION.

(E) THE SECRETARY, IN CONSULTATION WITH THE MARYLAND HEALTH CARE COMMISSION AND THE BOARD, SHALL:

(1) ~~ESTABLISH A WEB SITE FOR THE PROGRAM~~ DETERMINE THE APPROPRIATE TECHNOLOGY TO SUPPORT THE OPERATION OF THE PROGRAM; AND

(2) EDUCATE DISPENSERS, PRESCRIBERS, AND CONSUMERS ABOUT THE PURPOSE AND OPERATION OF THE PROGRAM.

(F) (1) THE SECRETARY SHALL GRANT A WAIVER TO A PHARMACY THAT DISPENSES MEDICATIONS TO AN INPATIENT HOSPICE FROM REPORTING TO THE PROGRAM PRESCRIPTION MONITORING DATA FOR HOSPICE INPATIENTS IF:

(I) THE PHARMACY DEMONSTRATES HOW IT WILL DISTINGUISH HOSPICE INPATIENTS FROM OTHER CONSUMERS RECEIVING MEDICATIONS FROM THE PHARMACY; AND

(II) THE PHARMACY AGREES THAT IT WILL BE SUBJECT TO ONSITE, UNANNOUNCED INSPECTIONS BY THE DEPARTMENT TO VERIFY ITS REPORTING OF THE PRESCRIPTION DATA OF CONSUMERS WHO ARE NOT HOSPICE INPATIENTS.

(2) A WAIVER GRANTED UNDER THIS SUBSECTION MAY REMAIN IN EFFECT FOR UP TO 2 YEARS.

(3) THE SECRETARY MAY ESTABLISH AN APPLICATION PROCESS FOR A PHARMACY TO APPLY FOR A WAIVER UNDER THIS SUBSECTION.

21–2A–04.

(A) THE SECRETARY, IN CONSULTATION WITH THE BOARD, SHALL ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

(B) THE REGULATIONS ADOPTED BY THE SECRETARY SHALL:

(1) SPECIFY THE PRESCRIPTION MONITORING DATA REQUIRED TO BE SUBMITTED UNDER § 21–2A–03 OF THIS SUBTITLE;

(2) SPECIFY THE ELECTRONIC OR OTHER MEANS BY WHICH INFORMATION IS TO BE SUBMITTED:

(I) WITHOUT UNDULY INCREASING THE WORKLOAD AND EXPENSE ON DISPENSERS ~~AND PRESCRIBERS~~; AND

(II) IN A MANNER AS COMPATIBLE AS POSSIBLE WITH EXISTING DATA SUBMISSION PRACTICES OF DISPENSERS;

(3) SPECIFY THAT THE PROGRAM:

(I) SHALL PROVIDE THE INFORMATION TECHNOLOGY SOFTWARE TO DISPENSERS NECESSARY TO UPLOAD PRESCRIPTION DRUG MONITORING DATA TO THE PROGRAM; AND

(II) MAY NOT IMPOSE ANY FEES OR OTHER ASSESSMENTS ON PRESCRIBERS OR DISPENSERS TO SUPPORT THE OPERATION OF THE PROGRAM;

~~(3)~~ (4) SPECIFY THAT A PRESCRIBER OR DISPENSER IS NOT REQUIRED OR OBLIGATED TO ACCESS OR USE PRESCRIPTION MONITORING DATA AVAILABLE UNDER THE PROGRAM;

~~(4)~~ (5) IDENTIFY THE MECHANISM BY WHICH PRESCRIPTION MONITORING DATA ARE DISCLOSED TO A PERSON, IN ACCORDANCE WITH § 21–2A–07 OF THIS SUBTITLE;

~~(5)~~ (6) IDENTIFY THE CIRCUMSTANCES UNDER WHICH A PERSON MAY DISCLOSE PRESCRIPTION MONITORING DATA RECEIVED UNDER THE PROGRAM;

~~(6) ESTABLISH TRAINING PROTOCOLS AND GUIDELINES TO ASSIST LAW ENFORCEMENT AGENCIES AND LICENSING ENTITIES IN THE APPROPRIATE INTERPRETATION AND EVALUATION OF PRESCRIPTION MONITORING DATA IN THE CONTEXT OF THE NATURE OF:~~

~~(I) A PRESCRIBER'S OR DISPENSER'S PRACTICE;~~

~~(II) A PATIENT'S MEDICAL CONDITION; OR~~

~~(III) ANY OTHER RELEVANT FACTS;~~

(7) ESTABLISH REQUIREMENTS FOR PROGRAM RETENTION OF PRESCRIPTION MONITORING DATA FOR 3 YEARS; AND

(8) REQUIRE THAT:

(I) CONFIDENTIAL OR PRIVILEGED PATIENT INFORMATION BE KEPT CONFIDENTIAL; AND

(II) RECORDS OR INFORMATION PROTECTED BY A PRIVILEGE BETWEEN A HEALTH CARE PROVIDER AND A PATIENT, OR OTHERWISE REQUIRED BY LAW TO BE HELD CONFIDENTIAL, BE FILED IN A MANNER THAT, EXCEPT AS OTHERWISE PROVIDED IN ~~§ 21–2A–07~~ § 21–2A–06 OF THIS SUBTITLE, DOES NOT DISCLOSE THE IDENTITY OF THE PERSON PROTECTED.

21–2A–05.

(A) THERE IS AN ~~ADVISORY BOARD ON PRESCRIPTION DRUG MONITORING~~ ADVISORY BOARD ON PRESCRIPTION DRUG MONITORING IN THE DEPARTMENT.

~~(B) THE SECRETARY SHALL APPOINT MEMBERS TO THE BOARD, INCLUDING MEMBERS REPRESENTING THE PERSPECTIVE OF:~~

~~(1) PRESCRIBERS;~~

~~(2) DISPENSERS;~~

~~(3) LICENSING ENTITIES;~~

~~(4) HEALTH CARE PRACTITIONERS WITH EXPERTISE IN THE AREAS OF PAIN MANAGEMENT, SUBSTANCE ABUSE TREATMENT, AND ADDICTION TREATMENT;~~

~~(5) LAW ENFORCEMENT;~~

~~(6) PAIN PATIENTS; AND~~

~~(7) ANY OTHER INDIVIDUAL OR REPRESENTATIVE AT THE SECRETARY'S DISCRETION.~~

~~(C) THE SECRETARY SHALL:~~

~~(1) DESIGNATE THE CHAIR OF THE BOARD;~~

~~(2) DETERMINE THE NUMBER OF BOARD MEMBERS AND ENSURE BALANCED REPRESENTATION ON THE BOARD OF THE GROUPS DESCRIBED IN SUBSECTION (B) OF THIS SECTION;~~

~~(3) DETERMINE THE TERMS OF BOARD MEMBERS;~~

~~(4) FILL VACANCIES ON THE BOARD; AND~~

~~(5) PROVIDE STAFF SUPPORT FOR THE BOARD.~~

(B) THE BOARD SHALL CONSIST OF THE FOLLOWING MEMBERS:

(1) THE SECRETARY, OR THE SECRETARY'S DESIGNEE;

(2) THE PRESIDENT OF THE MARYLAND BOARD OF PHARMACY, OR THE PRESIDENT'S DESIGNEE;

(3) THE CHAIR OF THE MARYLAND BOARD OF PHYSICIANS, OR THE CHAIR'S DESIGNEE;

(4) THE PRESIDENT OF THE MARYLAND BOARD OF NURSING, OR THE PRESIDENT'S DESIGNEE;

(5) THE CHAIRMAN OF THE MARYLAND HEALTH CARE COMMISSION, OR THE CHAIRMAN'S DESIGNEE;

(6) FOUR PHYSICIANS AND ONE NURSE PRACTITIONER WITH EXPERTISE IN CLINICAL TREATMENT USING CONTROLLED DANGEROUS SUBSTANCES, INCLUDING PAIN MANAGEMENT, SUBSTANCE ABUSE, AND BEHAVIORAL DISORDERS, APPOINTED BY THE SECRETARY AFTER CONSULTATION WITH:

(I) FOR THE PHYSICIAN APPOINTMENTS, THE MEDICAL AND CHIRURGICAL FACULTY OF MARYLAND, THE MARYLAND PHYSICAL MEDICINE AND REHABILITATION SOCIETY, THE MARYLAND SOCIETY OF ANESTHESIOLOGISTS, THE MARYLAND–D.C. SOCIETY OF CLINICAL ONCOLOGY, THE HOSPICE AND PALLIATIVE CARE NETWORK OF MARYLAND, AND THE MARYLAND CHAPTER OF THE AMERICAN ACADEMY OF PEDIATRICS; AND

(II) FOR THE NURSE PRACTITIONER APPOINTMENT, THE MARYLAND NURSES ASSOCIATION;

(7) ONE PEDIATRICIAN, APPOINTED BY THE SECRETARY AFTER CONSULTATION WITH THE MARYLAND CHAPTER OF THE AMERICAN ACADEMY OF PEDIATRICS;

(8) THREE PHARMACISTS WHO REPRESENT THE PERSPECTIVE OF INDEPENDENT AND CHAIN PHARMACIES, APPOINTED BY THE SECRETARY AFTER CONSULTATION WITH THE MARYLAND PHARMACISTS ASSOCIATION, THE MARYLAND ASSOCIATION OF CHAIN DRUG STORES, AND ANY OTHER APPROPRIATE ORGANIZATION;

(9) A LOCAL LAW ENFORCEMENT OFFICIAL, APPOINTED BY THE SECRETARY AFTER CONSULTATION WITH THE MARYLAND CHIEFS OF POLICE ASSOCIATION AND THE MARYLAND SHERIFF'S ASSOCIATION;

(10) TWO MARYLAND RESIDENTS WHO REPRESENT THE PERSPECTIVE OF PATIENTS, APPOINTED BY THE SECRETARY.

(C) THE SECRETARY SHALL DESIGNATE THE CHAIR OF THE BOARD.

(D) (1) THE TERM OF A MEMBER APPOINTED BY THE SECRETARY IS 3 YEARS.

(2) THE TERMS OF MEMBERS APPOINTED BY THE SECRETARY ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE BOARD ON OCTOBER 1, 2011.

(3) IF A VACANCY OCCURS DURING THE TERM OF AN APPOINTED MEMBER, THE SECRETARY SHALL APPOINT A SUCCESSOR WHO SHALL SERVE UNTIL THE TERM EXPIRES.

~~(D)~~ (E) A MEMBER OF THE BOARD:

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

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

~~(E)~~ (F) THE BOARD SHALL:

(1) MEET NOT FEWER THAN THREE TIMES ANNUALLY;

(2) MAKE RECOMMENDATIONS TO THE SECRETARY RELATING TO THE DESIGN AND IMPLEMENTATION OF THE PROGRAM, INCLUDING RECOMMENDATIONS RELATING TO:

(I) REGULATIONS;

(II) LEGISLATION; AND

(III) SOURCES OF FUNDING, INCLUDING GRANT FUNDS UNDER THE HAROLD ROGERS PRESCRIPTION DRUG MONITORING PROGRAM AND OTHER SOURCES OF FEDERAL, PRIVATE, OR STATE FUNDS;

(3) (I) PROVIDE WITHIN 180 DAYS AFTER ITS FIRST MEETING, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, AN INTERIM REPORT TO THE GENERAL ASSEMBLY SETTING FORTH THE BOARD'S ANALYSIS AND RECOMMENDATIONS UNDER ITEM (2) OF THIS SUBSECTION RELATING TO THE DESIGN, IMPLEMENTATION, AND FUNDING OF THE PROGRAM; AND

(II) PROVIDE ANNUALLY TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY AN ANALYSIS OF THE IMPACT OF THE PROGRAM ON

PATIENT ACCESS TO PHARMACEUTICAL CARE AND ON CURBING PRESCRIPTION DRUG DIVERSION IN THE STATE, INCLUDING ANY RECOMMENDATIONS RELATED TO MODIFICATION OR CONTINUATION OF THE PROGRAM; AND

(4) PROVIDE ONGOING ADVICE AND CONSULTATION ON THE IMPLEMENTATION AND OPERATION OF THE PROGRAM, INCLUDING RECOMMENDATIONS RELATING TO:

(I) CHANGES IN THE PROGRAM TO REFLECT ADVANCES IN TECHNOLOGY AND BEST PRACTICES IN THE FIELD OF ELECTRONIC HEALTH RECORDS AND ELECTRONIC PRESCRIPTION MONITORING;

(II) CHANGES TO STATUTORY REQUIREMENTS; AND

(III) THE DESIGN AND IMPLEMENTATION OF AN ONGOING EVALUATION COMPONENT OF THE PROGRAM.

(G) THE SECRETARY AND THE BOARD SHALL CONSULT WITH STAKEHOLDERS AND PROFESSIONALS KNOWLEDGEABLE ABOUT PRESCRIPTION DRUG MONITORING PROGRAMS AS APPROPRIATE TO OBTAIN INPUT AND GUIDANCE ABOUT IMPLEMENTATION OF THE PROGRAM.

21–2A–06.

(A) PRESCRIPTION MONITORING DATA:

(1) ARE CONFIDENTIAL AND PRIVILEGED, AND NOT SUBJECT TO DISCOVERY, SUBPOENA, OR OTHER MEANS OF LEGAL COMPULSION IN CIVIL LITIGATION;

(2) ARE NOT PUBLIC RECORDS; AND

(3) EXCEPT AS PROVIDED IN SUBSECTIONS (B) AND (D) OF THIS SECTION OR AS OTHERWISE PROVIDED BY LAW, MAY NOT BE DISCLOSED TO ANY PERSON.

(B) THE PROGRAM SHALL DISCLOSE PRESCRIPTION MONITORING DATA, IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE SECRETARY, TO:

(1) A PRESCRIBER, OR ~~ANY OTHER PERSON~~ A LICENSED HEALTH CARE PRACTITIONER AUTHORIZED BY THE PRESCRIBER, IN CONNECTION WITH THE MEDICAL CARE OF A PATIENT;

(2) A DISPENSER, OR ~~ANY OTHER PERSON~~ A LICENSED HEALTH CARE PRACTITIONER AUTHORIZED BY THE DISPENSER, IN CONNECTION WITH THE DISPENSING OF A MONITORED PRESCRIPTION DRUG;

(3) A FEDERAL LAW ENFORCEMENT AGENCY OR A STATE OR LOCAL LAW ENFORCEMENT AGENCY, ON ISSUANCE OF A SUBPOENA, FOR THE PURPOSE OF FURTHERING AN EXISTING BONA FIDE INDIVIDUAL INVESTIGATION;

(4) A LICENSING ENTITY, ON ISSUANCE OF AN ADMINISTRATIVE SUBPOENA VOTED ON BY A QUORUM OF THE BOARD OF THE LICENSING ENTITY, FOR THE PURPOSES OF FURTHERING AN EXISTING BONA FIDE INDIVIDUAL INVESTIGATION;

(5) A REHABILITATION PROGRAM UNDER A HEALTH OCCUPATIONS BOARD, ON ISSUANCE OF AN ADMINISTRATIVE SUBPOENA;

~~(5)~~ (6) A PATIENT WITH RESPECT TO PRESCRIPTION MONITORING DATA ABOUT THE PATIENT;

~~(6)~~ (7) ~~AN~~ SUBJECT TO SUBSECTION (G) OF THIS SECTION, THE AUTHORIZED ADMINISTRATOR OF ANOTHER STATE'S PRESCRIPTION DRUG MONITORING PROGRAM; ~~OR~~

~~(7)~~ (8) ~~A UNIT~~ THE FOLLOWING UNITS OF THE DEPARTMENT, ON APPROVAL OF THE SECRETARY, FOR THE PURPOSE OF FURTHERING AN EXISTING BONA FIDE INDIVIDUAL INVESTIGATION:

(I) THE OFFICE OF THE CHIEF MEDICAL EXAMINER;

(II) THE MARYLAND MEDICAL ASSISTANCE PROGRAM;

(III) THE OFFICE OF THE INSPECTOR GENERAL; AND

(IV) THE OFFICE OF HEALTH CARE QUALITY; OR

(9) THE TECHNICAL ADVISORY COMMITTEE ESTABLISHED UNDER § 21–2A–07 OF THIS SUBTITLE FOR THE PURPOSES SET FORTH IN SUBSECTION (C) OF THIS SECTION.

(C) BEFORE THE PROGRAM DISCLOSES INFORMATION UNDER SUBSECTION (B)(3), (4), (5), (7), OR (8) OF THIS SECTION, THE TECHNICAL ADVISORY COMMITTEE TO THE PROGRAM SHALL:

(1) REVIEW THE REQUESTS FOR INFORMATION;

(2) PROVIDE CLINICAL GUIDANCE AND INTERPRETATION OF THE INFORMATION REQUESTED TO THE SECRETARY TO ASSIST IN THE SECRETARY'S DECISION ON HOW TO RESPOND TO A JUDICIAL SUBPOENA, ADMINISTRATIVE SUBPOENA, OR OTHER REQUEST; AND

(3) PROVIDE CLINICAL GUIDANCE AND INTERPRETATION OF THE INFORMATION REQUESTED TO THE AUTHORIZED RECIPIENT OF THE INFORMATION.

~~(C)~~ (D) EXCEPT AS PROVIDED BY REGULATIONS ADOPTED BY THE SECRETARY, A PERSON WHO RECEIVES PRESCRIPTION MONITORING DATA FROM THE PROGRAM MAY NOT DISCLOSE THE DATA.

~~(D)~~ (E) (1) IN ADDITION TO THE DISCLOSURES REQUIRED UNDER SUBSECTION (B) OF THIS SECTION, THE PROGRAM MAY DISCLOSE PRESCRIPTION MONITORING DATA FOR RESEARCH, ANALYSIS, PUBLIC REPORTING, AND EDUCATION:

(I) AFTER REDACTION OF ALL INFORMATION THAT COULD IDENTIFY A PATIENT, PRESCRIBER, DISPENSER, OR ANY OTHER INDIVIDUAL; AND

(II) IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE SECRETARY.

(2) THE SECRETARY MAY REQUIRE SUBMISSION OF AN ABSTRACT EXPLAINING THE SCOPE AND PURPOSE OF THE RESEARCH, ANALYSIS, PUBLIC REPORTING, OR EDUCATION BEFORE DISCLOSING PRESCRIPTION MONITORING DATA UNDER THIS SUBSECTION.

~~(E)~~ (F) THE OFFICE OF THE ATTORNEY GENERAL MAY SEEK APPROPRIATE INJUNCTIVE OR OTHER RELIEF TO MAINTAIN THE CONFIDENTIALITY OF PRESCRIPTION MONITORING DATA AS REQUIRED UNDER THIS SECTION.

~~(F)~~ (G) THE PROGRAM MAY~~:~~

~~(1) PROVIDE~~ PROVIDE PRESCRIPTION MONITORING DATA TO ANOTHER STATE'S PRESCRIPTION DRUG MONITORING PROGRAM~~, PROVIDED~~ ONLY IF THE OTHER STATE'S PRESCRIPTION DRUG MONITORING PROGRAM AGREES TO USE THE PRESCRIPTION MONITORING DATA IN A MANNER CONSISTENT WITH THE PROVISIONS OF THIS SUBTITLE~~;~~.

(H) THE PROGRAM MAY:

~~(2)~~ (1) REQUEST AND RECEIVE PRESCRIPTION MONITORING DATA FROM ANOTHER STATE'S PRESCRIPTION DRUG MONITORING PROGRAM AND USE THE PRESCRIPTION MONITORING DATA IN A MANNER CONSISTENT WITH THE PROVISIONS OF THIS SUBTITLE; AND

~~(3)~~ (2) DEVELOP THE CAPABILITY TO TRANSMIT PRESCRIPTION MONITORING DATA TO AND RECEIVE PRESCRIPTION MONITORING DATA FROM OTHER PRESCRIPTION DRUG MONITORING PROGRAMS EMPLOYING THE STANDARDS OF INTEROPERABILITY.

~~(G)~~ (I) THE PROGRAM MAY ENTER INTO WRITTEN AGREEMENTS WITH OTHER STATES' PRESCRIPTION DRUG MONITORING PROGRAMS FOR THE PURPOSE OF ESTABLISHING THE TERMS AND CONDITIONS FOR SHARING PRESCRIPTION MONITORING DATA UNDER THIS SECTION.

(J) PRESCRIPTION MONITORING DATA MAY NOT BE USED AS THE BASIS FOR IMPOSING CLINICAL PRACTICE STANDARDS.

21–2A–07.

(A) THERE IS A TECHNICAL ADVISORY COMMITTEE TO THE PROGRAM.

(B) THE PURPOSE OF THE TECHNICAL ADVISORY COMMITTEE IS TO REVIEW REQUESTS FOR INFORMATION FROM THE PROGRAM UNDER § 21–2A–06(B)(3), (4), (5), (7), AND (8) OF THIS SUBTITLE.

(C) THE TECHNICAL ADVISORY COMMITTEE CONSISTS OF THE FOLLOWING MEMBERS, APPOINTED BY THE SECRETARY:

(1) A BOARD CERTIFIED ANESTHESIOLOGIST LICENSED AND PRACTICING IN THE STATE, NOMINATED BY THE MARYLAND SOCIETY OF ANESTHESIOLOGISTS;

(2) A CERTIFIED ADDICTION MEDICINE SPECIALIST LICENSED AND PRACTICING IN THE STATE, NOMINATED BY THE MARYLAND SOCIETY FOR ADDICTION MEDICINE;

(3) A PHARMACIST LICENSED AND PRACTICING IN THE STATE;

(4) A MEDICAL PROFESSIONAL, LICENSED AND PRACTICING IN THE STATE, WHO IS TREATING CANCER PATIENTS; AND

(5) A BOARD CERTIFIED PHYSICIAN SPECIALIZING IN THE TREATMENT OF PATIENTS WITH PAIN, LICENSED AND PRACTICING IN THE STATE, NOMINATED BY THE MARYLAND SOCIETY OF PHYSICAL MEDICINE AND REHABILITATION.

21–2A–08.

(A) ~~THE~~ WITH RESPECT TO THE ADMINISTRATION AND OPERATION OF THE PROGRAM, THE DEPARTMENT AND ITS AGENTS AND EMPLOYEES ARE NOT SUBJECT TO LIABILITY ARISING FROM:

(1) THE INACCURACY OF ANY INFORMATION SUBMITTED TO THE PROGRAM IN ACCORDANCE WITH THIS SUBTITLE; OR

(2) THE UNAUTHORIZED USE OR DISCLOSURE OF PRESCRIPTION MONITORING DATA ~~PROVIDED TO~~ BY A PERSON TO WHOM THE PROGRAM WAS AUTHORIZED TO PROVIDE THE PRESCRIPTION MONITORING DATA UNDER THIS SUBTITLE.

(B) A PRESCRIBER OR DISPENSER, ACTING IN GOOD FAITH, IS NOT SUBJECT TO LIABILITY OR DISCIPLINARY ACTION ARISING SOLELY FROM:

(1) REQUESTING OR RECEIVING, OR FAILING TO REQUEST OR RECEIVE, PRESCRIPTION MONITORING DATA FROM THE PROGRAM; OR

(2) ACTING, OR FAILING TO ACT, ON THE BASIS OF PRESCRIPTION MONITORING DATA PROVIDED BY THE PROGRAM.

~~21–2A–08.~~ 21–2A–09.

(A) A DISPENSER WHO KNOWINGLY FAILS TO SUBMIT PRESCRIPTION MONITORING DATA TO THE PROGRAM AS REQUIRED UNDER THIS SUBTITLE SHALL BE SUBJECT TO A CIVIL PENALTY NOT EXCEEDING $500 FOR EACH FAILURE TO SUBMIT REQUIRED INFORMATION.

~~(B) A PRESCRIBER OR DISPENSER WHO KNOWINGLY VIOLATES ANY PROVISION OF THIS SUBTITLE IS LIABLE FOR:~~

~~(1) ACTUAL DAMAGES; AND~~

~~(2) REASONABLE ATTORNEY'S FEES.~~

~~(C)~~ (B) (1) A PERSON WHO KNOWINGLY ~~DISCLOSES OR USES~~ DISCLOSES, USES, OBTAINS, OR ATTEMPTS TO OBTAIN BY FRAUD OR DECEIT, PRESCRIPTION MONITORING DATA IN VIOLATION OF THIS SUBTITLE SHALL BE GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING $10,000 OR BOTH.

(2) IN ADDITION TO THE PENALTIES UNDER PARAGRAPH (1) OF THIS SUBSECTION, A PRESCRIBER OR DISPENSER WHO KNOWINGLY DISCLOSES OR USES PRESCRIPTION MONITORING DATA IN VIOLATION OF THIS SUBTITLE SHALL BE SUBJECT TO DISCIPLINARY ACTION BY THE APPROPRIATE LICENSING ENTITY.

(3) THE RELEASE OF PRESCRIPTION MONITORING DATA BY A PRESCRIBER OR DISPENSER TO A LICENSED HEALTH CARE PROFESSIONAL SOLELY FOR TREATMENT PURPOSES IN A MANNER OTHERWISE CONSISTENT WITH STATE AND FEDERAL LAW IS NOT A VIOLATION OF THIS SUBTITLE.

~~21–2A–09.~~ 21–2A–10.

SUBJECT TO THE EVALUATION AND REESTABLISHMENT PROVISIONS OF THE MARYLAND PROGRAM EVALUATION ACT, THIS SUBTITLE AND ALL REGULATIONS ADOPTED UNDER THIS SUBTITLE SHALL TERMINATE AND BE OF NO EFFECT AFTER JULY 1, 2016.

Article – State Government

8–403.

(a) On or before December 15 of the 2nd year before the evaluation date of a governmental activity or unit, the Legislative Policy Committee, based on a preliminary evaluation, may waive as unnecessary the evaluation required under this section.

(b) Except as otherwise provided in subsection (a) of this section, on or before the evaluation date for the following governmental activities or units, an evaluation shall be made of the following governmental activities or units and the statutes and regulations that relate to the governmental activities or units:

(54) PRESCRIPTION DRUG MONITORING PROGRAM IN THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE (§ 21–2A–02 OF THE HEALTH – GENERAL ARTICLE: JULY 1, 2015);

SECTION 3. AND BE IT FURTHER ENACTED, That the terms of the initial appointed members of the Advisory Board on Prescription Drug Monitoring established under Section 2 of this Act shall expire as follows:

(1) four members in 2013;

(2) four members in 2014; and

(3) three members in 2015.

SECTION 4. AND BE IT FURTHER ENACTED, That the Prescription Drug Monitoring Program established under Section 2 of this Act shall develop a mechanism to allow a patient or the patient's prescriber to correct erroneous data reported to the Program relating to the patient's prescription history.

SECTION 5. AND BE IT FURTHER ENACTED, That, on or before December 1, 2012, the Department and the Advisory Board on Prescription Drug Monitoring established under Section 2 of this Act shall report to the Governor and, in accordance with § 2–1246 of the State Government Article, the Senate Finance Committee and the House Health and Government Operations Committee on:

(1) the status and funding of the Prescription Drug Monitoring Program established under Section 2 of this Act;

(2) feedback from stakeholders on the operations of the Program;

(3) any recommendations from the Department and the Advisory Board to improve the operations of the Program; and

(4) whether a legislative safe harbor provision is recommended to address any access issues experienced by patients after implementation of the Program.

SECTION 6. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the Secretary of Health and Mental Hygiene, in adopting regulations for the Prescription Drug Monitoring Program established under Section 2 of this Act, shall ensure that the technology used by the Program to report prescription monitoring data to authorized recipients is not subject to manipulation by the recipient.

SECTION ~~3.~~ 7. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 167

(Senate Bill 692)

AN ACT concerning

Maryland Electricity Service Quality and Reliability Act – Safety Violations

FOR the purpose of requiring the Public Service Commission to adopt certain regulations on or before a certain date that implement certain service quality and reliability standards relating to the delivery of electricity to retail customers by electric companies; requiring certain regulations to include certain service quality and reliability standards, ~~include~~ account for certain major outages, and require an electric company to file a corrective action plan if it fails to meet certain service quality and reliability standards; authorizing the Commission to include in certain regulations a separate reliability standard for each electric company~~, and require the use of nationally recognized standards for certain purposes~~; requiring the Commission, in adopting certain regulations, to consider certain standards, ensure certain service quality and reliability standards are cost–effective, and consider certain factors relating to vegetation management; requiring the Commission, on or before a certain date, and each year thereafter, to determine whether certain electric companies have met certain service quality and reliability standards; requiring the Commission to take certain appropriate enforcement action against ~~an~~ a certain electric company if the electric company fails to meet certain service quality and reliability standards; ~~requiring that certain civil penalties be credited to a certain electric company's residential ratepayers in a certain manner determined by the Commission and in accordance with a certain principle~~ authorizing the Commission to impose a certain civil ~~penalities on or after a certain date~~ penalty; prohibiting an electric company from recovering the cost of a certain civil penalty from ratepayers; providing that ~~a~~ certain ~~provisions provision~~ *provisions* relating to ~~corrective action taken~~ ~~penalties imposed~~ *corrective action taken* by the Commission against an electric company that fails to meet certain service quality and reliability standards do not apply to electric cooperatives; requiring each electric company to submit to the Commission a certain annual performance report; setting forth required contents of the annual performance report; requiring the Commission to hold a certain hearing at the request of an electric company; ~~altering the maximum daily civil penalty that may be imposed on a public service company for certain safety violations; removing a certain cap on the total civil penalty that may be imposed for a related series of safety violations;~~ *altering the maximum daily civil penalty that may be imposed on a public service company for certain violations; altering the maximum daily civil penalty that may be imposed on a public service company for certain safety violations; removing a certain cap on the total civil penalty that may be imposed for a related series of safety violations;* declaring a certain goal of the State; providing that ~~certain regulations may~~ this Act does not apply to small rural electric cooperatives or municipal electric companies; providing that

this Act may not be construed to limit the Commission's authority to adopt and enforce engineering and safety standards for electric companies; ~~providing that certain authorization for the Commission to impose certain civil penalties does not apply to a violation of a certain provision as that provision applies to electric cooperatives;~~ requiring the Commission to establish a certain workgroup to provide certain recommendations; *providing that this Act may not be construed to limit the Commission's authority to impose penalties for certain violations;* ~~requiring the Commission to review certain regulations, tariffs, or standards, conduct certain studies, and report its findings to certain committees on or before a certain date;~~ defining certain terms; making this Act an emergency measure; and generally relating to electricity safety and reliability standards.

BY adding to
Article – Public Utilities
Section 7–213
Annotated Code of Maryland
(2010 Replacement Volume)

~~BY repealing and reenacting, with amendments,~~
~~Article – Public Utilities~~
~~Section 13–201 and 13–202~~
~~Annotated Code of Maryland~~
~~(2010 Replacement Volume)~~

BY repealing and reenacting, with amendments,
Article – Public Utilities
Section 13–201 and 13–202
Annotated Code of Maryland
(2010 Replacement Volume)

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

Article – Public Utilities

7–213.

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

(2) "SYSTEM–AVERAGE INTERRUPTION DURATION INDEX" OR "SAIDI" MEANS THE ~~AVERAGE DURATION OF POWER OUTAGES FOR EACH ELECTRICITY CUSTOMER CALCULATED BY DIVIDING THE TOTAL OF ALL CUSTOMER INTERRUPTION DURATIONS BY THE TOTAL NUMBER OF CUSTOMERS SERVED~~ SUM OF THE CUSTOMER INTERRUPTION HOURS DIVIDED BY THE TOTAL NUMBER OF CUSTOMERS SERVED.

(3) "SYSTEM–AVERAGE INTERRUPTION FREQUENCY INDEX" OR "SAIFI" MEANS THE ~~AVERAGE NUMBER OF POWER OUTAGES FOR EACH ELECTRICITY CUSTOMER CALCULATED BY DIVIDING THE TOTAL NUMBER OF CUSTOMER INTERRUPTIONS BY THE TOTAL NUMBER OF CUSTOMERS SERVED~~ SUM OF THE NUMBER OF CUSTOMER INTERRUPTIONS DIVIDED BY THE TOTAL NUMBER OF CUSTOMERS SERVED.

~~(B) IT IS THE GOAL OF THE STATE THAT EACH ELECTRIC COMPANY RANK IN THE TOP QUARTILE OF ELECTRIC COMPANIES NATIONALLY WITH THE HIGHEST LEVELS OF SERVICE QUALITY AND RELIABILITY.~~

(B) IT IS THE GOAL OF THE STATE THAT EACH ELECTRIC COMPANY PROVIDE ITS CUSTOMERS WITH HIGH LEVELS OF SERVICE QUALITY AND RELIABILITY IN A COST–EFFECTIVE MANNER, AS MEASURED BY OBJECTIVE AND VERIFIABLE STANDARDS, AND THAT EACH ELECTRIC COMPANY BE HELD ACCOUNTABLE IF IT FAILS TO DELIVER RELIABLE SERVICE ACCORDING TO THOSE STANDARDS.

(C) ~~REGULATIONS ADOPTED UNDER THIS~~ THIS SECTION ~~MAY~~ DOES NOT APPLY TO SMALL RURAL ELECTRIC COOPERATIVES OR MUNICIPAL ELECTRIC COMPANIES.

(D) ON OR BEFORE JULY 1, 2012, THE COMMISSION SHALL ADOPT REGULATIONS THAT IMPLEMENT SERVICE QUALITY AND RELIABILITY STANDARDS RELATING TO THE DELIVERY OF ELECTRICITY TO RETAIL CUSTOMERS BY ELECTRIC COMPANIES THROUGH THEIR DISTRIBUTION SYSTEMS, USING:

(1) SAIFI;

(2) SAIDI; AND

(3) ANY OTHER ~~STANDARD~~ PERFORMANCE MEASUREMENT THAT THE COMMISSION DETERMINES TO BE REASONABLE.

(E) (1) THE REGULATIONS ADOPTED UNDER SUBSECTION (D) OF THIS SECTION SHALL:

~~(1)~~ (I) INCLUDE SERVICE QUALITY AND RELIABILITY STANDARDS, INCLUDING STANDARDS RELATING TO:

~~(I)~~ 1. SERVICE INTERRUPTION;

~~(II)~~ 2. DOWNED WIRE ~~REPAIR~~ RESPONSE;

~~(III)~~ 3. ~~SERVICE QUALITY~~ CUSTOMER COMMUNICATIONS;

~~(IV)~~ 4. VEGETATION MANAGEMENT;

5. PERIODIC EQUIPMENT INSPECTIONS;

~~(V)~~ 6. ANNUAL RELIABILITY REPORTING; AND

~~(VI)~~ 7. ANY OTHER STANDARDS ESTABLISHED BY THE COMMISSION;

(II) ACCOUNT FOR MAJOR OUTAGES CAUSED BY EVENTS OUTSIDE THE CONTROL OF AN ELECTRIC COMPANY; AND

(III) FOR AN ELECTRIC COMPANY THAT FAILS TO MEET THE APPLICABLE SERVICE QUALITY AND RELIABILITY STANDARDS, REQUIRE THE COMPANY TO FILE A CORRECTIVE ACTION PLAN THAT DETAILS SPECIFIC ACTIONS THE COMPANY WILL TAKE TO MEET THE STANDARDS.

(2) THE REGULATIONS ADOPTED UNDER SUBSECTION (D) OF THIS SECTION MAY INCLUDE A SEPARATE RELIABILITY STANDARD FOR EACH ELECTRIC COMPANY IN ORDER TO ACCOUNT FOR SYSTEM RELIABILITY DIFFERENTIATING FACTORS , INCLUDING:

(I) SYSTEM DESIGN;

(II) EXISTING INFRASTRUCTURE;

(III) CUSTOMER DENSITY; AND

(IV) GEOGRAPHY~~; AND~~.

~~(3) REQUIRE THE USE OF NATIONALLY RECOGNIZED STANDARDS TO NORMALIZE:~~

~~(I) MAJOR OUTAGE EVENTS;~~

~~(II) ANOMALOUS EVENTS THAT DO NOT ACHIEVE MAJOR OUTAGE STATUS;~~

~~(III) YEAR-TO-YEAR WEATHER IMPACTS; AND~~

~~(IV) OTHER FACTORS THAT THE COMMISSION IDENTIFIES.~~

(3) IN ADOPTING THE REGULATIONS REQUIRED UNDER SUBSECTION (D) OF THIS SECTION, THE COMMISSION SHALL:

(I) CONSIDER APPLICABLE STANDARDS OF THE INSTITUTE OF ELECTRICAL AND ELECTRONICS ENGINEERS;

(II) ENSURE THAT THE SERVICE QUALITY AND RELIABILITY STANDARDS ARE COST–EFFECTIVE; AND

(III) WITH RESPECT TO STANDARDS RELATING TO VEGETATION MANAGEMENT, CONSIDER:

1. LIMITATIONS ON AN ELECTRIC COMPANY'S RIGHT TO ACCESS PRIVATE PROPERTY; AND

2. CUSTOMER ACCEPTANCE OF VEGETATION MANAGEMENT INITIATIVES.

(F) (1) ON OR BEFORE JULY 1, 2013, AND JULY 1 OF EACH YEAR THEREAFTER, THE COMMISSION SHALL DETERMINE WHETHER EACH ELECTRIC COMPANY HAS MET THE SERVICE QUALITY AND RELIABILITY STANDARDS ADOPTED BY THE COMMISSION FOR THAT ELECTRIC COMPANY UNDER SUBSECTION (D) OF THIS SECTION.

(2) (I) THIS PARAGRAPH DOES NOT APPLY TO ELECTRIC COOPERATIVES.

(II) THE COMMISSION ~~SHALL TAKE APPROPRIATE CORRECTIVE ACTION~~ ~~MAY IMPOSE A PENALTY~~ *SHALL TAKE APPROPRIATE CORRECTIVE ACTION* AGAINST AN ELECTRIC COMPANY THAT FAILS TO MEET ANY OR ALL OF THE APPLICABLE SERVICE QUALITY AND RELIABILITY STANDARDS ~~ADOPTED BY THE COMMISSION UNDER THIS SECTION, INCLUDING, ON OR AFTER JULY 1, 2014, THE IMPOSITION OF APPROPRIATE CIVIL PENALTIES FOR NONCOMPLIANCE IN AN AMOUNT NOT EXCEEDING 2.5% OF THE ELECTRIC COMPANY'S TRANSMISSION AND DISTRIBUTION REVENUES FOR THE PREVIOUS CALENDAR YEAR~~, *INCLUDING THE IMPOSITION OF APPROPRIATE CIVIL PENALTIES FOR NONCOMPLIANCE AS PROVIDED IN § 13–201 OF THIS ARTICLE* ~~AS PROVIDED IN § 13–201 OF THIS ARTICLE~~.

~~(3) NOTWITHSTANDING THE PROVISIONS OF § 13–201 OF THIS ARTICLE, CIVIL PENALTIES COLLECTED UNDER THIS SECTION SHALL BE CREDITED TO THE ELECTRIC COMPANY'S RESIDENTIAL RATEPAYERS:~~

~~(I) IN A MANNER THE COMMISSION DETERMINES; AND~~

~~(II) IN ACCORDANCE WITH THE PRINCIPLE THAT RATEPAYERS SHOULD BE COMPENSATED PROPORTIONALLY ACCORDING TO THE NUMBER OF DAYS OF ELECTRIC SERVICE LOST AND THE ESTIMATED OUT-OF-POCKET EXPENSES TO RATEPAYERS RESULTING FROM A POWER OUTAGE.~~

~~(4)~~ (III) AN ELECTRIC COMPANY MAY NOT RECOVER THE COST OF ANY CIVIL PENALTY PAID UNDER THIS SECTION FROM RATEPAYERS.

(G) (1) ON OR BEFORE ~~MAY~~ FEBRUARY 1 OF EACH YEAR, EACH ELECTRIC COMPANY SHALL SUBMIT TO THE COMMISSION AN ANNUAL PERFORMANCE REPORT THAT SUMMARIZES THE ACTUAL ELECTRIC SERVICE RELIABILITY RESULTS FOR THE PRECEDING YEAR.

(2) THE ANNUAL PERFORMANCE REPORT SHALL INCLUDE:

(I) THE ELECTRIC COMPANY'S AVERAGE 3–YEAR PERFORMANCE RESULTS;

(II) ACTUAL YEAR–END PERFORMANCE MEASURE RESULTS;

(III) AN ASSESSMENT OF THE RESULTS AND EFFECTIVENESS OF THE RELIABILITY OBJECTIVES, PLANNED ACTIONS AND PROJECTS, PROGRAMS, AND LOAD STUDIES IN ACHIEVING AN ACCEPTABLE RELIABILITY LEVEL; AND

(IV) ANNUAL INFORMATION THAT THE COMMISSION DETERMINES NECESSARY TO ASSESS THE ELECTRIC COMPANY'S EFFORTS TO MAINTAIN RELIABLE ELECTRIC SERVICE TO ALL CUSTOMERS IN THE ELECTRIC COMPANY'S SERVICE TERRITORY, INCLUDING:

1. CURRENT YEAR EXPENDITURES, LABOR RESOURCE HOURS, AND PROGRESS MEASURES FOR EACH CAPITAL AND MAINTENANCE PROGRAM DESIGNED TO SUPPORT THE MAINTENANCE OF RELIABLE ELECTRIC SERVICE;

2. THE NUMBER OF OUTAGES BY OUTAGE TYPE;

3. THE NUMBER OF OUTAGES BY OUTAGE CAUSE;

4. THE TOTAL NUMBER OF CUSTOMERS THAT EXPERIENCED AN OUTAGE; ~~AND~~

5. THE TOTAL CUSTOMER MINUTES OF OUTAGE TIME; AND

6. TO THE EXTENT PRACTICABLE, A BREAKDOWN, BY THE NUMBER OF DAYS EACH CUSTOMER WAS WITHOUT ELECTRIC SERVICE, OF THE NUMBER OF CUSTOMERS THAT EXPERIENCED AN OUTAGE.

(3) AT THE REQUEST OF AN ELECTRIC COMPANY, THE COMMISSION SHALL HOLD A HEARING TO DISCUSS THE ANNUAL PERFORMANCE REPORT OF THE ELECTRIC COMPANY.

(H) THIS SECTION MAY NOT BE CONSTRUED TO LIMIT THE COMMISSION'S AUTHORITY TO ADOPT AND ENFORCE ENGINEERING AND SAFETY STANDARDS FOR ELECTRIC COMPANIES.

~~13–201.~~

~~(a) This section does not apply to a violation of the following provisions of this article:~~

~~(1) Title 5, Subtitle 4;~~

~~(2) Title 7, Subtitle 1;~~

~~(3) **§ 7–213 AS IT APPLIES TO ELECTRIC COOPERATIVES;**~~

~~**(4)** Title 8, Subtitles 1 and 3;~~

~~**[**(4)**] (5)** Title 9, Subtitle 3; and~~

~~**[**(5)**] (6)** Title 8, Subtitle 4.~~

~~(b) (1) Except as provided in paragraph (2) of this subsection, the Commission may impose a civil penalty not exceeding $10,000 against a person who violates a provision of this division, or an effective and outstanding direction, ruling, order, rule, or regulation of the Commission.~~

~~(2) The civil penalty that the Commission may impose on a common carrier for each violation may not exceed $2,500.~~

~~(c) (1) A civil penalty may be imposed in addition to any other penalty authorized by this division.~~

~~(2) Each violation is a separate offense.~~

~~(3) Each day or part of a day the violation continues is a separate offense.~~

~~(d) The Commission shall determine the amount of any civil penalty after considering:~~

~~(1) the number of previous violations of any provision of this article;~~

~~(2) the gravity of the current violation;~~

~~(3) the good faith efforts of the violator in attempting to achieve compliance after notification of the violation; and~~

~~(4) any other matter that the Commission considers appropriate and relevant.~~

~~(e) A civil penalty collected under this section shall be paid into the General Fund of the State.~~

~~13–202.~~

~~(a) In this section, "safety violation" means a condition or activity likely to cause injury or harm to an individual or property.~~

~~(b) This section does not apply to a safety violation by a gas company that is subject to § 13–203 of this subtitle.~~

~~(c) (1) Subject to paragraph (2) of this subsection, a public service company that violates a provision of this division that relates to safety is subject to a civil penalty not exceeding **[**$500**] $10,000** for each violation for each day that the violation persists.~~

~~(2) **[**The maximum civil penalty may not exceed:~~

~~(i) $50,000 for a related series of violations; or~~

~~(ii) for**] FOR** a common carrier, **THE MAXIMUM CIVIL PENALTY MAY NOT EXCEED** $500 for each violation or related series of violations stemming from a single safety inspection.~~

~~(d) In determining the amount of a civil penalty imposed under this section, the Commission shall consider the:~~

~~(1) appropriateness of the penalty to the size of the public service company;~~

~~(2) number of previous violations of this article by the public service company;~~

~~(3) gravity of the current violation; and~~

~~(4) good faith of the public service company in attempting to achieve compliance after notification of the violation.~~

~~(e) The public service company involved may request reconsideration of a penalty imposed under this section within 30 days after the date of notification of the determination.~~

13–201.

(a) This section does not apply to a violation of the following provisions of this article:

(1) Title 5, Subtitle 4;

(2) Title 7, Subtitle 1;

(3) ***§ 7–213 AS IT APPLIES TO ELECTRIC COOPERATIVES;***

(4) *Title 8, Subtitles 1 and 3;*

[*(4)****] (5)*** *Title 9, Subtitle 3; and*

[*(5)****] (6)*** *Title 8, Subtitle 4.*

(b) (1) Except as provided in paragraph (2) of this subsection, the Commission may impose a civil penalty not exceeding ***[****$10,000****] $25,000*** *against a person who violates a provision of this division, or an effective and outstanding direction, ruling, order, rule, or regulation of the Commission.*

(2) The civil penalty that the Commission may impose on a common carrier for each violation may not exceed $2,500.

(c) (1) A civil penalty may be imposed in addition to any other penalty authorized by this division.

(2) Each violation is a separate offense.

(3) Each day or part of a day the violation continues is a separate offense.

(d) The Commission shall determine the amount of any civil penalty after considering:

(1) the number of previous violations of any provision of this article;

(2) the gravity of the current violation;

(3) the good faith efforts of the violator in attempting to achieve compliance after notification of the violation; and

(4) any other matter that the Commission considers appropriate and relevant.

(e) A civil penalty collected under this section shall be paid into the General Fund of the State.

13–202.

(a) In this section, "safety violation" means a condition or activity likely to cause injury or harm to an individual or property.

(b) This section does not apply to a safety violation by a gas company that is subject to § 13–203 of this subtitle.

(c) (1) Subject to paragraph (2) of this subsection, a public service company that violates a provision of this division that relates to safety is subject to a civil penalty not exceeding ***[****$500****] $25,000*** *for each violation for each day that the violation persists.*

(2) ***[****The maximum civil penalty may not exceed:*

(i) $50,000 for a related series of violations; or

*(ii) for****] FOR*** *a common carrier,* ***THE MAXIMUM CIVIL PENALTY MAY NOT EXCEED*** *$500 for each violation or related series of violations stemming from a single safety inspection.*

(d) In determining the amount of a civil penalty imposed under this section, the Commission shall consider the:

(1) appropriateness of the penalty to the size of the public service company;

(2) number of previous violations of this article by the public service company;

(3) gravity of the current violation; and

(4) good faith of the public service company in attempting to achieve compliance after notification of the violation.

(e) The public service company involved may request reconsideration of a penalty imposed under this section within 30 days after the date of notification of the determination.

SECTION 2. AND BE IT FURTHER ENACTED, That the Maryland Public Service Commission shall:

(1) review current regulations, tariffs, or standards relating to electric company responsibility for customer damages caused by electrical surges and assess the feasibility of obtaining information from electric companies regarding the extent of electrical surges and customer damages that result from electrical surges;

(2) study the feasibility of incorporating an electric company's service restoration plan into the electric company's reliability plan; ~~and~~

(3) study and consider whether to prohibit an electric company from calculating the rate charged by the electric company using a formula that decouples the electric company's revenue from the sale of kilowatt–hours unless the formula provides for the suspension of decoupling during any extended service disruption; and

(4) on or before January 1, 2012, report its findings to the Senate Finance Committee and the House Economic Matters Committee, in accordance with § 2–1246 of the State Government Article.

SECTION 3. AND BE IT FURTHER ENACTED, That the Public Service Commission shall convene a stakeholder workgroup to provide recommendations regarding the regulations to be adopted by the Commission under this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That nothing in this Act shall be construed as limiting the authority of the Public Service Commission to impose penalties for violations of law or regulation in existence before the effective date of this Act.

SECTION ~~2.~~ ~~4.~~ *5.* AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three–fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, May 10, 2011.

Chapter 168

(House Bill 391)

AN ACT concerning

Maryland Electricity Service Quality and Reliability Act – Safety Violations

FOR the purpose of requiring the Public Service Commission to adopt certain regulations on or before a certain date that implement certain service quality and reliability standards relating to the delivery of electricity to retail customers by electric companies; requiring certain regulations to include certain service quality and reliability standards, ~~include~~ account for certain major outages, and require an electric company to file a corrective action plan if it fails to meet certain service quality and reliability standards; authorizing the Commission to include in certain regulations a separate reliability standard for each electric company~~, and require the use of nationally recognized standards for certain purposes~~; requiring the Commission, in adopting certain regulations, to consider certain standards, ensure certain service quality and reliability standards are cost–effective, and consider certain factors relating to vegetation management; requiring the Commission, on or before a certain date, and each year thereafter, to determine whether certain electric companies have met certain service quality and reliability standards; requiring the Commission to take certain appropriate enforcement action against ~~an~~ a certain electric company if the electric company fails to meet certain service quality and reliability standards; ~~requiring that certain civil penalties be credited to a certain electric company's residential ratepayers in a manner determined by the Commission~~ authorizing the Commission to impose *a* certain civil ~~penalties~~ *penalty* ~~on or after a certain date~~; prohibiting an electric company from recovering the cost of a certain civil penalty from ratepayers; providing that certain provisions relating to corrective action taken by the Commission against an electric company that fails to meet certain service quality and reliability standards do not apply to electric cooperatives; requiring each electric company to submit to the Commission a certain annual performance report; setting forth required contents of the annual performance report; requiring the Commission to hold a certain hearing at the request of an electric company; *altering the maximum daily civil penalty that may be imposed on a public service company for certain violations;* altering the maximum daily civil penalty that may be imposed on a public service company for certain safety violations; removing a certain cap on the total civil penalty that may be imposed for a related series of safety violations; declaring a certain goal of the State; providing that ~~certain regulations may~~ this Act does not apply to small rural electric cooperatives or municipal electric companies; providing that this Act may not be construed to limit the Commission's authority to adopt and enforce engineering and safety standards for electric companies; ~~providing that certain authorization for the Commission to impose certain civil penalties does not apply to a violation of a certain provision as that provision applies to electric cooperatives;~~ requiring the

Commission to establish a certain workgroup to provide certain recommendations; *providing that this Act may not be construed to limit the Commission's authority to impose penalties for certain violations;* defining certain terms; making this Act an emergency measure; and generally relating to electricity *safety and* reliability standards.

BY adding to
Article – Public Utilities
Section 7–213
Annotated Code of Maryland
(2010 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Public Utilities
Section 13–201 and 13–202
Annotated Code of Maryland
(2010 Replacement Volume)

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

Article – Public Utilities

7–213.

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

(2) "SYSTEM–AVERAGE INTERRUPTION DURATION INDEX" OR "SAIDI" MEANS THE ~~AVERAGE DURATION OF POWER OUTAGES FOR EACH ELECTRICITY CUSTOMER CALCULATED BY DIVIDING THE TOTAL OF ALL CUSTOMER INTERRUPTION DURATIONS BY THE TOTAL NUMBER OF CUSTOMERS SERVED~~ SUM OF THE CUSTOMER INTERRUPTION HOURS DIVIDED BY THE TOTAL NUMBER OF CUSTOMERS SERVED.

(3) "SYSTEM–AVERAGE INTERRUPTION FREQUENCY INDEX" OR "SAIFI" MEANS THE ~~AVERAGE NUMBER OF POWER OUTAGES FOR EACH ELECTRICITY CUSTOMER CALCULATED BY DIVIDING THE TOTAL NUMBER OF CUSTOMER INTERRUPTIONS BY THE TOTAL NUMBER OF CUSTOMERS SERVED~~ SUM OF THE NUMBER OF CUSTOMER INTERRUPTIONS DIVIDED BY THE TOTAL NUMBER OF CUSTOMERS SERVED.

~~(B) IT IS THE GOAL OF THE STATE THAT EACH ELECTRIC COMPANY RANK IN THE TOP QUARTILE OF ELECTRIC COMPANIES NATIONALLY WITH THE HIGHEST LEVELS OF SERVICE QUALITY AND RELIABILITY.~~

(B) IT IS THE GOAL OF THE STATE THAT EACH ELECTRIC COMPANY PROVIDE ITS CUSTOMERS WITH HIGH LEVELS OF SERVICE QUALITY AND RELIABILITY IN A COST–EFFECTIVE MANNER, AS MEASURED BY OBJECTIVE AND VERIFIABLE STANDARDS, AND THAT EACH ELECTRIC COMPANY BE HELD ACCOUNTABLE IF IT FAILS TO DELIVER RELIABLE SERVICE ACCORDING TO THOSE STANDARDS.

(C) ~~REGULATIONS ADOPTED UNDER THIS~~ THIS SECTION ~~MAY~~ DOES NOT APPLY TO SMALL RURAL ELECTRIC COOPERATIVES OR MUNICIPAL ELECTRIC COMPANIES.

(D) ON OR BEFORE JULY 1, 2012, THE COMMISSION SHALL ADOPT REGULATIONS THAT IMPLEMENT SERVICE QUALITY AND RELIABILITY STANDARDS RELATING TO THE DELIVERY OF ELECTRICITY TO RETAIL CUSTOMERS BY ELECTRIC COMPANIES THROUGH THEIR DISTRIBUTION SYSTEMS, USING:

(1) SAIFI;

(2) SAIDI; AND

(3) ANY OTHER ~~STANDARD~~ PERFORMANCE MEASUREMENT THAT THE COMMISSION DETERMINES TO BE REASONABLE.

(E) (1) THE REGULATIONS ADOPTED UNDER SUBSECTION (D) OF THIS SECTION SHALL:

~~(1)~~ (I) INCLUDE SERVICE QUALITY AND RELIABILITY STANDARDS, INCLUDING STANDARDS RELATING TO:

~~(I)~~ 1. SERVICE INTERRUPTION;

~~(II)~~ 2. DOWNED WIRE ~~REPAIR~~ RESPONSE;

~~(III)~~ 3. ~~SERVICE QUALITY~~ CUSTOMER COMMUNICATIONS;

~~(IV)~~ 4. VEGETATION MANAGEMENT;

5. PERIODIC EQUIPMENT INSPECTIONS;

~~(V)~~ 6. ANNUAL RELIABILITY REPORTING; AND

~~(VI)~~ 7. ANY OTHER STANDARDS ESTABLISHED BY THE COMMISSION;

(II) ACCOUNT FOR MAJOR OUTAGES CAUSED BY EVENTS OUTSIDE THE CONTROL OF AN ELECTRIC COMPANY; AND

(III) FOR AN ELECTRIC COMPANY THAT FAILS TO MEET THE APPLICABLE SERVICE QUALITY AND RELIABILITY STANDARDS, REQUIRE THE COMPANY TO FILE A CORRECTIVE ACTION PLAN THAT DETAILS SPECIFIC ACTIONS THE COMPANY WILL TAKE TO MEET THE STANDARDS.

(2) THE REGULATIONS ADOPTED UNDER SUBSECTION (D) OF THIS SECTION MAY INCLUDE A SEPARATE RELIABILITY STANDARD FOR EACH ELECTRIC COMPANY IN ORDER TO ACCOUNT FOR SYSTEM RELIABILITY DIFFERENTIATING FACTORS, INCLUDING:

(I) SYSTEM DESIGN;

(II) EXISTING INFRASTRUCTURE;

(III) CUSTOMER DENSITY; AND

(IV) GEOGRAPHY~~; AND~~.

~~(3) REQUIRE THE USE OF NATIONALLY RECOGNIZED STANDARDS TO NORMALIZE:~~

~~(I) MAJOR OUTAGE EVENTS;~~

~~(II) ANOMALOUS EVENTS THAT DO NOT ACHIEVE MAJOR OUTAGE STATUS;~~

~~(III) YEAR–TO–YEAR WEATHER IMPACTS; AND~~

~~(IV) OTHER FACTORS THAT THE COMMISSION IDENTIFIES.~~

(3) IN ADOPTING THE REGULATIONS REQUIRED UNDER SUBSECTION (D) OF THIS SECTION, THE COMMISSION SHALL:

(I) CONSIDER APPLICABLE STANDARDS OF THE INSTITUTE OF ELECTRICAL AND ELECTRONICS ENGINEERS;

(II) ENSURE THAT THE SERVICE QUALITY AND RELIABILITY STANDARDS ARE COST–EFFECTIVE; AND

(III) WITH RESPECT TO STANDARDS RELATING TO VEGETATION MANAGEMENT, CONSIDER:

1. LIMITATIONS ON AN ELECTRIC COMPANY'S RIGHT TO ACCESS PRIVATE PROPERTY; AND

2. CUSTOMER ACCEPTANCE OF VEGETATION MANAGEMENT INITIATIVES.

(F) (1) ON OR BEFORE JULY 1, 2013, AND JULY 1 OF EACH YEAR THEREAFTER, THE COMMISSION SHALL DETERMINE WHETHER EACH ELECTRIC COMPANY HAS MET THE SERVICE QUALITY AND RELIABILITY STANDARDS ADOPTED BY THE COMMISSION FOR THAT ELECTRIC COMPANY UNDER SUBSECTION (D) OF THIS SECTION.

(2) (I) THIS PARAGRAPH DOES NOT APPLY TO ELECTRIC COOPERATIVES.

(II) THE COMMISSION SHALL TAKE APPROPRIATE CORRECTIVE ACTION AGAINST AN ELECTRIC COMPANY THAT FAILS TO MEET ANY OR ALL OF THE APPLICABLE SERVICE QUALITY AND RELIABILITY STANDARDS ~~ADOPTED BY THE COMMISSION UNDER THIS SECTION~~, INCLUDING~~, ON OR AFTER JULY 1, 2014,~~ THE IMPOSITION OF APPROPRIATE CIVIL PENALTIES FOR NONCOMPLIANCE AS PROVIDED IN § 13–201 OF THIS ARTICLE.

~~(3) NOTWITHSTANDING § 13–201 OF THIS ARTICLE, CIVIL PENALTIES COLLECTED UNDER THIS SECTION SHALL BE CREDITED TO THE ELECTRIC COMPANY'S RESIDENTIAL RATEPAYERS IN A MANNER THE COMMISSION DETERMINES.~~

~~(4)~~ (III) AN ELECTRIC COMPANY MAY NOT RECOVER THE COST OF ANY CIVIL PENALTY PAID UNDER THIS SECTION FROM RATEPAYERS.

(G) (1) ON OR BEFORE ~~MAY~~ FEBRUARY 1 OF EACH YEAR, EACH ELECTRIC COMPANY SHALL SUBMIT TO THE COMMISSION AN ANNUAL PERFORMANCE REPORT THAT SUMMARIZES THE ACTUAL ELECTRIC SERVICE RELIABILITY RESULTS FOR THE PRECEDING YEAR.

(2) THE ANNUAL PERFORMANCE REPORT SHALL INCLUDE:

(I) THE ELECTRIC COMPANY'S AVERAGE 3–YEAR PERFORMANCE RESULTS;

(II) ACTUAL YEAR–END PERFORMANCE MEASURE RESULTS;

(III) AN ASSESSMENT OF THE RESULTS AND EFFECTIVENESS OF THE RELIABILITY OBJECTIVES, PLANNED ACTIONS AND PROJECTS, PROGRAMS, AND LOAD STUDIES IN ACHIEVING AN ACCEPTABLE RELIABILITY LEVEL; AND

(IV) ANNUAL INFORMATION THAT THE COMMISSION DETERMINES NECESSARY TO ASSESS THE ELECTRIC COMPANY'S EFFORTS TO MAINTAIN RELIABLE ELECTRIC SERVICE TO ALL CUSTOMERS IN THE ELECTRIC COMPANY'S SERVICE TERRITORY, INCLUDING:

1. CURRENT YEAR EXPENDITURES, LABOR RESOURCE HOURS, AND PROGRESS MEASURES FOR EACH CAPITAL AND MAINTENANCE PROGRAM DESIGNED TO SUPPORT THE MAINTENANCE OF RELIABLE ELECTRIC SERVICE;

2. THE NUMBER OF OUTAGES BY OUTAGE TYPE;

3. THE NUMBER OF OUTAGES BY OUTAGE CAUSE;

4. THE TOTAL NUMBER OF CUSTOMERS THAT EXPERIENCED AN OUTAGE; ~~AND~~

5. THE TOTAL CUSTOMER MINUTES OF OUTAGE TIME*; AND*

***6. TO THE EXTENT PRACTICABLE, A BREAKDOWN, BY THE NUMBER OF DAYS EACH CUSTOMER WAS WITHOUT ELECTRIC SERVICE, OF THE NUMBER OF CUSTOMERS THAT EXPERIENCED AN OUTAGE*.**

(3) AT THE REQUEST OF AN ELECTRIC COMPANY, THE COMMISSION SHALL HOLD A HEARING TO DISCUSS THE ANNUAL PERFORMANCE REPORT OF THE ELECTRIC COMPANY.

(H) THIS SECTION MAY NOT BE CONSTRUED TO LIMIT THE COMMISSION'S AUTHORITY TO ADOPT AND ENFORCE ENGINEERING AND SAFETY STANDARDS FOR ELECTRIC COMPANIES.

13–201.

(a) This section does not apply to a violation of the following provisions of this article:

(1) Title 5, Subtitle 4;

(2) Title 7, Subtitle 1;

(3) **§ 7–213 AS IT APPLIES TO ELECTRIC COOPERATIVES;**

(4) Title 8, Subtitles 1 and 3;

[(4)**] (5)** Title 9, Subtitle 3; and

[(5)**] (6)** Title 8, Subtitle 4.

(b) (1) Except as provided in paragraph (2) of this subsection, the Commission may impose a civil penalty not exceeding ~~$10,000~~ ***$25,000*** against a person who violates a provision of this division, or an effective and outstanding direction, ruling, order, rule, or regulation of the Commission.

(2) The civil penalty that the Commission may impose on a common carrier for each violation may not exceed $2,500.

(c) (1) A civil penalty may be imposed in addition to any other penalty authorized by this division.

(2) Each violation is a separate offense.

(3) Each day or part of a day the violation continues is a separate offense.

(d) The Commission shall determine the amount of any civil penalty after considering:

(1) the number of previous violations of any provision of this article;

(2) the gravity of the current violation;

(3) the good faith efforts of the violator in attempting to achieve compliance after notification of the violation; and

(4) any other matter that the Commission considers appropriate and relevant.

(e) A civil penalty collected under this section shall be paid into the General Fund of the State.

13–202.

(a) In this section, "safety violation" means a condition or activity likely to cause injury or harm to an individual or property.

(b) This section does not apply to a safety violation by a gas company that is subject to § 13–203 of this subtitle.

(c) (1) Subject to paragraph (2) of this subsection, a public service company that violates a provision of this division that relates to safety is subject to a civil penalty not exceeding **[**$500**]** ~~**$10,000**~~ ***$25,000*** for each violation for each day that the violation persists.

(2) **[**The maximum civil penalty may not exceed:

(i) $50,000 for a related series of violations; or

(ii) for**]** **FOR** a common carrier, **THE MAXIMUM CIVIL PENALTY MAY NOT EXCEED** $500 for each violation or related series of violations stemming from a single safety inspection.

(d) In determining the amount of a civil penalty imposed under this section, the Commission shall consider the:

(1) appropriateness of the penalty to the size of the public service company;

(2) number of previous violations of this article by the public service company;

(3) gravity of the current violation; and

(4) good faith of the public service company in attempting to achieve compliance after notification of the violation.

(e) The public service company involved may request reconsideration of a penalty imposed under this section within 30 days after the date of notification of the determination.

SECTION 2. AND BE IT FURTHER ENACTED, That the Maryland Public Service Commission shall:

(1) review current regulations, tariffs, or standards relating to electric company responsibility for customer damages caused by electrical surges and assess the feasibility of obtaining information from electric companies regarding the extent of electrical surges and customer damages that result from electrical surges;

(2) study the feasibility of incorporating an electric company's service restoration plan into the electric company's reliability plan;

(3) study and consider whether to prohibit an electric company from calculating the rate charged by the electric company using a formula that decouples the electric company's revenue from the sale of kilowatt–hours unless the formula provides for the suspension of decoupling during any extended service disruption; and

(4) on or before January 1, 2012, report its findings to the Senate Finance Committee and the House Economic Matters Committee, in accordance with § 2–1246 of the State Government Article.

SECTION ~~2.~~ *3.* AND BE IT FURTHER ENACTED, That the Public Service Commission shall convene a stakeholder workgroup to provide recommendations regarding the regulations to be adopted by the Commission under this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That nothing in this Act shall be construed as limiting the authority of the Public Service Commission to impose penalties for violations of law or regulation in existence before the effective date of this Act.

SECTION ~~2.~~ ~~3.~~ *5.* AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three–fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, May 10, 2011.

Chapter 169

(House Bill 671)

AN ACT concerning

Federal Military and Overseas Voter Empowerment (MOVE) Act Compliance

FOR the purpose of making certain changes to the State election law to comply with the federal Military and Overseas Voter Empowerment (MOVE) Act; requiring certain local boards of elections to provide certain information relating to certain candidates to the State Board of Elections in accordance with regulations adopted by the State Board; altering certain deadlines for the filing of certain certificates of candidacy, petitions, certificates of withdrawal, and certificates of designation of candidacy; altering certain primary dates; altering the dates by which the State Board is required to certify the content and arrangement of certain ballots and deliver a copy to each local board; requiring the State Board to display the content and arrangement of certain ballots on its Web site for a certain period of time after certification; altering the number of

days of public display of the content and arrangement of certain ballots that is required for purposes of determining when specified actions may be taken; altering the date by which a registered voter may seek judicial review of the content and arrangement of certain ballots; and generally relating to primary and general elections.

BY repealing and reenacting, with amendments,
Article – Election Law
Section 5–302(c), 5–303, 5–305, 5–502, 5–901, 8–201, 8–502(d), 9–207, and 9–209
Annotated Code of Maryland
(2010 Replacement Volume)

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

Article – Election Law

5–302.

(c) **(1)** If the candidacy is for an office other than an office described in subsection (b) of this section, the certificate of candidacy shall be filed with the local board of the applicable county.

(2) IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE STATE BOARD, EACH LOCAL BOARD SHALL PROVIDE THE NAME AND OTHER REQUIRED INFORMATION FOR EACH CANDIDATE TO THE STATE BOARD.

5–303.

(a) Except as provided in subsections (b) and (c) of this section**:**

(1) IN THE YEAR IN WHICH THE GOVERNOR IS ELECTED, a certificate of candidacy shall be filed not later than 9 p.m. on the **[**Monday that is 10 weeks or 70 days before the day on**] WEDNESDAY FOLLOWING THE SECOND TUESDAY IN APRIL IN THE YEAR IN** which the primary election will be held**; AND**

(2) FOR ANY OTHER REGULARLY SCHEDULED ELECTION, A CERTIFICATE OF CANDIDACY SHALL BE FILED NOT LATER THAN 9 P.M. ON THE ~~MONDAY THAT IS 85~~ WEDNESDAY THAT IS 83 DAYS BEFORE THE DAY ON WHICH THE PRIMARY ELECTION WILL BE HELD.

(b) A certificate of candidacy for an office to be filled by a special election under this article shall be received and filed in the office of the appropriate board not later than 5 p.m. on the Monday that is 3 weeks or 21 days prior to the date for the

special primary election specified by the Governor in the proclamation for the special primary election.

(c) The certificate of candidacy for the election of a write–in candidate shall be filed by the earlier of:

(1) 7 days after a total expenditure of at least $51 is made to promote the candidacy by a campaign finance entity of the candidate; or

(2) 5 p.m. on the Wednesday preceding the day of the election for which the certificate is filed.

5–305.

(a) This section applies only to a petition that will affect the right of a candidate to have the candidate's name appear on the ballot in a primary or general election.

(b) A registered voter who is a resident of the district or other geographic area in which a candidate is seeking office may file a petition with the circuit court for that district or geographic area to challenge the candidate's residency as provided in § 5–202 of this title.

(c) (1) The petition must be filed**[**:

(i) if the petition involves a challenge to a candidate for an office that is to be contested at an election in the year that there is not a presidential election, no later than 9 weeks before that election; or

(ii) if the petition involves a challenge to a candidate for an office that is to be contested at an election in the year of a presidential election, no later than 11 weeks before that election**] 6 DAYS AFTER THE FILING ~~DATE~~ DATES PROVIDED IN ~~§ 5–303 OF THIS TITLE~~ §§ 5–303 AND 5–703(C) OF THIS TITLE**.

(2) Judicial review of any petition that is filed under subsection (b) of this section shall be expedited by the circuit court that hears the cause to the extent necessary in consideration of the deadlines established by law, and in no case, longer than 7 days from the date the petition is filed.

5–502.

(a) Subject to § 5–402 of this title, an individual who has filed a certificate of candidacy may withdraw the candidacy by filing a certificate of withdrawal on the form prescribed by the State Board within **[**10**] 2** days after the filing date established under § 5–303 of this title.

(b) An individual who has filed a certificate of candidacy for the special election to fill a vacancy for Representative in Congress may withdraw the certificate on the prescribed form within 2 days after the filing date established in the proclamation issued by the Governor.

5–901.

(a) This section does not apply to vacancy in nomination in the office of a Governor and Lieutenant Governor unit.

(b) This section applies to a vacancy in candidacy for a primary election that occurs because no candidate for the political party files a certificate of candidacy for the election.

(c) (1) Except for a vacancy in candidacy for the election of a member of the Senate of Maryland or the House of Delegates as provided in paragraph (2) of this subsection, the vacancy in candidacy for a political party that is entitled to have a candidate on the ballot for an office elected by the voters of more than one county shall be filled by the State central committee or governing body of that political party.

(2) (i) In a State legislative district or a State delegate district comprising more than one county, a vacancy in candidacy for a political party that is entitled to have a candidate on the ballot shall be filled by a vote of the central committee in the counties in the district.

(ii) In filling the vacancy in candidacy under subparagraph (i) of this paragraph, the central committee of each county where the vacancy occurs shall cast a vote proportionate to its share of the population of the district as reported in the most recent decennial census of the United States.

(iii) If no person receives a majority of the votes cast under subparagraph (ii) of this paragraph, or if there is a tie vote by the central committees, the vacancy in candidacy shall be filled by the State central committee of the political party.

(d) For any public or party office not described in subsection (c) of this section, a vacancy in candidacy under this section shall be filled by the central committee of the political party in the county in which the office is located.

(e) A central committee authorized to fill a vacancy in candidacy for an office under this section shall file a certificate of designation of candidacy with the appropriate board designated to receive the certificate of candidacy for that office **[**by the fifth day after the date on which a candidate may withdraw a certificate of candidacy before the primary election**]** **5 DAYS AFTER THE FILING DATE PROVIDED IN § 5–303 OF THIS TITLE**.

(f) The individual designated by a central committee under subsection (e) of this section to fill a vacancy shall file a certificate of candidacy in accordance with Subtitle 3 of this title with the appropriate board by the date specified for the applicable central committee to file a certificate of designation under subsection (e) of this section.

8–201.

(a) (1) There shall be a statewide primary election in every even–numbered year.

(2) A primary election shall be held:

(i) in the year in which the Governor is elected, on the **[**second**]** **LAST** Tuesday **[**after the first Monday in September**]** **IN JUNE**; and

(ii) in the year in which the President of the United States is elected, on the **[**second**]** **FIRST** Tuesday in **[**February**]** **APRIL**.

(b) In Baltimore City, there shall be a primary election for municipal offices on the second Tuesday following the first Monday in September in the year following the election of the Governor.

8–502.

(d) A candidate who seeks to be placed on the ballot by the petition process specified in subsection (b)(2) of this section shall file the petition, in the form prescribed by the State Board, on the **[**Monday**]** **WEDNESDAY** that is **[**70**]** **83** days before the day of the election.

9–207.

(a) The State Board shall certify the content and arrangement of each ballot:

(1) for a primary election**[**:

(i) in the year that the President of the United States is elected, at least 42 days before the election; and

(ii) in any other year, at least 50 days before the election**]**, **NO MORE THAN 11 DAYS AFTER THE FILING DATE PROVIDED IN § 5–303 OF THIS TITLE**;

(2) for a general election:

(i) in the year that the President of the United States is elected, at least 55 days before the election; and

(ii) in any other year, not more than 18 days after the primary election;

(3) for a special primary election, at least 18 days before the election; and

(4) for a special general election, not later than a date specified in the Governor's proclamation.

(b) The Court of Appeals, on petition of the State Board, may establish a later date in extraordinary circumstances.

(c) **[**Within ~~48~~ **24** hours after certification**]** ~~**NO MORE THAN 12 DAYS AFTER THE FILING DATE PROVIDED IN § 5–303 OF THIS TITLE**~~, the State Board shall **[**deliver to each local board a copy of the certified ballot content and arrangement for that county.

(d) (1) Within 5 days after the certification, or a later date that the Court of Appeals establishes in extraordinary circumstances on petition of the State Board, a local board shall:

(i) prepare the arrangement for all ballots to be used in the county, using the arrangement prescribed by the State Board; and

(ii) display the content and arrangement, in a manner that is accessible to the public, on all days that the office is open through the day of the election**]** **PUBLICLY DISPLAY THE CONTENT AND ARRANGEMENT OF EACH CERTIFIED BALLOT ON ITS WEB SITE**.

[(2)**]** **(D)** Except pursuant to a court order under § 9–209 of this subtitle, or as provided in § 9–208 of this subtitle, the content and arrangement of the ballot may not be modified after the **[**third**]** **SECOND** day of the public display.

(e) Unless a delay is required by court order, **[**a local board**]** **THE STATE BOARD** may begin to print the ballots after **[**3**]** **2** days of public display and**[**, with the approval of the State Board, correction of**]** **CORRECT** any noted errors.

9–209.

(a) Within **[**~~3~~ **2** days after the content and arrangement of the ballot are ~~placed on public display~~ **CERTIFIED** under § 9–207 of this subtitle**]** ~~**13 DAYS AFTER THE FILING DATE PROVIDED IN § 5–303 OF THIS TITLE**~~, a registered voter may

seek judicial review of the content and arrangement, or to correct any other error, by filing a sworn petition with the circuit court for the county.

(b) The circuit court may require the local board to:

(1) correct an error;

(2) show cause why an error should not be corrected; or

(3) take any other action required to provide appropriate relief.

(c) If an error is discovered after the ballots have been printed, and the local board fails to correct the error, a registered voter may seek judicial review not later than the second Monday preceding the election.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 170

(House Bill 1228)

AN ACT concerning

Unemployment Insurance – Federal Extended Benefits for the Long–Term Unemployed

FOR the purpose of specifying that, for certain weeks of unemployment, a State "on" indicator exists for extended unemployment benefits under certain circumstances; specifying that a State "off" indicator exists for certain extended unemployment benefits under certain circumstances; prohibiting certain extended unemployment benefits from being payable for any week of unemployment beginning before a certain date; specifying the total amount of certain extended unemployment benefits that are payable to an eligible individual; authorizing the Secretary of Labor, Licensing, and Regulation, if authorized by federal law, to suspend the payment of certain extended unemployment benefits under certain circumstances; requiring that certain federal unemployment law provisions and definitions apply to certain provisions of State law under certain circumstances; establishing the Extended Benefits Fund; stating the purpose of the Fund; stating the intent of the General Assembly; requiring the Secretary to adopt certain regulations; defining a certain term; stating the intent that the Governor shall appropriate a certain amount of money for the Fund for a certain fiscal year; providing for the

reimbursement of counties, municipalities, and certain associations for certain total net costs relating to unemployment benefits; providing that unused funds remaining in the Fund are to revert to the General Fund; requiring the Secretary to notify the Department of Legislative Services when the condition for the termination of this Act is met; providing for the application of this Act; providing for the termination of this Act; and generally relating to unemployment insurance benefits.

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 8–1103 and 8–1105
Annotated Code of Maryland
(2008 Replacement Volume and 2010 Supplement)

BY adding to
Article – Labor and Employment
Section 8–1109 ~~and 8–1110~~, 8–1110, and 8–1111
Annotated Code of Maryland
(2008 Replacement Volume and 2010 Supplement)

Preamble

WHEREAS, Maryland law authorizes up to 13 weeks of extended benefits for eligible unemployed individuals who have exhausted all other forms of benefits; and

WHEREAS, With limited exceptions, the cost of most extended benefits is shared equally between the State and the federal government; and

WHEREAS, The State extended benefits program is triggered "on" by certain rates of insured unemployment; and

WHEREAS, Despite the recent economic downturn, the rate of insured unemployment in Maryland has not reached the statutory level necessary to trigger the extended benefits program "on"; and

WHEREAS, The federal government has temporarily authorized 100% federal funding of the shareable costs of extended benefits paid to individuals separated from insured employment; and

WHEREAS, To offer extended benefits, which would benefit Maryland's long–term unemployed and which would be largely 100% federally funded, Maryland must adopt alternative triggers for the extended benefits program; now, therefore,

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

Article – Labor and Employment

8–1103.

(a) An extended benefit period is a period that:

(1) begins with the 3rd week after the 1st week for which there is a State "on" indicator but not earlier than the 14th week after the end of another extended benefit period; and

(2) ends with the later of:

(i) the 3rd week after the 1st week for which there is a State "off" indicator; or

(ii) the 13th consecutive week of the period.

(b) (1) A State "on" indicator for a week exists whenever, for that week and the 12 immediately preceding weeks, the rate of insured unemployment, not seasonally adjusted, is at least:

(i) 5%; and

(ii) 120% of the average of the rates for the corresponding 13–week period ending in each of the 2 preceding calendar years.

(2) After a State "on" indicator occurs under this subsection, a State "off" indicator for a week exists whenever, for that week and the 12 immediately preceding weeks, the rate of insured unemployment, not seasonally adjusted, is less than:

(i) 5%; or

(ii) 120% of the average of the rates for the corresponding 13–week period ending in each of the 2 preceding calendar years.

(c) (1) A State "on" indicator exists for a week whenever, for that week and the 12 immediately preceding weeks, the rate of insured unemployment, not seasonally adjusted, is at least 6%.

(2) After a State "on" indicator occurs under this subsection, a State "off" indicator exists for a week whenever, for that week and the 12 immediately preceding weeks, the rate of insured unemployment, not seasonally adjusted, was less than 6%.

(d) A State "on" indicator under subsection (b) or (c) of this section takes precedence over a State "off" indicator under subsection **[**(c) or (b)**] (B) OR (C)** of this section, respectively.

(e) (1) To compute the rate of insured unemployment under subsections (b) and (c) of this section, the Secretary shall:

(i) determine the average weekly number of individuals submitting claims for regular benefits in the State for weeks of unemployment during the most recent 13 consecutive weeks based on reports of the Secretary to the United States Secretary of Labor; and

(ii) divide that number by the average monthly number of employees engaged in covered employment for the 1st 4 of the 6 completed calendar quarters ending immediately before the 13 weeks.

(2) The Secretary shall make each computation under this subsection in accordance with regulations of the United States Secretary of Labor.

(F) (1) THIS SUBSECTION APPLIES TO WEEKS OF UNEMPLOYMENT BEGINNING AFTER JANUARY 2, 2010, AND ENDING 4 WEEKS PRIOR TO THE LAST WEEK FOR WHICH 100% FEDERAL SHARING FUNDING IS AVAILABLE UNDER THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 WITHOUT REGARD TO THE PHASEOUT OF FEDERAL SHARING FOR CLAIMS AS PROVIDED IN THAT LAW.

(2) A STATE "ON" INDICATOR FOR A WEEK EXISTS IF:

(I) THE AVERAGE RATE OF TOTAL UNEMPLOYMENT, SEASONALLY ADJUSTED, AS DETERMINED BY THE UNITED STATES SECRETARY OF LABOR, FOR THE PERIOD CONSISTING OF THE MOST RECENT 3 MONTHS FOR WHICH DATA FOR ALL STATES ARE PUBLISHED BEFORE THE CLOSE OF THAT WEEK IS AT LEAST 6.5%; AND

(II) 1. THE AVERAGE RATE OF TOTAL UNEMPLOYMENT IN THE STATE, SEASONALLY ADJUSTED, AS DETERMINED BY THE UNITED STATES SECRETARY OF LABOR, FOR THE 3–MONTH PERIOD REFERRED TO IN ITEM (I) OF THIS PARAGRAPH IS AT LEAST 110% OF THAT AVERAGE FOR EITHER OR BOTH OF THE CORRESPONDING 3–MONTH PERIODS ENDING IN EITHER OR BOTH OF THE 2 PRECEDING CALENDAR YEARS; OR

2. WITH RESPECT TO WEEKS OF UNEMPLOYMENT BEGINNING AFTER JANUARY 1, 2011, AND ENDING ON DECEMBER 31, 2011, OR THE EXPIRATION DATE IN SECTION 502 OF THE TAX RELIEF, UNEMPLOYMENT INSURANCE REAUTHORIZATION, AND JOB CREATION ACT OF 2010, WHICHEVER IS LATER, THE AVERAGE RATE OF TOTAL UNEMPLOYMENT IN THE STATE, SEASONALLY ADJUSTED, AS DETERMINED BY THE UNITED STATES SECRETARY OF LABOR, FOR THE 3–MONTH PERIOD DESCRIBED IN ITEM (I) OF THIS PARAGRAPH, IS AT LEAST 110% OF THAT AVERAGE FOR ANY OR ALL OF

THE CORRESPONDING 3–MONTH PERIODS ENDING IN THE 3 PRECEDING CALENDAR YEARS.

(3) AFTER A STATE "ON" INDICATOR OCCURS UNDER PARAGRAPH (2) OF THIS SUBSECTION, A STATE "OFF" INDICATOR FOR A WEEK EXISTS WHENEVER, FOR THAT WEEK AND THE 12 IMMEDIATELY PRECEDING WEEKS, NONE OF THE OPTIONS SPECIFIED IN PARAGRAPH (2) OF THIS SUBSECTION RESULTS IN AN "ON" INDICATOR.

(G) EXTENDED BENEFITS MAY NOT BE PAYABLE BASED ON A STATE "ON" TRIGGER UNDER SUBSECTION (F) OF THIS SECTION FOR ANY WEEK OF UNEMPLOYMENT BEGINNING BEFORE OCTOBER 1, 2011.

[(f)**] (H)** The Secretary shall make an appropriate public announcement whenever an "on" indicator exists that begins or an "off" indicator exists that ends an extended benefit period.

8–1105.

(a) **[**The**] EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, THE** weekly amount of extended benefits payable for a week of total unemployment during an individual's eligibility period is equal to the amount of regular benefits, including allowances for dependents, payable to the individual for a week of total unemployment during the applicable benefit year.

(b) The total amount of extended benefits payable to an eligible individual for the applicable benefit year of the individual may not be less than the lesser of:

(1) 50% of the total amount of regular benefits, including allowances for dependents, payable to the individual during that benefit year;

(2) 13 times the average weekly benefit amount of the individual; or

(3) 39 times the average weekly benefit amount of the individual, reduced by the amount of regular benefits paid or deemed paid to the individual during that benefit year.

(c) If the benefit year of an individual ends during an extended benefit period, the balance of extended benefits to which the individual is entitled for weeks of unemployment beginning after the benefit year shall be reduced, but not below zero, by an amount computed by:

(1) determining the number of weeks for which the individual received any amounts as trade readjustment allowances under the federal Trade Act of 1974 within that benefit year; and

(2) multiplying the number determined under item (1) of this subsection by the weekly amount of extended benefits of the individual.

(d) An individual who otherwise is eligible to receive benefits may not be denied regular benefits or extended benefits for any week because the individual:

(1) is in a training program that the United States Secretary of Labor approves under 19 U.S.C. § 2296(a)(1); or

(2) leaves work that is not suitable to enter a training program that the United States Secretary of Labor approves under 19 U.S.C. § 2296(a)(1) because:

(i) the work was not of substantially equal or a higher skill level than the past adversely affected employment of the individual as defined under 19 U.S.C. § 2296(f); and

(ii) the wages for the work were less than 80% of the average weekly wage of the individual as determined under 19 U.S.C. § 2296(e).

(E) (1) IN THIS SUBSECTION, "HIGH UNEMPLOYMENT PERIOD" MEANS ANY PERIOD DURING WHICH:

(I) AN EXTENDED BENEFIT PERIOD WOULD BE IN EFFECT UNDER § 8–1103(F) OF THIS SUBTITLE; AND

(II) THE AVERAGE RATE OF TOTAL UNEMPLOYMENT, SEASONALLY ADJUSTED, AS DETERMINED BY THE UNITED STATES SECRETARY OF LABOR, FOR THE PERIOD CONSISTING OF THE MOST RECENT 3 MONTHS FOR WHICH DATA FOR ALL STATES ARE PUBLISHED BEFORE THE CLOSE OF THAT WEEK IS AT LEAST 8%.

(2) THIS SUBSECTION APPLIES TO WEEKS OF UNEMPLOYMENT IN A HIGH UNEMPLOYMENT PERIOD.

(3) THE TOTAL AMOUNT OF EXTENDED BENEFITS PAYABLE TO AN ELIGIBLE INDIVIDUAL FOR THE APPLICABLE BENEFIT YEAR MAY NOT BE LESS THAN THE LESSER OF:

(I) 80% OF THE TOTAL AMOUNT OF REGULAR BENEFITS, INCLUDING ALLOWANCES FOR DEPENDENTS, PAYABLE TO THE INDIVIDUAL DURING THE BENEFIT YEAR;

(II) 20 TIMES THE AVERAGE WEEKLY BENEFIT AMOUNT OF THE INDIVIDUAL, REDUCED BY THE AMOUNT OF REGULAR BENEFITS PAID OR DEEMED PAID TO THE INDIVIDUAL DURING THE BENEFIT YEAR; OR

(III) 46 TIMES THE AVERAGE WEEKLY EXTENDED BENEFIT AMOUNT, REDUCED BY THE REGULAR BENEFITS (NOT INCLUDING DEPENDENTS' ALLOWANCES) PAID TO THE INDIVIDUAL DURING THAT BENEFIT YEAR.

8–1109.

NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, THE SECRETARY, IF AUTHORIZED BY FEDERAL LAW, MAY SUSPEND THE PAYMENT OF EXTENDED BENEFITS UNDER § 8–1105(E) OF THIS SUBTITLE, TO THE EXTENT NECESSARY TO ENSURE THAT:

(1) OTHERWISE ELIGIBLE INDIVIDUALS ARE NOT DENIED, IN WHOLE OR IN PART, THE RECEIPT OF EMERGENCY UNEMPLOYMENT COMPENSATION AUTHORIZED BY THE FEDERAL SUPPLEMENTAL APPROPRIATIONS ACT OF 2008, THE UNEMPLOYMENT COMPENSATION EXTENSION ACT OF 2008, THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009, OR THE TAX RELIEF, UNEMPLOYMENT INSURANCE REAUTHORIZATION, AND JOB CREATION ACT OF 2010; AND

(2) THE STATE RECEIVES MAXIMUM REIMBURSEMENT FROM THE FEDERAL GOVERNMENT FOR THE PAYMENT OF THE EMERGENCY BENEFITS.

8–1110.

TO THE EXTENT THAT PROVISIONS AND DEFINITIONS OF FEDERAL UNEMPLOYMENT LAW ARE IN CONFLICT WITH, OR SUPPLEMENT THE PROVISIONS AND DEFINITIONS IN THIS SUBTITLE, THE PROVISIONS AND DEFINITIONS OF FEDERAL UNEMPLOYMENT LAW SHALL APPLY.

8–1111.

(A) IN THIS SECTION, "NET COSTS" MEANS BENEFITS PAYABLE UNDER THIS SUBTITLE AND THAT ARE REIMBURSED DOLLAR FOR DOLLAR TO THE UNEMPLOYMENT INSURANCE FUND ESTABLISHED UNDER § 8–401 OF THIS TITLE LESS ESTIMATED TAX REVENUE PAYABLE IN CONNECTION WITH THE BENEFITS PAYABLE UNDER THIS SUBTITLE.

(B) (1) THERE IS AN EXTENDED BENEFITS FUND IN THE STATE TREASURY.

(2) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7–302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(3) THE FUND MAY BE USED ONLY TO REIMBURSE NET COSTS FOR CLAIMS FILED UNDER § 8–1103(F) OF THIS TITLE.

(4) (I) THE PURPOSE OF THE FUND IS TO REIMBURSE COUNTIES AND MUNICIPAL CORPORATIONS FOR NET COSTS, AS DETERMINED BY THE SECRETARY.

(II) THE FUND MAY BE USED TO REIMBURSE AN ASSOCIATION THAT IS VOLUNTARY, NONPROFIT, AND CONTROLLED AND MAINTAINED BY MUNICIPAL CORPORATIONS FOR NET COSTS, AS DETERMINED BY THE SECRETARY.

(5) THE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE SECRETARY SHALL ADMINISTER THE FUND.

(6) THE TREASURER SHALL INVEST AND REINVEST THE FUND IN THE SAME MANNER AS OTHER STATE FUNDS.

(C) THE FUND SHALL CONSIST OF:

~~(I)~~ (1) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;

~~(II)~~ (2) INVESTMENT EARNINGS OF THE FUND; AND

~~(III)~~ (3) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.

(D) THE SECRETARY SHALL ENSURE THAT THE MONEY IN THE FUND IS DISTRIBUTED IN THE MANNER THAT BEST ACCOMPLISHES THE PURPOSE OF THE FUND.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act, with regard to the payment of unemployment insurance benefits under § 8–1105(e) of the Labor and Employment Article, as enacted by Section 1 of this Act, shall be construed to apply prospectively and shall be applicable for weeks of unemployment beginning on or after October 2, 2011.

SECTION 3. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that:

(1) the Governor shall appropriate $1,635,000 in the fiscal 2013 budget for the Extended Benefits Fund created under § 8–1111 of the Labor and Employment Article, as enacted by Section 1 of this Act;

(2) as determined by the Secretary of Labor, Licensing, and Regulation, on or before 30 days after the last day a claimant may file for extended benefits for which 100% federal sharing is available for any claim under the federal Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, the counties and municipal corporations that have net costs are eligible for reimbursement for net costs from the Extended Benefits Fund, as enacted by Section 1 of this Act;

(3) based on the total net costs determined by the Secretary under paragraph (2) of this section:

(i) eligible counties shall be reimbursed by the Extended Benefits Fund, as enacted by Section 1 of this Act, at a minimum of 60% of their net costs; and

(ii) eligible municipal corporations and municipal government associations shall be reimbursed by the Extended Benefits Fund, as enacted by Section 1 of this Act, at a minimum of 80% of their net costs;

(4) (i) if the total net costs determined by the Secretary under paragraph (2) of this section exceed $1,635,000, the Secretary shall reimburse eligible counties, municipal corporations, and municipal government associations from the Extended Benefits Fund, as enacted by Section 1 of this Act, an amount that is proportional to the percentage reimbursements specified under paragraph (3) of this section; and

(ii) if the total net costs determined by the Secretary under paragraph (2) of this section is less than $1,635,000, the Secretary shall increase the reimbursement to eligible counties, municipal corporations, and municipal government associations from the Extended Benefits Fund, as enacted by Section 1 of this Act, in an amount that is proportional to the percentage reimbursements specified under paragraph (3) of this section, up to a maximum of 100% of net costs claims, until the Fund is depleted; and

(5) after eligible counties, municipal corporations, and municipal government associations have been reimbursed up to the maximum allowable under this section, any unused funds remaining in the Extended Benefits Fund shall revert to the General Fund.

SECTION 4. AND BE IT FURTHER ENACTED, That the Secretary of Labor, Licensing, and Regulation shall adopt regulations that establish procedures for the reimbursement of net costs from the Extended Benefits Fund, as enacted by Section 1 of this Act.

SECTION ~~3.~~ 5. AND BE IT FURTHER ENACTED, That the Secretary of Labor, Licensing, and Regulation shall notify the Department of Legislative Services when

the condition for the termination of this Act, as specified in Section ~~4~~ 6 of this Act, is met.

SECTION ~~4.~~ 6. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011, and shall remain effective until the week ending 4 weeks prior to the last week of unemployment for which 100% federal sharing is available for any claim under Section 2005(a) of the American Recovery and Reinvestment Act or any subsequently enacted federal law, whichever is later, and thereafter shall be abrogated with no further action required by the General Assembly and be of no further force and effect.

Approved by the Governor, May 10, 2011.

Chapter 171

(House Bill 171)

AN ACT concerning

Collective Bargaining – Independent Home Care Providers

FOR the purpose of establishing collective bargaining rights for certain independent home care providers; providing that there may be only one appropriate bargaining unit for certain independent home care providers; authorizing providers to designate an exclusive representative; requiring that certain procedures relating to the election and certification of an exclusive representative, collective bargaining process, and bargaining agreements be governed by certain provisions of the collective bargaining law for State employees; prohibiting the State Labor Relations Board from conducting a certain election within a certain period; requiring an exclusive representative to represent all independent home care providers, whether or not they are members of the provider organization; providing for the scope of collective bargaining for independent home care providers; authorizing collective bargaining negotiations pertaining to independent home care providers to include, ~~under certain circumstances~~ subject to certain conditions, negotiations relating to the right of an employee organization to receive service fees from nonmembers; requiring an exclusive representative, if a memorandum of understanding contains a certain service fee provision, to provide notice of the service fee provision to independent home care providers before a certain vote is held; providing that certain independent home care providers are not required to pay certain fees and are required to make certain other payments; specifying that the certification of certain exclusive representatives under this Act does not prevent provider organizations or other persons from communicating with or appearing before or making proposals to certain State agencies at a public meeting or hearing; prohibiting a provider organization from calling or directing

a strike; providing that the provisions of this Act may not alter certain rights of home care consumers with regard to independent home care providers; declaring the intent of the General Assembly as it relates to the application of a certain exemption to State and federal antitrust laws; providing for the application and construction of this Act; providing that a certain provider organization certified as the majority representative in a certain election pursuant to a certain Executive Order shall continue as the exclusive representative without the requirement of an additional election and certification; defining certain terms; declaring that the provisions of this Act are severable; and generally relating to collective bargaining for independent home care providers.

BY adding to
Article – Health – General
Section 15–901 through 15–907 to be under the new subtitle "Subtitle 9. Collective Bargaining by Independent Home Care Providers"
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

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

Article – Health – General

SUBTITLE 9. COLLECTIVE BARGAINING BY INDEPENDENT HOME CARE PROVIDERS.

15–901.

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

(B) "INDEPENDENT HOME CARE PROVIDER" MEANS AN INDIVIDUAL WHO:

(1) PROVIDES HOME CARE SERVICES THAT ARE <u>DIRECTLY</u> REIMBURSED <u>BY THE STATE OR A FISCAL INTERMEDIARY FUNCTIONING ON BEHALF OF THE STATE, AND NOT BY AN AGENCY OR BUSINESS THAT EMPLOYS EMPLOYEES OR REFERS INDEPENDENT CONTRACTORS AS HOME CARE PROVIDERS,</u> UNDER:

(I) THE MEDICAID WAIVER FOR OLDER ADULTS THAT IS JOINTLY ADMINISTERED BY THE DEPARTMENT AND THE DEPARTMENT OF AGING AS ESTABLISHED UNDER § 15–132 OF THIS TITLE<u>, OR ANY SUCCESSOR PROGRAM</u>;

(II) THE MEDICAID PERSONAL CARE PROGRAM UNDER THE STATE MEDICAL ASSISTANCE PROGRAM, OR ANY SUCCESSOR PROGRAM;

(III) THE LIVING AT HOME WAIVER PROGRAM UNDER SUBTITLE 8 OF THIS TITLE, OR ANY SUCCESSOR PROGRAM; AND

(IV) THE IN–HOME AIDE SERVICE PROGRAM ADMINISTERED BY THE DEPARTMENT OF HUMAN RESOURCES, OR ANY SUCCESSOR PROGRAM; ~~AND~~

(2) IS NOT EMPLOYED OR REFERRED BY ~~A PRIVATE~~ AN AGENCY OR BUSINESS THAT EMPLOYS EMPLOYEES OR REFERS INDEPENDENT CONTRACTORS AS HOME CARE PROVIDERS;

(3) CONTRACTS DIRECTLY WITH A PROGRAM PARTICIPANT FOR HOME CARE SERVICES; AND

(4) PROVIDES HOME CARE SERVICES TO A PROGRAM PARTICIPANT PERSONALLY AND DOES NOT SUBCONTRACT WITH ANY OTHER PARTY TO PROVIDE THE SERVICES TO A PROGRAM PARTICIPANT.

(C) (1) "PROVIDER ORGANIZATION" MEANS AN ORGANIZATION THAT:

~~(1)~~ (I) INCLUDES INDEPENDENT HOME CARE PROVIDERS; AND

~~(2)~~ (II) HAS AS ONE OF ITS PURPOSES THE REPRESENTATION OF INDEPENDENT HOME CARE PROVIDERS IN THEIR RELATIONS WITH THE STATE.

(2) "PROVIDER ORGANIZATION" DOES NOT INCLUDE AN AGENCY OR BUSINESS THAT EMPLOYS EMPLOYEES OR REFERS INDEPENDENT CONTRACTORS AS HOME CARE PROVIDERS.

15–902.

IN ACCORDING INDEPENDENT HOME CARE PROVIDERS AND THEIR REPRESENTATIVES RIGHTS UNDER THIS SUBTITLE, IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE STATE ACTION EXEMPTION TO THE APPLICATION OF FEDERAL AND STATE ANTITRUST LAWS BE FULLY AVAILABLE TO THE EXTENT THAT THE ACTIVITIES OF THE INDEPENDENT HOME CARE PROVIDERS AND THEIR REPRESENTATIVES ARE AUTHORIZED UNDER THIS TITLE.

15–903.

(A) THERE SHALL BE ONLY ONE APPROPRIATE BARGAINING UNIT OF INDEPENDENT HOME CARE PROVIDERS IN THE STATE.

(B) INDEPENDENT HOME CARE PROVIDERS MAY DESIGNATE, IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE, WHICH PROVIDER ORGANIZATION, IF ANY, SHALL BE THE EXCLUSIVE REPRESENTATIVE OF ALL INDEPENDENT HOME CARE PROVIDERS IN THE STATE.

(C) (1) THE ELECTION AND CERTIFICATION OF THE EXCLUSIVE REPRESENTATIVE OF INDEPENDENT HOME CARE PROVIDERS SHALL BE GOVERNED BY THE PROCEDURES SET FORTH IN TITLE 3, SUBTITLE 4 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

(2) ALL ELECTIONS SHALL BE CONDUCTED BY THE STATE LABOR RELATIONS BOARD AND SUBJECT TO THE REQUIREMENTS AND LIMITATIONS OF TITLE 3, SUBTITLE 4 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

(3) THE STATE LABOR RELATIONS BOARD MAY NOT CONDUCT AN ELECTION FOR AN EXCLUSIVE REPRESENTATIVE IF AN ELECTION OR CERTIFICATION OF AN EXCLUSIVE REPRESENTATIVE HAS TAKEN PLACE WITHIN THE PRECEDING 2 YEARS.

(4) A PROVIDER ORGANIZATION DESIGNATED AS THE EXCLUSIVE REPRESENTATIVE SHALL REPRESENT ALL INDEPENDENT HOME CARE PROVIDERS IN THE STATE FAIRLY AND WITHOUT DISCRIMINATION, WHETHER OR NOT THE INDEPENDENT HOME CARE PROVIDERS ARE MEMBERS OF THE PROVIDER ORGANIZATION.

15–904.

(A) THE DEPARTMENT AND THE DEPARTMENTS OF HUMAN RESOURCES AND AGING SHALL DESIGNATE APPROPRIATE REPRESENTATIVES TO PARTICIPATE IN COLLECTIVE BARGAINING WITH THE PROVIDER ORGANIZATION CERTIFIED AS THE EXCLUSIVE REPRESENTATIVE OF INDEPENDENT HOME CARE PROVIDERS.

(B) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, THE PARTIES SHALL ADHERE TO THE BARGAINING PROCESS SET FORTH IN § 3–501 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

(C) THE STATE AGENCIES SPECIFIED IN SUBSECTION (A) OF THIS SECTION THAT ARE ENGAGED IN BARGAINING SHALL NEGOTIATE, IN

CONSULTATION WITH THE DEPARTMENT OF BUDGET AND MANAGEMENT, ALL MATTERS THAT REQUIRE APPROPRIATION OF STATE FUNDS.

(D) COLLECTIVE BARGAINING SHALL INCLUDE ALL MATTERS RELATING TO THE TERMS AND CONDITIONS OF PARTICIPATION BY INDEPENDENT HOME CARE PROVIDERS IN THE PROVISION OF HOME CARE SERVICES UNDER THE PROGRAMS SPECIFIED IN § 15–901(B) OF THIS SUBTITLE, INCLUDING:

(1) REIMBURSEMENT RATES;

(2) BENEFITS;

(3) PAYMENT PROCEDURES;

(4) CONTRACT GRIEVANCE PROCEDURES;

(5) TRAINING;

(6) MEMBER DUES DEDUCTIONS; AND

(7) OTHER TERMS AND CONDITIONS OF PARTICIPATION BY INDEPENDENT HOME CARE PROVIDERS IN THE PROVISION OF HOME CARE SERVICES UNDER THE PROGRAMS SPECIFIED IN § 15–901(B) OF THIS SUBTITLE.

(E) (1) (I) SUBJECT TO ~~SUBPARAGRAPH (II)~~ SUBPARAGRAPHS (II) AND (III) OF THIS PARAGRAPH, COLLECTIVE BARGAINING MAY INCLUDE NEGOTIATIONS RELATING TO THE RIGHT OF A PROVIDER ORGANIZATION THAT IS THE EXCLUSIVE REPRESENTATIVE TO RECEIVE SERVICE FEES FROM NONMEMBERS.

(II) THE REPRESENTATIVES OF THE STATE MAY NOT REACH AN AGREEMENT CONTAINING A SERVICE FEE PROVISION UNLESS THE REPRESENTATIVES OF THE STATE CONCLUDE THAT THE AGREEMENT AS A WHOLE WILL NOT ADVERSELY IMPACT NONMEMBER PROVIDERS.

(III) THE REPRESENTATIVES OF THE STATE MAY ONLY AGREE TO A SERVICE FEE PROVISION IF THE SERVICE FEE PROVISION WOULD REQUIRE NONMEMBERS TO PAY SERVICE FEES ON A SLIDING SCALE IN APPROXIMATE PROPORTION TO THE AMOUNT EACH NONMEMBER RECEIVES IN REIMBURSEMENT THROUGH:

1. THE MEDICAID WAIVER FOR OLDER ADULTS THAT IS JOINTLY ADMINISTERED BY THE DEPARTMENT AND THE DEPARTMENT

OF AGING AS ESTABLISHED UNDER § 15–132 OF THIS TITLE, OR ANY SUCCESSOR PROGRAM;

2. THE MEDICAID PERSONAL CARE PROGRAM UNDER THE STATE MEDICAL ASSISTANCE PROGRAM, OR ANY SUCCESSOR PROGRAM;

3. THE LIVING AT HOME WAIVER PROGRAM UNDER SUBTITLE 8 OF THIS TITLE, OR ANY SUCCESSOR PROGRAM; AND

4. THE IN–HOME AIDE SERVICE PROGRAM ADMINISTERED BY THE DEPARTMENT OF HUMAN RESOURCES, OR ANY SUCCESSOR PROGRAM.

(2) AN INDEPENDENT HOME CARE PROVIDER WHOSE RELIGIOUS BELIEFS ARE OPPOSED TO JOINING OR FINANCIALLY SUPPORTING ANY COLLECTIVE BARGAINING ORGANIZATION:

(I) IS NOT REQUIRED TO PAY A SERVICE FEE; BUT

(II) SHALL PAY AN AMOUNT OF MONEY AS DETERMINED IN COLLECTIVE BARGAINING NEGOTIATIONS, NOT TO EXCEED ANY SERVICE FEE NEGOTIATED UNDER PARAGRAPH (1) OF THIS SUBSECTION, TO ANY CHARITABLE ORGANIZATION EXEMPT FROM TAXATION UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE AND TO FURNISH TO THE STATE AGENCIES ENGAGED IN COLLECTIVE BARGAINING UNDER THIS SUBTITLE AND THE EXCLUSIVE REPRESENTATIVE WRITTEN PROOF OF THE PAYMENT.

(3) (I) AN INDEPENDENT HOME CARE PROVIDER WHO PROVIDES HOME CARE SERVICES ONLY TO AN IMMEDIATE FAMILY MEMBER IS NOT REQUIRED TO PAY A SERVICE FEE.

(II) AN INDEPENDENT HOME CARE PROVIDER WHO PROVIDES SERVICES TO AN IMMEDIATE FAMILY MEMBER AND ANY OTHER INDIVIDUAL WHO IS NOT AN IMMEDIATE FAMILY MEMBER MAY BE REQUIRED TO PAY A SERVICE FEE THAT IS PROPORTIONATE TO THE AMOUNT THE PROVIDER RECEIVES IN REIMBURSEMENT FOR THE PROVIDER'S SERVICES TO ANY INDIVIDUAL WHO IS NOT AN IMMEDIATE FAMILY MEMBER.

(III) AN INDEPENDENT HOME CARE PROVIDER MAY BE REQUIRED TO PROVIDE WRITTEN DOCUMENTATION OF THE PROVISION OF HOME CARE SERVICES TO AN IMMEDIATE FAMILY MEMBER.

(F) NOTWITHSTANDING SUBSECTION (D) OF THIS SECTION, THE REPRESENTATIVES OF THE STATE:

(1) MAY NOT BE REQUIRED TO NEGOTIATE ANY MATTER THAT IS INCONSISTENT WITH APPLICABLE LAW; AND

(2) MAY NEGOTIATE AND REACH AGREEMENT WITH REGARD TO ANY MATTER THAT IS INCONSISTENT WITH APPLICABLE LAW ONLY IF IT IS UNDERSTOOD THAT THE AGREEMENT WITH RESPECT TO THE MATTER CANNOT BECOME EFFECTIVE UNLESS THE APPLICABLE LAW IS AMENDED BY THE GENERAL ASSEMBLY IN A MANNER THAT ELIMINATES INCONSISTENCY.

(G) (1) THE PARTIES SHALL REDUCE THEIR AGREEMENT TO A MEMORANDUM OF UNDERSTANDING THAT COMPLIES WITH THE PROVISIONS OF § 3–601 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

(2) IF THE MEMORANDUM OF UNDERSTANDING CONTAINS A SERVICE FEE PROVISION, BEFORE THE VOTE TO RATIFY THE MEMORANDUM OF UNDERSTANDING IS HELD, THE EXCLUSIVE REPRESENTATIVE SHALL PROVIDE NOTICE THAT THE MEMORANDUM OF UNDERSTANDING CONTAINS A PROVISION FOR A SERVICE FEE THAT WILL BE CHARGED ON A SLIDING SCALE TO INDEPENDENT HOME CARE PROVIDERS.

15–905.

THE CERTIFICATION OF AN EXCLUSIVE REPRESENTATIVE OF INDEPENDENT HOME CARE PROVIDERS BY THE STATE AGENCIES ENGAGED IN COLLECTIVE BARGAINING UNDER THIS SUBTITLE DOES NOT PREVENT THE CERTIFIED PROVIDER ORGANIZATION OR ANY OTHER ORGANIZATION OR INDIVIDUAL FROM COMMUNICATING WITH ANY STATE OFFICIAL ON MATTERS OF INTEREST, INCLUDING APPEARING BEFORE OR MAKING PROPOSALS TO THE STATE AGENCIES ENGAGED IN COLLECTIVE BARGAINING AT A PUBLIC MEETING OR HEARING OR AT ANY OTHER FORUM OF THE STATE AGENCIES.

15–906.

(A) A PROVIDER ORGANIZATION MAY NOT CALL OR DIRECT A STRIKE OR OTHER COLLECTIVE CESSATION OF THE DELIVERY OF SERVICES.

(B) THIS SUBTITLE MAY NOT BE CONSTRUED TO GRANT ANY RIGHT, OR IMPLY THAT INDEPENDENT HOME CARE PROVIDERS HAVE ANY RIGHT, TO ENGAGE IN A STRIKE OR OTHER COLLECTIVE CESSATION OF THE DELIVERY OF SERVICES.

15–907.

(A) THIS SUBTITLE MAY NOT BE CONSTRUED TO MAKE INDEPENDENT HOME CARE PROVIDERS EMPLOYEES OF THE STATE.

(B) THIS SUBTITLE MAY NOT BE CONSTRUED IN ANY WAY TO DENY PROGRAM RECIPIENTS OF INDEPENDENT HOME CARE SERVICES THE RIGHT TO SELECT, DIRECT, AND TERMINATE THE SERVICES OF INDEPENDENT HOME CARE PROVIDERS.

SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding the provisions of § 15–903 of the Health – General Article as enacted by Section 1 of this Act, the provider organization certified as the majority representative of independent home care providers in the election held pursuant to Executive Order 01.01.2007.15 prior to the effective date of this Act shall continue as the exclusive representative without the requirement of an additional election and certification.

SECTION 3. AND BE IT FURTHER ENACTED, That if any provision of this Act or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Act which can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are declared severable.

SECTION 4. AND BE IT FURTHER ENACTED, That:

(a) On or before December 31 of each year through 2014, the Department of Health and Mental Hygiene shall report to the Senate Finance Committee and the House ~~Economic Matters~~ Appropriations Committee, in accordance with § 2–1246 of the State Government Article, on the status of the independent home care providers participating in the programs specified in § 15–901(b) of the Health – General Article as enacted by Section 1 of this Act.

(b) The report shall include:

(1) the number of independent home care providers participating in the programs and the number of consumers served by the programs;

(2) the number of independent home care providers who join the collective bargaining unit established under this Act and the number of consumers served by each of the providers; and

(3) an analysis of any positive or negative trends resulting from the implementation of this Act.

SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 172

(Senate Bill 14)

AN ACT concerning

Vehicle Laws – Race–Based Traffic Stops~~, Strip Searches, and Body Cavity Searches – Reporting Requirements~~

FOR the purpose of requiring certain law enforcement officers to record certain information pertaining to traffic stops~~, strip searches, and body cavity searches~~; requiring certain law enforcement agencies to report certain information to the Maryland ~~Justice~~ Statistical Analysis Center (~~MJAC~~ MSAC); requiring the Police Training Commission to develop a certain format and guidelines and a standardized format for the reporting of certain data; requiring the Police Training Commission to develop a certain model policy; requiring the ~~MJAC~~ MSAC to analyze certain data based on a methodology developed in conjunction with the Police Training Commission; requiring the ~~MJAC~~ MSAC to make certain reports to the General Assembly, the Governor, and law enforcement agencies; requiring law enforcement agencies to adopt certain policies regarding race–based traffic stops~~, strip searches, and body cavity searches~~ for certain purposes; requiring the ~~MJAC~~ MSAC to report to the Police Training Commission law enforcement agencies that fail to comply with certain reporting requirements; requiring ~~certain~~ *specified* actions following a report on the failure of a law enforcement agency to comply; ~~providing for the application of this Act; defining certain terms; providing for the termination of this Act~~ *providing certain exceptions applicable to law enforcement agencies that are subject to certain agreements; defining certain terms; altering certain definitions; repealing certain provisions of this Act; providing for the termination of a certain provision of this Act; providing for a delayed effective date for certain provisions of this Act*; and generally relating to law enforcement procedures and traffic stops~~, strip searches, and body cavity searches~~.

BY adding to
Article – Transportation
Section 25–113
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,

Article – Transportation
Section 25–113
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)
(As enacted by Section 1 of this Act)

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

Article – Transportation

25–113.

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

~~**(2) "BODY CAVITY" MEANS THE STOMACH OR RECTAL CAVITY OF A MALE OR FEMALE INDIVIDUAL AND THE VAGINA OF A FEMALE INDIVIDUAL.**~~

~~**(3) "BODY CAVITY SEARCH" MEANS A PHYSICAL INTRUSION INTO A BODY CAVITY TO DETERMINE THE PRESENCE OF A WEAPON OR A CONTROLLED DANGEROUS SUBSTANCE CONCEALED IN THE BODY CAVITY.**~~

~~**(4) "CONTROLLED DANGEROUS SUBSTANCE" HAS THE MEANING STATED IN § 5–101 OF THE CRIMINAL LAW ARTICLE.**~~

~~**(2) (5)**~~ ***(2)*** **"LAW ENFORCEMENT AGENCY" MEANS AN AGENCY THAT IS LISTED IN § 3–101(E) OF THE PUBLIC SAFETY ARTICLE** ***AND THAT, IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION, IS SUBJECT TO THE PROVISIONS OF THIS SECTION*****.**

~~**(3) (6)**~~ ***(3)*** **"LAW ENFORCEMENT OFFICER" MEANS ANY PERSON WHO, IN AN OFFICIAL CAPACITY, IS AUTHORIZED BY LAW TO MAKE ARRESTS AND WHO IS AN EMPLOYEE OF A LAW ENFORCEMENT AGENCY** ***THAT IS SUBJECT TO THIS SECTION*****.**

~~**(4) (7)**~~ ***(4)*** **"MARYLAND** ~~**JUSTICE ANALYSIS CENTER" MEANS THE CENTER OPERATED BY THE DEPARTMENT OF CRIMINOLOGY AND CRIMINAL JUSTICE AT THE UNIVERSITY OF MARYLAND, COLLEGE PARK**~~ **STATISTICAL ANALYSIS CENTER" MEANS THE RESEARCH, DEVELOPMENT, AND EVALUATION COMPONENT OF THE GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION.**

~~(5)~~ ~~(8)~~ *(5)* "POLICE TRAINING COMMISSION" MEANS THE UNIT WITHIN THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES ESTABLISHED UNDER § 3–202 OF THE PUBLIC SAFETY ARTICLE.

~~(9) (I) "STRIP SEARCH" MEANS AN OBSERVATION OF THE UNCLOTHED BODY OF AN INDIVIDUAL TO DETERMINE THE PRESENCE OF A WEAPON OR CONTROLLED DANGEROUS SUBSTANCE.~~

~~(II) "STRIP SEARCH" INCLUDES A VISUAL INSPECTION OF A BODY CAVITY.~~

~~(6)~~ ~~(10)~~ *(6)* (I) ~~SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH,~~ "~~TRAFFIC~~ *TRAFFIC* STOP" MEANS ANY INSTANCE WHEN A LAW ENFORCEMENT OFFICER STOPS THE DRIVER OF A MOTOR VEHICLE AND DETAINS THE DRIVER FOR ANY PERIOD OF TIME FOR A VIOLATION OF THE MARYLAND VEHICLE LAW.

(II) "TRAFFIC STOP" DOES NOT INCLUDE:

1. A CHECKPOINT OR ROADBLOCK STOP;

2. A STOP OF MULTIPLE VEHICLES DUE TO A TRAFFIC ACCIDENT OR EMERGENCY SITUATION REQUIRING THE STOPPING OF VEHICLES FOR PUBLIC SAFETY PURPOSES; ~~OR~~

3. A STOP BASED ON THE USE OF RADAR, LASER, OR VASCAR TECHNOLOGY; OR

4. A STOP BASED ON THE USE OF LICENSE PLATE READER TECHNOLOGY.

(B) ~~EXCEPT AS PROVIDED IN SUBSECTION (E)(2) OF THIS SECTION, THIS SECTION DOES NOT APPLY TO A LAW ENFORCEMENT AGENCY THAT, ON OR BEFORE JULY 1, 2001, ENTERED INTO AN AGREEMENT WITH THE UNITED STATES DEPARTMENT OF JUSTICE THAT REQUIRES IT TO COLLECT DATA ON THE RACE OR ETHNICITY OF THE DRIVERS OF MOTOR VEHICLES STOPPED.~~

~~(C)~~ THE POLICE TRAINING COMMISSION, IN CONSULTATION WITH THE MARYLAND ~~JUSTICE~~ STATISTICAL ANALYSIS CENTER, SHALL DEVELOP:

(1) A MODEL FORMAT FOR THE EFFICIENT RECORDING OF DATA REQUIRED UNDER SUBSECTION (D) OF THIS SECTION ON AN ELECTRONIC DEVICE, OR BY ANY OTHER MEANS, FOR USE BY A LAW ENFORCEMENT AGENCY;

(2) GUIDELINES THAT EACH LAW ENFORCEMENT AGENCY MAY USE AS A MANAGEMENT TOOL TO EVALUATE DATA COLLECTED BY ITS LAW ENFORCEMENT OFFICERS FOR USE IN COUNSELING AND IMPROVED TRAINING;

(3) A STANDARDIZED FORMAT THAT EACH LAW ENFORCEMENT AGENCY SHALL USE IN REPORTING DATA TO THE MARYLAND ~~JUSTICE~~ STATISTICAL ANALYSIS CENTER UNDER SUBSECTION (E) OF THIS SECTION; AND

(4) A MODEL POLICY AGAINST RACE–BASED TRAFFIC STOPS ~~AND STRIP SEARCHES AND BODY CAVITY SEARCHES~~ THAT A LAW ENFORCEMENT AGENCY CAN USE IN DEVELOPING ITS POLICY IN ACCORDANCE WITH SUBSECTION (G) OF THIS SECTION.

(C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THIS SECTION APPLIES TO EACH LAW ENFORCEMENT AGENCY THAT HAS ONE OR MORE LAW ENFORCEMENT OFFICERS.

(2) EXCEPT AS PROVIDED IN SUBSECTION (E)(2) OF THIS SECTION, THIS SECTION DOES NOT APPLY TO A LAW ENFORCEMENT AGENCY THAT IS SUBJECT TO AN AGREEMENT WITH THE UNITED STATES DEPARTMENT OF JUSTICE THAT REQUIRES IT TO COLLECT DATA ON THE RACE OR ETHNICITY OF THE DRIVERS OF MOTOR VEHICLES STOPPED.

(D) EACH TIME A LAW ENFORCEMENT OFFICER MAKES A TRAFFIC STOP ~~OR PERFORMS A STRIP SEARCH OR A BODY CAVITY SEARCH~~, THAT OFFICER SHALL REPORT THE FOLLOWING INFORMATION TO THE LAW ENFORCEMENT AGENCY THAT EMPLOYS THE OFFICER USING THE FORMAT DEVELOPED BY THE LAW ENFORCEMENT AGENCY UNDER SUBSECTION (C)(1) OF THIS SECTION:

(1) THE DATE, LOCATION, AND TIME OF THE STOP~~, STRIP SEARCH, OR BODY CAVITY SEARCH~~;

(2) THE APPROXIMATE DURATION OF THE STOP~~, STRIP SEARCH, OR BODY CAVITY SEARCH~~;

(3) THE TRAFFIC VIOLATION OR VIOLATIONS ALLEGED TO HAVE BEEN COMMITTED THAT LED TO THE STOP~~, STRIP SEARCH, OR BODY CAVITY SEARCH~~;

(4) WHETHER A SEARCH WAS CONDUCTED AS A RESULT OF THE STOP;

(5) IF A SEARCH WAS CONDUCTED, THE REASON FOR THE SEARCH, WHETHER THE SEARCH WAS CONSENSUAL OR NONCONSENSUAL, WHETHER THE PERSON WAS SEARCHED, AND WHETHER THE PERSON'S PROPERTY WAS SEARCHED;

(6) WHETHER ANY CONTRABAND OR OTHER PROPERTY WAS SEIZED IN THE COURSE OF THE SEARCH;

(7) WHETHER A WARNING, SAFETY EQUIPMENT REPAIR ORDER, OR CITATION WAS ISSUED AS A RESULT OF THE STOP;

(8) IF A WARNING, SAFETY EQUIPMENT REPAIR ORDER, OR CITATION WAS ISSUED, THE BASIS FOR ISSUING THE WARNING, SAFETY EQUIPMENT REPAIR ORDER, OR CITATION;

(9) WHETHER AN ARREST WAS MADE AS A RESULT OF EITHER THE STOP OR THE SEARCH;

(10) IF AN ARREST WAS MADE, THE CRIME CHARGED;

(11) THE STATE IN WHICH THE STOPPED VEHICLE IS REGISTERED;

(12) THE GENDER OF THE DRIVER;

(13) THE DATE OF BIRTH OF THE DRIVER;

(14) THE STATE AND, IF AVAILABLE ON THE DRIVER'S LICENSE, THE COUNTY OF RESIDENCE OF THE DRIVER; AND

(15) THE RACE OR ETHNICITY OF THE DRIVER AS:

(I) ASIAN;

(II) BLACK;

(III) HISPANIC;

(IV) WHITE; OR

(V) OTHER.

(E) (1) A LAW ENFORCEMENT AGENCY SHALL:

(I) COMPILE THE DATA DESCRIBED IN SUBSECTION (D) OF THIS SECTION FOR THE CALENDAR YEAR AS A REPORT IN THE FORMAT REQUIRED UNDER SUBSECTION ~~(C)(3)~~ *(B)(3)* OF THIS SECTION; AND

(II) SUBMIT THE REPORT TO THE MARYLAND ~~JUSTICE~~ STATISTICAL ANALYSIS CENTER NO LATER THAN MARCH 1 OF THE FOLLOWING CALENDAR YEAR.

(2) A LAW ENFORCEMENT AGENCY ~~DESCRIBED IN SUBSECTION (B)~~ *THAT IS EXEMPT UNDER SUBSECTION (C)(2)* OF THIS SECTION SHALL SUBMIT TO THE MARYLAND ~~JUSTICE~~ STATISTICAL ANALYSIS CENTER COPIES OF REPORTS IT SUBMITS TO THE UNITED STATES DEPARTMENT OF JUSTICE IN LIEU OF THE REPORT OTHERWISE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(F) (1) THE MARYLAND ~~JUSTICE~~ STATISTICAL ANALYSIS CENTER SHALL ANALYZE THE ANNUAL REPORTS OF LAW ENFORCEMENT AGENCIES SUBMITTED UNDER SUBSECTION (E) OF THIS SECTION BASED ON A METHODOLOGY DEVELOPED IN CONSULTATION WITH THE POLICE TRAINING COMMISSION.

(2) THE MARYLAND ~~JUSTICE~~ STATISTICAL ANALYSIS CENTER SHALL SUBMIT A REPORT OF THE FINDINGS TO THE GOVERNOR, THE GENERAL ASSEMBLY AS PROVIDED IN § 2–1246 OF THE STATE GOVERNMENT ARTICLE, AND EACH LAW ENFORCEMENT AGENCY BEFORE SEPTEMBER 1 OF EACH YEAR.

(G) (1) ~~EACH~~ *A* LAW ENFORCEMENT AGENCY SHALL ADOPT A POLICY AGAINST RACE–BASED TRAFFIC STOPS ~~AND STRIP SEARCHES AND BODY CAVITY SEARCHES~~ THAT IS TO BE USED AS A MANAGEMENT TOOL TO PROMOTE NONDISCRIMINATORY LAW ENFORCEMENT AND IN THE TRAINING AND COUNSELING OF ITS ~~LAW ENFORCEMENT~~ OFFICERS.

(2) *(I)* THE POLICY SHALL~~:~~

~~(I)~~ ~~PROHIBIT~~ *PROHIBIT* THE PRACTICE OF USING AN INDIVIDUAL'S RACE OR ETHNICITY AS THE SOLE JUSTIFICATION TO INITIATE A TRAFFIC STOP~~, STRIP SEARCH, OR BODY CAVITY SEARCH; BUT~~.

(II) ~~MAKE~~ *THE POLICY SHALL MAKE* CLEAR THAT ~~THE POLICY~~ *IT* MAY NOT BE CONSTRUED TO ALTER THE AUTHORITY OF A LAW ENFORCEMENT OFFICER TO MAKE AN ARREST, CONDUCT A SEARCH OR SEIZURE, OR OTHERWISE FULFILL THE OFFICER'S LAW ENFORCEMENT OBLIGATIONS.

(3) THE POLICY SHALL ~~REQUIRE~~ *PROVIDE FOR* THE LAW ENFORCEMENT AGENCY TO PERIODICALLY REVIEW DATA COLLECTED BY ITS LAW ENFORCEMENT OFFICERS UNDER SUBSECTION (D) OF THIS SECTION AND TO REVIEW THE ANNUAL REPORT OF THE MARYLAND ~~JUSTICE~~ STATISTICAL ANALYSIS CENTER FOR PURPOSES OF PARAGRAPH (1) OF THIS SUBSECTION.

(H) (1) IF A LAW ENFORCEMENT AGENCY FAILS TO COMPLY WITH THE REPORTING PROVISIONS OF THIS SECTION, THE MARYLAND ~~JUSTICE~~ STATISTICAL ANALYSIS CENTER SHALL REPORT THE NONCOMPLIANCE TO THE POLICE TRAINING COMMISSION.

(2) THE POLICE TRAINING COMMISSION SHALL CONTACT THE LAW ENFORCEMENT AGENCY AND REQUEST THAT THE AGENCY COMPLY WITH THE REQUIRED REPORTING PROVISIONS.

(3) IF THE LAW ENFORCEMENT AGENCY FAILS TO COMPLY WITH THE REQUIRED REPORTING PROVISIONS WITHIN 30 DAYS AFTER BEING CONTACTED BY THE POLICE TRAINING COMMISSION, THE MARYLAND ~~JUSTICE~~ STATISTICAL ANALYSIS CENTER AND THE POLICE TRAINING COMMISSION JOINTLY SHALL REPORT THE NONCOMPLIANCE TO THE GOVERNOR AND THE LEGISLATIVE POLICY COMMITTEE OF THE GENERAL ASSEMBLY.

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

Article – Transportation

25–113.

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

(2) "Law enforcement agency" means an agency that is listed in § 3–101(e) of the Public Safety Article [and that, in accordance with subsection (c) of this section, is subject to the provisions of this section].

(3) "Law enforcement officer" means any person who, in an official capacity, is authorized by law to make arrests and who is an employee of a law enforcement agency [that is subject to this section].

(4) ["Maryland Statistical Analysis Center" means the research, development, and evaluation component of the Governor's Office of Crime Control and Prevention.*

(5) "Police Training Commission" means the unit within the Department of Public Safety and Correctional Services established under § 3–202 of the Public Safety Article.

(6)] *(i) "Traffic stop" means any instance when a law enforcement officer stops the driver of a motor vehicle and detains the driver for any period of time for a violation of the Maryland Vehicle Law.*

(ii) "Traffic stop" does not include:

1. A checkpoint or roadblock stop;

2. A stop of multiple vehicles due to a traffic accident or emergency situation requiring the stopping of vehicles for public safety purposes;

3. A stop based on the use of radar, laser, or vascar technology; or

4. A stop based on the use of license plate reader technology.

(b) *[The Police Training Commission, in consultation with the Maryland Statistical Analysis Center, shall develop:*

(1) A model format for the efficient recording of data required under subsection (d) of this section on an electronic device, or by any other means, for use by a law enforcement agency;

(2) Guidelines that each law enforcement agency may use as a management tool to evaluate data collected by its officers for use in counseling and improved training;

(3) A standardized format that each law enforcement agency shall use in reporting data to the Maryland Statistical Analysis Center under subsection (e) of this section; and

(4) A model policy against race–based traffic stops that a law enforcement agency can use in developing its policy in accordance with subsection (g) of this section.

(c) (1) Subject to paragraph (2) of this subsection, this section applies to each law enforcement agency that has one or more law enforcement officers.

(2) Except as provided in subsection (e)(2) of this section, this section does not apply to a law enforcement agency that is subject to an agreement with the United States Department of Justice that requires it to collect data on the race or ethnicity of the drivers of motor vehicles stopped.

(d) Each time a law enforcement officer makes a traffic stop, that officer shall report the following information to the law enforcement agency that employs the officer using the format developed under subsection (b)(1) of this section:

(1) The date, location, and the time of the stop;

(2) The approximate duration of the stop;

(3) The traffic violation or violations alleged to have been committed that led to the stop;

(4) Whether a search was conducted as a result of the stop;

(5) If a search was conducted, the reason for the search, whether the search was consensual or nonconsensual, whether a person was searched, and whether a person's property was searched;

(6) Whether any contraband or other property was seized in the course of the search;

(7) Whether a warning, safety equipment repair order, or citation was issued as a result of the stop;

(8) If a warning, safety equipment repair order, or citation was issued, the basis for issuing the warning, safety equipment repair order, or citation;

(9) Whether an arrest was made as a result of either the stop or the search;

(10) If an arrest was made, the crime charged;

(11) The state in which the stopped vehicle is registered;

(12) The gender of the driver;

(13) The date of birth of the driver;

(14) The state and, if available on the driver's license, the county of residence of the driver; and

(15) The race or ethnicity of the driver as:

(i) Asian;

(ii) Black;

(iii) Hispanic;

(iv) White; or

(v) Other.

(e) (1) A law enforcement agency shall:

(i) Compile the data described in subsection (d) of this section for the calendar year as a report in the format required under subsection (b)(3) of this section; and

(ii) Submit the report to the Maryland Statistical Analysis Center no later than March 1 of the following calendar year.

(2) A law enforcement agency that is exempt under subsection (c)(2) of this section shall submit to the Maryland Statistical Analysis Center copies of reports it submits to the United States Department of Justice in lieu of the report required under paragraph (1) of this subsection.

(f) (1) The Maryland Statistical Analysis Center shall analyze the annual reports of law enforcement agencies submitted under subsection (e) of this section based on a methodology developed in consultation with the Police Training Commission.

(2) The Maryland Statistical Analysis Center shall submit a report of the findings to the Governor, the General Assembly as provided in § 2–1246 of the State Government Article, and each law enforcement agency before September 1 of each year.

(g)] *(1) A law enforcement agency shall adopt a policy against race–based traffic stops that is to be used as a management tool to promote nondiscriminatory law enforcement and in the training and counseling of its officers.*

(2) (i) The policy shall prohibit the practice of using an individual's race or ethnicity as the sole justification to initiate a traffic stop.

(ii) The policy shall make clear that it may not be construed to alter the authority of a law enforcement officer to make an arrest, conduct a search or seizure, or otherwise fulfill the officer's law enforcement obligations.

[(3) The policy shall provide for the law enforcement agency to periodically review data collected by its officers under subsection (d) of this section and to review the annual report of the Maryland Statistical Analysis Center for purposes of paragraph (1) of this subsection.

(h) (1) If a law enforcement agency fails to comply with the reporting provisions of this section, the Maryland Statistical Analysis Center shall report the noncompliance to the Police Training Commission.

(2) The Police Training Commission shall contact the law enforcement agency and request that the agency comply with the required reporting provisions.

(3) If the law enforcement agency fails to comply with the required reporting provisions within 30 days after being contacted by the Police Training Commission, the Maryland Statistical Analysis Center and the Police Training Commission jointly shall report the noncompliance to the Governor and the Legislative Policy Committee of the General Assembly.]

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2011. It shall remain effective for a period of 2 years and, at the end of May 31, 2013, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.~~

SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect July 1, 2014.

SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in Section 3 of this Act, this Act shall take effect July 1, 2011. Section 1 of this Act shall remain effective for a period of 3 years and, at the end of June 30, 2014, with no further action required by the General Assembly, Section 1 of this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 10, 2011.

Chapter 173

(House Bill 130)

AN ACT concerning

Vehicle Laws – Race–Based Traffic Stops

FOR the purpose of requiring certain law enforcement officers to record certain information pertaining to traffic stops; requiring certain law enforcement agencies to report certain information to the Maryland ~~Justice~~ Statistical Analysis Center (~~MJAC~~ MSAC); requiring the Police Training Commission to develop a certain format and guidelines and a standardized format for the reporting of certain data; requiring the Police Training Commission to develop a certain model policy; requiring the ~~MJAC~~ MSAC to analyze certain data based on a methodology developed in conjunction with the Police Training Commission; requiring the ~~MJAC~~ MSAC to make certain reports to the General Assembly, the Governor, and law enforcement agencies; requiring law enforcement agencies to adopt certain policies regarding race–based traffic stops

for certain purposes; requiring the ~~MJAC~~ MSAC to report to the Police Training Commission law enforcement agencies that fail to comply with certain reporting requirements; requiring specified actions following a report on the failure of a law enforcement agency to comply; providing certain exceptions applicable to law enforcement agencies that are subject to certain agreements; defining certain terms; ~~requiring the Governor to appropriate certain funding in each fiscal year to assist local law enforcement agencies to implement certain provisions of this Act;~~ altering certain definitions; repealing certain provisions of this Act; providing for the termination of a certain provision of this Act; providing for a delayed effective date for certain provisions of this Act; and generally relating to law enforcement procedures and traffic stops.

BY adding to
Article – Transportation
Section 25–113
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,
Article – Transportation
Section 25–113
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)
(As enacted by Section 1 of this Act)

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

Article – Transportation

25–113.

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

(2) "LAW ENFORCEMENT AGENCY" MEANS AN AGENCY THAT IS LISTED IN § 3–101(E) OF THE PUBLIC SAFETY ARTICLE AND THAT, IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION, IS SUBJECT TO THE PROVISIONS OF THIS SECTION.

(3) "LAW ENFORCEMENT OFFICER" MEANS ANY PERSON WHO, IN AN OFFICIAL CAPACITY, IS AUTHORIZED BY LAW TO MAKE ARRESTS AND WHO IS AN EMPLOYEE OF A LAW ENFORCEMENT AGENCY THAT IS SUBJECT TO THIS SECTION.

(4) "MARYLAND ~~JUSTICE ANALYSIS CENTER" MEANS THE CENTER OPERATED BY THE DEPARTMENT OF CRIMINOLOGY AND CRIMINAL JUSTICE AT THE UNIVERSITY OF MARYLAND, COLLEGE PARK~~ STATISTICAL ANALYSIS CENTER" MEANS THE RESEARCH, DEVELOPMENT, AND EVALUATION COMPONENT OF THE GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION.

(5) "POLICE TRAINING COMMISSION" MEANS THE UNIT WITHIN THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES ESTABLISHED UNDER § 3–202 OF THE PUBLIC SAFETY ARTICLE.

(6) (I) "TRAFFIC STOP" MEANS ANY INSTANCE WHEN A LAW ENFORCEMENT OFFICER STOPS THE DRIVER OF A MOTOR VEHICLE AND DETAINS THE DRIVER FOR ANY PERIOD OF TIME FOR A VIOLATION OF THE MARYLAND VEHICLE LAW.

(II) "TRAFFIC STOP" DOES NOT INCLUDE:

1. A CHECKPOINT OR ROADBLOCK STOP;

2. A STOP OF MULTIPLE VEHICLES DUE TO A TRAFFIC ACCIDENT OR EMERGENCY SITUATION REQUIRING THE STOPPING OF VEHICLES FOR PUBLIC SAFETY PURPOSES; ~~OR~~

3. A STOP BASED ON THE USE OF RADAR, LASER, OR VASCAR TECHNOLOGY; OR

4. A STOP BASED ON THE USE OF LICENSE PLATE READER TECHNOLOGY.

(B) THE POLICE TRAINING COMMISSION, IN CONSULTATION WITH THE MARYLAND ~~JUSTICE~~ STATISTICAL ANALYSIS CENTER, SHALL DEVELOP:

(1) A MODEL FORMAT FOR THE EFFICIENT RECORDING OF DATA REQUIRED UNDER SUBSECTION (D) OF THIS SECTION ON AN ELECTRONIC DEVICE, OR BY ANY OTHER MEANS, FOR USE BY A LAW ENFORCEMENT AGENCY;

(2) GUIDELINES THAT EACH LAW ENFORCEMENT AGENCY MAY USE AS A MANAGEMENT TOOL TO EVALUATE DATA COLLECTED BY ITS OFFICERS FOR USE IN COUNSELING AND IMPROVED TRAINING;

(3) A STANDARDIZED FORMAT THAT EACH LAW ENFORCEMENT AGENCY SHALL USE IN REPORTING DATA TO THE MARYLAND ~~JUSTICE~~

STATISTICAL ANALYSIS CENTER UNDER SUBSECTION (E) OF THIS SECTION; AND

(4) A MODEL POLICY AGAINST RACE–BASED TRAFFIC STOPS THAT A LAW ENFORCEMENT AGENCY CAN USE IN DEVELOPING ITS POLICY IN ACCORDANCE WITH SUBSECTION (G) OF THIS SECTION.

(C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THIS SECTION APPLIES TO EACH LAW ENFORCEMENT AGENCY THAT HAS ONE OR MORE LAW ENFORCEMENT OFFICERS.

(2) EXCEPT AS PROVIDED IN SUBSECTION (E)(2) OF THIS SECTION, THIS SECTION DOES NOT APPLY TO A LAW ENFORCEMENT AGENCY THAT IS SUBJECT TO AN AGREEMENT WITH THE UNITED STATES DEPARTMENT OF JUSTICE THAT REQUIRES IT TO COLLECT DATA ON THE RACE OR ETHNICITY OF THE DRIVERS OF MOTOR VEHICLES STOPPED.

(D) EACH TIME A LAW ENFORCEMENT OFFICER MAKES A TRAFFIC STOP, THAT OFFICER SHALL REPORT THE FOLLOWING INFORMATION TO THE LAW ENFORCEMENT AGENCY THAT EMPLOYS THE OFFICER USING THE FORMAT DEVELOPED UNDER SUBSECTION (B)(1) OF THIS SECTION:

(1) THE DATE, LOCATION, AND THE TIME OF THE STOP;

(2) THE APPROXIMATE DURATION OF THE STOP;

(3) THE TRAFFIC VIOLATION OR VIOLATIONS ALLEGED TO HAVE BEEN COMMITTED THAT LED TO THE STOP;

(4) WHETHER A SEARCH WAS CONDUCTED AS A RESULT OF THE STOP;

(5) IF A SEARCH WAS CONDUCTED, THE REASON FOR THE SEARCH, WHETHER THE SEARCH WAS CONSENSUAL OR NONCONSENSUAL, WHETHER A PERSON WAS SEARCHED, AND WHETHER A PERSON'S PROPERTY WAS SEARCHED;

(6) WHETHER ANY CONTRABAND OR OTHER PROPERTY WAS SEIZED IN THE COURSE OF THE SEARCH;

(7) WHETHER A WARNING, SAFETY EQUIPMENT REPAIR ORDER, OR CITATION WAS ISSUED AS A RESULT OF THE STOP;

(8) IF A WARNING, SAFETY EQUIPMENT REPAIR ORDER, OR CITATION WAS ISSUED, THE BASIS FOR ISSUING THE WARNING, SAFETY EQUIPMENT REPAIR ORDER, OR CITATION;

(9) WHETHER AN ARREST WAS MADE AS A RESULT OF EITHER THE STOP OR THE SEARCH;

(10) IF AN ARREST WAS MADE, THE CRIME CHARGED;

(11) THE STATE IN WHICH THE STOPPED VEHICLE IS REGISTERED;

(12) THE GENDER OF THE DRIVER;

(13) THE DATE OF BIRTH OF THE DRIVER;

(14) THE STATE AND, IF AVAILABLE ON THE DRIVER'S LICENSE, THE COUNTY OF RESIDENCE OF THE DRIVER; AND

(15) THE RACE OR ETHNICITY OF THE DRIVER AS:

(I) ASIAN;

(II) BLACK;

(III) HISPANIC;

(IV) WHITE; OR

(V) OTHER.

(E) (1) A LAW ENFORCEMENT AGENCY SHALL:

(I) COMPILE THE DATA DESCRIBED IN SUBSECTION (D) OF THIS SECTION FOR THE CALENDAR YEAR AS A REPORT IN THE FORMAT REQUIRED UNDER SUBSECTION (B)(3) OF THIS SECTION; AND

(II) SUBMIT THE REPORT TO THE MARYLAND ~~JUSTICE~~ STATISTICAL ANALYSIS CENTER NO LATER THAN MARCH 1 OF THE FOLLOWING CALENDAR YEAR.

(2) A LAW ENFORCEMENT AGENCY THAT IS EXEMPT UNDER SUBSECTION (C)(2) OF THIS SECTION SHALL SUBMIT TO THE MARYLAND ~~JUSTICE~~ STATISTICAL ANALYSIS CENTER COPIES OF REPORTS IT SUBMITS TO

THE UNITED STATES DEPARTMENT OF JUSTICE IN LIEU OF THE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(F) (1) THE MARYLAND ~~JUSTICE~~ STATISTICAL ANALYSIS CENTER SHALL ANALYZE THE ANNUAL REPORTS OF LAW ENFORCEMENT AGENCIES SUBMITTED UNDER SUBSECTION (E) OF THIS SECTION BASED ON A METHODOLOGY DEVELOPED IN CONSULTATION WITH THE POLICE TRAINING COMMISSION.

(2) THE MARYLAND ~~JUSTICE~~ STATISTICAL ANALYSIS CENTER SHALL SUBMIT A REPORT OF THE FINDINGS TO THE GOVERNOR, THE GENERAL ASSEMBLY AS PROVIDED IN § 2–1246 OF THE STATE GOVERNMENT ARTICLE, AND EACH LAW ENFORCEMENT AGENCY BEFORE SEPTEMBER 1 OF EACH YEAR.

(G) (1) A LAW ENFORCEMENT AGENCY SHALL ADOPT A POLICY AGAINST RACE–BASED TRAFFIC STOPS THAT IS TO BE USED AS A MANAGEMENT TOOL TO PROMOTE NONDISCRIMINATORY LAW ENFORCEMENT AND IN THE TRAINING AND COUNSELING OF ITS OFFICERS.

(2) (I) THE POLICY SHALL PROHIBIT THE PRACTICE OF USING AN INDIVIDUAL'S RACE OR ETHNICITY AS THE SOLE JUSTIFICATION TO INITIATE A TRAFFIC STOP.

(II) THE POLICY SHALL MAKE CLEAR THAT IT MAY NOT BE CONSTRUED TO ALTER THE AUTHORITY OF A LAW ENFORCEMENT OFFICER TO MAKE AN ARREST, CONDUCT A SEARCH OR SEIZURE, OR OTHERWISE FULFILL THE OFFICER'S LAW ENFORCEMENT OBLIGATIONS.

(3) THE POLICY SHALL PROVIDE FOR THE LAW ENFORCEMENT AGENCY TO PERIODICALLY REVIEW DATA COLLECTED BY ITS OFFICERS UNDER SUBSECTION (D) OF THIS SECTION AND TO REVIEW THE ANNUAL REPORT OF THE MARYLAND ~~JUSTICE~~ STATISTICAL ANALYSIS CENTER FOR PURPOSES OF PARAGRAPH (1) OF THIS SUBSECTION.

(H) (1) IF A LAW ENFORCEMENT AGENCY FAILS TO COMPLY WITH THE REPORTING PROVISIONS OF THIS SECTION, THE MARYLAND ~~JUSTICE~~ STATISTICAL ANALYSIS CENTER SHALL REPORT THE NONCOMPLIANCE TO THE POLICE TRAINING COMMISSION.

(2) THE POLICE TRAINING COMMISSION SHALL CONTACT THE LAW ENFORCEMENT AGENCY AND REQUEST THAT THE AGENCY COMPLY WITH THE REQUIRED REPORTING PROVISIONS.

(3) IF THE LAW ENFORCEMENT AGENCY FAILS TO COMPLY WITH THE REQUIRED REPORTING PROVISIONS WITHIN 30 DAYS AFTER BEING CONTACTED BY THE POLICE TRAINING COMMISSION, THE MARYLAND ~~JUSTICE~~ STATISTICAL ANALYSIS CENTER AND THE POLICE TRAINING COMMISSION JOINTLY SHALL REPORT THE NONCOMPLIANCE TO THE GOVERNOR AND THE LEGISLATIVE POLICY COMMITTEE OF THE GENERAL ASSEMBLY.

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

Article – Transportation

25–113.

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

(2) "Law enforcement agency" means an agency that is listed in § 3–101(e) of the Public Safety Article **[**and that, in accordance with subsection (c) of this section, is subject to the provisions of this section**]**.

(3) "Law enforcement officer" means any person who, in an official capacity, is authorized by law to make arrests and who is an employee of a law enforcement agency **[**that is subject to this section**]**.

(4) **[**"Maryland Statistical Analysis Center" means the research, development, and evaluation component of the Governor's Office of Crime Control and Prevention.

(5) "Police Training Commission" means the unit within the Department of Public Safety and Correctional Services established under § 3–202 of the Public Safety Article.

(6)**]** (i) "Traffic stop" means any instance when a law enforcement officer stops the driver of a motor vehicle and detains the driver for any period of time for a violation of the Maryland Vehicle Law.

(ii) "Traffic stop" does not include:

1. A checkpoint or roadblock stop;

2. A stop of multiple vehicles due to a traffic accident or emergency situation requiring the stopping of vehicles for public safety purposes;

3. A stop based on the use of radar, laser, or vascar technology; or

4. A stop based on the use of license plate reader technology.

(b) [The Police Training Commission, in consultation with the Maryland Statistical Analysis Center, shall develop:

(1) A model format for the efficient recording of data required under subsection (d) of this section on an electronic device, or by any other means, for use by a law enforcement agency;

(2) Guidelines that each law enforcement agency may use as a management tool to evaluate data collected by its officers for use in counseling and improved training;

(3) A standardized format that each law enforcement agency shall use in reporting data to the Maryland Statistical Analysis Center under subsection (e) of this section; and

(4) A model policy against race–based traffic stops that a law enforcement agency can use in developing its policy in accordance with subsection (g) of this section.

(c) (1) Subject to paragraph (2) of this subsection, this section applies to each law enforcement agency that has one or more law enforcement officers.

(2) Except as provided in subsection (e)(2) of this section, this section does not apply to a law enforcement agency that is subject to an agreement with the United States Department of Justice that requires it to collect data on the race or ethnicity of the drivers of motor vehicles stopped.

(d) Each time a law enforcement officer makes a traffic stop, that officer shall report the following information to the law enforcement agency that employs the officer using the format developed under subsection (b)(1) of this section:

(1) The date, location, and the time of the stop;

(2) The approximate duration of the stop;

(3) The traffic violation or violations alleged to have been committed that led to the stop;

(4) Whether a search was conducted as a result of the stop;

(5) If a search was conducted, the reason for the search, whether the search was consensual or nonconsensual, whether a person was searched, and whether a person's property was searched;

(6) Whether any contraband or other property was seized in the course of the search;

(7) Whether a warning, safety equipment repair order, or citation was issued as a result of the stop;

(8) If a warning, safety equipment repair order, or citation was issued, the basis for issuing the warning, safety equipment repair order, or citation;

(9) Whether an arrest was made as a result of either the stop or the search;

(10) If an arrest was made, the crime charged;

(11) The state in which the stopped vehicle is registered;

(12) The gender of the driver;

(13) The date of birth of the driver;

(14) The state and, if available on the driver's license, the county of residence of the driver; and

(15) The race or ethnicity of the driver as:

(i) Asian;

(ii) Black;

(iii) Hispanic;

(iv) White; or

(v) Other.

(e) (1) A law enforcement agency shall:

(i) Compile the data described in subsection (d) of this section for the calendar year as a report in the format required under subsection (b)(3) of this section; and

(ii) Submit the report to the Maryland Statistical Analysis Center no later than March 1 of the following calendar year.

(2) A law enforcement agency that is exempt under subsection (c)(2) of this section shall submit to the Maryland Statistical Analysis Center copies of reports

it submits to the United States Department of Justice in lieu of the report required under paragraph (1) of this subsection.

(f) (1) The Maryland Statistical Analysis Center shall analyze the annual reports of law enforcement agencies submitted under subsection (e) of this section based on a methodology developed in consultation with the Police Training Commission.

(2) The Maryland Statistical Analysis Center shall submit a report of the findings to the Governor, the General Assembly as provided in § 2–1246 of the State Government Article, and each law enforcement agency before September 1 of each year.

(g)**]** (1) A law enforcement agency shall adopt a policy against race–based traffic stops that is to be used as a management tool to promote nondiscriminatory law enforcement and in the training and counseling of its officers.

(2) (i) The policy shall prohibit the practice of using an individual's race or ethnicity as the sole justification to initiate a traffic stop.

(ii) The policy shall make clear that it may not be construed to alter the authority of a law enforcement officer to make an arrest, conduct a search or seizure, or otherwise fulfill the officer's law enforcement obligations.

[(3) The policy shall provide for the law enforcement agency to periodically review data collected by its officers under subsection (d) of this section and to review the annual report of the Maryland Statistical Analysis Center for purposes of paragraph (1) of this subsection.

(h) (1) If a law enforcement agency fails to comply with the reporting provisions of this section, the Maryland Statistical Analysis Center shall report the noncompliance to the Police Training Commission.

(2) The Police Training Commission shall contact the law enforcement agency and request that the agency comply with the required reporting provisions.

(3) If the law enforcement agency fails to comply with the required reporting provisions within 30 days after being contacted by the Police Training Commission, the Maryland Statistical Analysis Center and the Police Training Commission jointly shall report the noncompliance to the Governor and the Legislative Policy Committee of the General Assembly.**]**

~~SECTION 2. AND BE IT FURTHER ENACTED, That in order to assist local government law enforcement agencies to implement the data collection and reporting provisions of this Act, the Governor shall:~~

~~(1) provide for a deficiency appropriation in the State budget for fiscal year 2012; and~~

~~(2) appropriate money in the State budget for each fiscal year thereafter.~~

~~SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.~~

SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect July 1, 2014.

SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in Section 3 of this Act, this Act shall take effect July 1, 2011. Section 1 of this Act shall remain effective for a period of 3 years and, at the end of June 30, 2014, with no further action required by the General Assembly, Section 1 of this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 10, 2011.

Chapter 174

(Senate Bill 15)

AN ACT concerning

Commission to Study the Impact of Immigrants in Maryland – Sunset Extension

FOR the purpose of altering the date on which a certain report by the Commission to Study the Impact of Immigrants in Maryland is due; extending the termination date of the Commission; clarifying language; and generally relating to the Commission to Study the Impact of Immigrants in Maryland.

BY repealing and reenacting, with amendments,
Chapter 553 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 553 of the Acts of 2008

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

(a) There is a Commission to Study the Impact of Immigrants in Maryland.

(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 Business and Economic Development, or the Secretary's designee;

(4) the Secretary of Health and Mental Hygiene, or the Secretary's designee;

(5) the Secretary of Human Resources, or the Secretary's designee;

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

(7) the Secretary of the Maryland Department of Planning;

(8) the Comptroller, or the Comptroller's designee;

(9) a representative of the Maryland State Bar Association Immigration Section; and

(10) eight members, appointed by the Governor, with at least:

(i) two members from the business community;

(ii) two members with expertise on immigration–related issues; and

(iii) two members with expertise on education issues.

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

(d) The Governor shall designate the chair of the Commission.

(e) The University of Maryland, College Park shall provide staff for the Commission, in consultation with the Department of Legislative Services, the Department of Budget and Management, and the Office of the Governor.

(f) 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.

(g) The Commission shall study:

(1) the demographic profile **OF THE STATE'S IMMIGRANT POPULATION** and **THE** impact of immigrants on the State, including:

(i) the growth rate of the immigrant population in the State;

(ii) the national origins of the State's immigrant population;

(iii) the geographic areas of the State where immigrants reside;

(iv) the size and age distribution of the State's immigrant population, including both documented and undocumented immigrants;

(v) whether the State's immigrant population is similar to the typical demographic profile of an immigrant population in the United States;

(vi) the impact of the State immigrant population on population growth and birth rates;

(vii) the impact of the State immigrant population on the student population growth rate in the State's public schools;

(viii) the impact, growth rate, and participation rate of the State immigrant population relative to the State's workforce; and

(ix) the socioeconomic profile of the State's immigrant population; and

(2) the economic and fiscal impact of immigrants on the State, including:

(i) the impact of immigrant contributions to Maryland's economy and tax base;

(ii) the impact of consumer spending by immigrants on the economies of the State, State metropolitan areas, and individual counties;

(iii) the major public services costs incurred by the State as a result of immigrants, including spending on K–12 public education, higher education, health services delivery, public safety, and corrections;

(iv) the direct and indirect tax contributions of immigrants to the State;

(v) the net benefit or cost of immigrants on the State budget;

(vi) the importance of immigrants to the State's economic output;

(vii) the potential for local businesses to generate more revenue as a result of immigrant workforce availability and local spending by immigrants;

(viii) the projected economic impact of immigrants in the State as it evolves in the future;

(ix) the constraints faced by immigrants and immigrant–owned businesses in the State; and

(x) how business and trade with immigrants' countries of origin can be expanded to benefit the State.

(h) The Commission shall **SUBMIT A FINAL** report **OF** its findings and recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly, on or before January 1, **[**2011**] 2012**.

(i) To the extent possible, for each of the items of study included in this Act, the report of the Commission shall make the distinction between persons who are in lawful immigration status and those who are not in lawful immigration status.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008. It shall remain effective for a period of **[**3**] 4** years and, at the end of May 31, **[**2011**] 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, 2011.

Approved by the Governor, May 10, 2011.

Chapter 175

(House Bill 34)

AN ACT concerning

Commission to Study the Impact of Immigrants in Maryland – Sunset Extension

FOR the purpose of altering the date on which a certain report by the Commission to Study the Impact of Immigrants in Maryland is due; extending the termination date of the Commission; clarifying language; and generally relating to the Commission to Study the Impact of Immigrants in Maryland.

BY repealing and reenacting, with amendments,
Chapter 553 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 553 of the Acts of 2008

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

(a) There is a Commission to Study the Impact of Immigrants in Maryland.

(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 Business and Economic Development, or the Secretary's designee;

(4) the Secretary of Health and Mental Hygiene, or the Secretary's designee;

(5) the Secretary of Human Resources, or the Secretary's designee;

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

(7) the Secretary of the Maryland Department of Planning;

(8) the Comptroller, or the Comptroller's designee;

(9) a representative of the Maryland State Bar Association Immigration Section; and

(10) eight members, appointed by the Governor, with at least:

(i) two members from the business community;

(ii) two members with expertise on immigration–related issues; and

(iii) two members with expertise on education issues.

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

(d) The Governor shall designate the chair of the Commission.

(e) The University of Maryland, College Park shall provide staff for the Commission, in consultation with the Department of Legislative Services, the Department of Budget and Management, and the Office of the Governor.

(f) 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.

(g) The Commission shall study:

(1) the demographic profile **OF THE STATE'S IMMIGRANT POPULATION** and **THE** impact of immigrants on the State, including:

(i) the growth rate of the immigrant population in the State;

(ii) the national origins of the State's immigrant population;

(iii) the geographic areas of the State where immigrants reside;

(iv) the size and age distribution of the State's immigrant population, including both documented and undocumented immigrants;

(v) whether the State's immigrant population is similar to the typical demographic profile of an immigrant population in the United States;

(vi) the impact of the State immigrant population on population growth and birth rates;

(vii) the impact of the State immigrant population on the student population growth rate in the State's public schools;

(viii) the impact, growth rate, and participation rate of the State immigrant population relative to the State's workforce; and

(ix) the socioeconomic profile of the State's immigrant population; and

(2) the economic and fiscal impact of immigrants on the State, including:

(i) the impact of immigrant contributions to Maryland's economy and tax base;

(ii) the impact of consumer spending by immigrants on the economies of the State, State metropolitan areas, and individual counties;

(iii) the major public services costs incurred by the State as a result of immigrants, including spending on K–12 public education, higher education, health services delivery, public safety, and corrections;

(iv) the direct and indirect tax contributions of immigrants to the State;

(v) the net benefit or cost of immigrants on the State budget;

(vi) the importance of immigrants to the State's economic output;

(vii) the potential for local businesses to generate more revenue as a result of immigrant workforce availability and local spending by immigrants;

(viii) the projected economic impact of immigrants in the State as it evolves in the future;

(ix) the constraints faced by immigrants and immigrant–owned businesses in the State; and

(x) how business and trade with immigrants' countries of origin can be expanded to benefit the State.

(h) The Commission shall **SUBMIT A FINAL** report **OF** its findings and recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly, on or before January 1, **[**2011**] 2012**.

(i) To the extent possible, for each of the items of study included in this Act, the report of the Commission shall make the distinction between persons who are in lawful immigration status and those who are not in lawful immigration status.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008. It shall remain effective for a period of **[**3**] 4** years and, at the end of May 31, **[**2011**] 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, 2011.

Approved by the Governor, May 10, 2011.

Chapter 176

(Senate Bill 57)

AN ACT concerning

Maryland Health Care Commission – Certificate of Need Requirements

FOR the purpose of expanding the application of certain certificate of need requirements relating to the closure or partial closure of a hospital to certain other health care facilities; authorizing the Maryland Health Care Commission to require a certain health care facility to hold a certain hearing in a certain location; requiring the hearing to be held in consultation with the Commission and within a certain time period; and generally relating to certificate of need requirements and the Maryland Health Care Commission.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 19–120(l)
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

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

Article – Health – General

19–120.

(l) **(1)** A certificate of need is not required to close any **[**hospital**] HEALTH CARE FACILITY** or part of a **[**hospital**] HEALTH CARE FACILITY [**as defined in § 19–301 of this title**]** if**[**:

(1) At**] AT** least 45 days before the closing or partial closing of **[**a hospital**] THE HEALTH CARE FACILITY**, including a State hospital, a person proposing to close all or part of the **[**hospital**] HEALTH CARE FACILITY** files notice of the proposed closing or partial closing with the Commission**[**; and**].**

(2) **[**For a**] A** hospital located in a county with fewer than three hospitals **THAT FILES A NOTICE OF ITS PROPOSED CLOSING OR PARTIAL CLOSING WITH THE COMMISSION[**, within 30 days after receipt of the notice of intent to close, the hospital, in consultation with the Commission, holds**] SHALL HOLD** a public informational hearing in the county where the hospital is located.

(3) THE COMMISSION MAY REQUIRE A HEALTH CARE FACILITY OTHER THAN A HOSPITAL DESCRIBED IN PARAGRAPH (2) OF THIS SUBSECTION THAT FILES NOTICE OF ITS PROPOSED CLOSING OR PARTIAL CLOSING TO HOLD A PUBLIC INFORMATIONAL HEARING IN THE COUNTY WHERE THE HEALTH CARE FACILITY IS LOCATED.

(4) A PUBLIC INFORMATIONAL HEARING REQUIRED UNDER PARAGRAPH (2) OR (3) OF THIS SUBSECTION SHALL BE HELD BY THE HEALTH CARE FACILITY, IN CONSULTATION WITH THE COMMISSION, WITHIN 30 DAYS AFTER THE HEALTH CARE FACILITY FILES A NOTICE OF ITS PROPOSED CLOSING OR PARTIAL CLOSING WITH THE COMMISSION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 177

(Senate Bill 78)

AN ACT concerning

Anne Arundel County Board of Education – Member Reappointment and Terms

FOR the purpose of providing that a member of the Anne Arundel County Board of Education is eligible for nomination and reappointment under certain circumstances; ~~prohibiting an individual from serving as a board member for more than a certain number of consecutive terms~~ clarifying that a certain provision of law provides for the term of a member; making a certain stylistic change; making certain conforming changes; and generally relating to the reappointment and terms of the members of the Anne Arundel County Board of Education.

BY repealing and reenacting, without amendments,
Article – Education
Section 3–108(c)
Annotated Code of Maryland
(2008 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,
Article – Education
Section 3–110
Annotated Code of Maryland
(2008 Replacement Volume and 2010 Supplement)

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

Article – Education

3–108.

(c) (1) Each member serves for a term of 5 years beginning July 1 after the member's appointment and until a successor is appointed and qualifies.

(2) The Governor shall appoint a new member to fill any vacancy on an appointed board for the remainder of that term and until a successor is appointed and qualifies.

(3) Unless otherwise disqualified under this section, a member of a board is eligible for reappointment. However, an individual may not serve for more than 2 consecutive terms.

3–110.

(a) (1) The Anne Arundel County Board consists of 9 members who shall be appointed as follows:

(i) 3 from the county at large;

(ii) 1 each from legislative districts 30, 31, 32, 33, and that portion of legislative district 21 that lies within Anne Arundel County; and

(iii) 1 student member.

(2) Except for the student member, the Governor shall appoint a member of the county board from a list of nominees submitted by the School Board Nominating Commission of Anne Arundel County as provided in subsection (b) of this section.

(b) (1) (i) There is a School Board Nominating Commission of Anne Arundel County.

(ii) The purpose of the Commission is to select nominees to be recommended to the Governor as qualified candidates for appointment to the Anne Arundel County Board of Education.

(iii) The Commission shall hold at least two public hearings on the selection of nominees before recommending to the Governor nominees for appointment to the county board.

(2) (i) The Commission consists of 11 members who shall be appointed in accordance with this paragraph.

(ii) The Governor shall appoint five members, one from each legislative district that lies in whole or in part in Anne Arundel County.

(iii) The County Executive of Anne Arundel County shall appoint one member from the county at large.

(iv) The following organizations shall each appoint one member:

1. The Teachers Association of Anne Arundel County;

2. The Annapolis and Anne Arundel County Chamber of Commerce;

3. The Anne Arundel County Council of Parent Teacher Associations;

4. The Anne Arundel County Community College Board of Trustees; and

5. The Association of Educational Leaders (AEL).

(3) (i) The Governor shall designate as chair of the Commission one of the five members appointed by the Governor under subsection (b)(2)(ii) of this section.

(ii) The term of the chair of the Commission is 4 years.

(iii) The Governor may reappoint the chair of the Commission for a second term.

(iv) The term of a member of the Commission is 4 years.

(4) The Department of Legislative Services shall provide staff for the Commission.

(5) Beginning January 1, 2008, for each nomination to the county board, the Commission shall submit to the Governor a list of nominees that contains:

(i) At least two names for each vacancy; or

(ii) If there are fewer than two applicants for a vacancy, the number of names that is equal to the number of applicants for the vacancy.

(c) (1) Following the **[**initial**]** appointment of a member of the Anne Arundel County Board of Education by the Governor, a member may ~~continue to~~ serve for the remainder of the member's **[**first**]** term**, AS PROVIDED IN § 3–108(C) OF THIS SUBTITLE,** subject to the approval or rejection of the registered voters of the county at the next general election.

(2) ~~**(I)**~~ **[**A**]** ~~**UNLESS OTHERWISE DISQUALIFIED UNDER THIS SECTION, A**~~ member of the county board **[**may serve for a second consecutive term subject to the approval of or rejection by the registered voters of the county at the next general election**] IS ELIGIBLE FOR NOMINATION AND REAPPOINTMENT FOR A SECOND CONSECUTIVE TERM IN ACCORDANCE WITH THE PROVISIONS OF SUBSECTIONS (A) AND (B) OF THIS SECTION**.

~~**(II) AN INDIVIDUAL MAY NOT SERVE FOR MORE THAN TWO CONSECUTIVE TERMS.**~~

(3) (i) The approval or rejection of a member of the county board by the registered voters of the county provided for in subparagraph (ii) of this paragraph shall be a vote for the member's retention or removal.

(ii) On receipt of the notice required under § 5–301(h) of the Election Law Article, the name of the member of the county board shall be placed on the appropriate ballot and shown, without opposition, and the voters shall vote for or against the member's retention as a member of the county board.

(4) If the voters reject the retention of the member, or the vote is tied:

(i) The position shall become vacant 10 days after certification of the election returns; and

(ii) The member serves until a successor is appointed and qualifies.

(d) (1) The student member shall:

(i) Be a regularly enrolled senior year student of good character and in good standing in an Anne Arundel County public high school;

(ii) Be selected in the student's junior year by a method selected by the Chesapeake Regional Association of Student Councils of Anne Arundel County;

(iii) 1. Serve a term of 1 year; and

2. Continue to serve after graduation and until a successor is appointed and qualifies.

(2) If a vacancy in the position of the student member occurs during the term of the student member, the Chesapeake Regional Association of Student Councils shall:

(i) Conduct a special election at its next general meeting; and

(ii) By utilizing the same method that it used to select the previous student member of the board, select another student member to fill the vacancy.

(e) A board member who does not maintain the residency qualification shall be replaced as a member.

(f) If the boundary line of a legislative district changes, an incumbent member of the county board who, because of the change, no longer resides in the legislative district from which the member was appointed may complete the term.

(g) (1) The President of the Anne Arundel County Board of Education is entitled to receive $8,000 annually as compensation and, except for the student member, the other board members are entitled to receive $6,000 each annually as compensation.

(2) A student member who completes a full term on the board shall be granted a scholarship of $6,000 to be applied toward the student's higher education costs.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 178

(House Bill 220)

AN ACT concerning

Anne Arundel County Board of Education – Member Reappointment and Terms

FOR the purpose of providing that a member of the Anne Arundel County Board of Education is eligible for nomination and reappointment under certain circumstances; ~~prohibiting an individual from serving as a board member for more than a certain number of consecutive terms~~ clarifying that a certain provision of law provides for the term of a member; making a certain stylistic change; making certain conforming changes; and generally relating to the reappointment and terms of the members of the Anne Arundel County Board of Education.

BY repealing and reenacting, without amendments,
Article – Education
Section 3–108(c)
Annotated Code of Maryland
(2008 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,
Article – Education
Section 3–110
Annotated Code of Maryland
(2008 Replacement Volume and 2010 Supplement)

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

Article – Education

3–108.

(c) (1) Each member serves for a term of 5 years beginning July 1 after the member's appointment and until a successor is appointed and qualifies.

(2) The Governor shall appoint a new member to fill any vacancy on an appointed board for the remainder of that term and until a successor is appointed and qualifies.

(3) Unless otherwise disqualified under this section, a member of a board is eligible for reappointment. However, an individual may not serve for more than 2 consecutive terms.

3–110.

(a) (1) The Anne Arundel County Board consists of 9 members who shall be appointed as follows:

(i) 3 from the county at large;

(ii) 1 each from legislative districts 30, 31, 32, 33, and that portion of legislative district 21 that lies within Anne Arundel County; and

(iii) 1 student member.

(2) Except for the student member, the Governor shall appoint a member of the county board from a list of nominees submitted by the School Board Nominating Commission of Anne Arundel County as provided in subsection (b) of this section.

(b) (1) (i) There is a School Board Nominating Commission of Anne Arundel County.

(ii) The purpose of the Commission is to select nominees to be recommended to the Governor as qualified candidates for appointment to the Anne Arundel County Board of Education.

(iii) The Commission shall hold at least two public hearings on the selection of nominees before recommending to the Governor nominees for appointment to the county board.

(2) (i) The Commission consists of 11 members who shall be appointed in accordance with this paragraph.

(ii) The Governor shall appoint five members, one from each legislative district that lies in whole or in part in Anne Arundel County.

(iii) The County Executive of Anne Arundel County shall appoint one member from the county at large.

(iv) The following organizations shall each appoint one member:

1. The Teachers Association of Anne Arundel County;

2. The Annapolis and Anne Arundel County Chamber of Commerce;

3. The Anne Arundel County Council of Parent Teacher Associations;

4. The Anne Arundel County Community College Board of Trustees; and

5. The Association of Educational Leaders (AEL).

(3) (i) The Governor shall designate as chair of the Commission one of the five members appointed by the Governor under subsection (b)(2)(ii) of this section.

(ii) The term of the chair of the Commission is 4 years.

(iii) The Governor may reappoint the chair of the Commission for a second term.

(iv) The term of a member of the Commission is 4 years.

(4) The Department of Legislative Services shall provide staff for the Commission.

(5) Beginning January 1, 2008, for each nomination to the county board, the Commission shall submit to the Governor a list of nominees that contains:

(i) At least two names for each vacancy; or

(ii) If there are fewer than two applicants for a vacancy, the number of names that is equal to the number of applicants for the vacancy.

(c) (1) Following the **[**initial**]** appointment of a member of the Anne Arundel County Board of Education by the Governor, a member may ~~continue to~~ serve for the remainder of the member's **[**first**]** term**, AS PROVIDED IN § 3–108(C) OF THIS SUBTITLE,** subject to the approval or rejection of the registered voters of the county at the next general election.

(2) ~~**(I)**~~ **[**A**]** ~~**UNLESS OTHERWISE DISQUALIFIED UNDER THIS SECTION, A**~~ member of the county board **[**may serve for a second consecutive term subject to the approval of or rejection by the registered voters of the county at the next general election**]** **IS ELIGIBLE FOR NOMINATION AND REAPPOINTMENT FOR A**

SECOND CONSECUTIVE TERM IN ACCORDANCE WITH THE PROVISIONS OF SUBSECTIONS (A) AND (B) OF THIS SECTION.

~~**(II) AN INDIVIDUAL MAY NOT SERVE FOR MORE THAN TWO CONSECUTIVE TERMS.**~~

(3) (i) The approval or rejection of a member of the county board by the registered voters of the county provided for in subparagraph (ii) of this paragraph shall be a vote for the member's retention or removal.

(ii) On receipt of the notice required under § 5–301(h) of the Election Law Article, the name of the member of the county board shall be placed on the appropriate ballot and shown, without opposition, and the voters shall vote for or against the member's retention as a member of the county board.

(4) If the voters reject the retention of the member, or the vote is tied:

(i) The position shall become vacant 10 days after certification of the election returns; and

(ii) The member serves until a successor is appointed and qualifies.

(d) (1) The student member shall:

(i) Be a regularly enrolled senior year student of good character and in good standing in an Anne Arundel County public high school;

(ii) Be selected in the student's junior year by a method selected by the Chesapeake Regional Association of Student Councils of Anne Arundel County;

(iii) 1. Serve a term of 1 year; and

2. Continue to serve after graduation and until a successor is appointed and qualifies.

(2) If a vacancy in the position of the student member occurs during the term of the student member, the Chesapeake Regional Association of Student Councils shall:

(i) Conduct a special election at its next general meeting; and

(ii) By utilizing the same method that it used to select the previous student member of the board, select another student member to fill the vacancy.

(e) A board member who does not maintain the residency qualification shall be replaced as a member.

(f) If the boundary line of a legislative district changes, an incumbent member of the county board who, because of the change, no longer resides in the legislative district from which the member was appointed may complete the term.

(g) (1) The President of the Anne Arundel County Board of Education is entitled to receive $8,000 annually as compensation and, except for the student member, the other board members are entitled to receive $6,000 each annually as compensation.

(2) A student member who completes a full term on the board shall be granted a scholarship of $6,000 to be applied toward the student's higher education costs.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 179

(Senate Bill 92)

AN ACT concerning

State Board of Heating, Ventilation, Air–Conditioning, and Refrigeration Contractors – Sunset Extension and Program Evaluation

FOR the purpose of continuing the State Board of Heating, Ventilation, Air–Conditioning, and Refrigeration Contractors in accordance with the provisions of the Maryland Program Evaluation Act (sunset law) by extending to a certain date the termination provisions relating to the statutory and regulatory authority of the Board; requiring the Board to submit a certain report to certain committees of the General Assembly on or before a certain date; and generally relating to the State Board of Heating, Ventilation, Air–Conditioning, and Refrigeration Contractors.

BY repealing and reenacting, with amendments,
Article – Business Regulation
Section 9A–602
Annotated Code of Maryland
(2010 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, without amendments,
Article – State Government
Section 8–403(a)
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 8–403(b)(28)
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

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

Article – Business Regulation

9A–602.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this title and all regulations adopted under this title shall terminate and be of no effect after July 1, **[**2013**] 2023**.

Article – State Government

8–403.

(a) On or before December 15 of the 2nd year before the evaluation date of a governmental activity or unit, the Legislative Policy Committee, based on a preliminary evaluation, may waive as unnecessary the evaluation required under this section.

(b) Except as otherwise provided in subsection (a) of this section, on or before the evaluation date for the following governmental activities or units, an evaluation shall be made of the following governmental activities or units and the statutes and regulations that relate to the governmental activities or units:

(28) Heating, Ventilation, Air–Conditioning, and Refrigeration Contractors, State Board of (§ 9A–201 of the Business Regulation Article: July 1, **[**2012**] 2022**);

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before October 1, 2012, the State Board of Heating, Ventilation, Air–Conditioning, and Refrigeration Contractors shall submit a report to the Senate Education, Health, and Environmental Affairs Committee and the House Economic Matters Committee, in accordance with § 2–1246 of the State Government Article, that:

(a) assesses the feasibility of requiring counties to enforce the State mechanical code;

(b) states whether the Board has adopted a regulation exempting individuals who install thermostats or switches under ~~the PeakRewards program~~ public service company demand response programs from licensing requirements;

(c) if the Board has adopted a regulation exempting individuals who install thermostats or switches under ~~the PeakRewards program~~ public service company demand response programs from licensing requirements:

(1) states whether the Board has verified that a public ~~utility~~ service company or a designee of a ~~utility~~ public service company has provided training and oversight to ensure that all unlicensed ~~PeakRewards~~ demand response program work is performed in a safe manner;

(2) summarizes complaints received by the Board related to the improper installation of thermostats or switches under ~~the PeakRewards program~~ public service company demand response programs; and

(3) summarizes the Board's efforts to address:

(i) complaints received by the Board related to the improper installation of thermostats or switches under ~~the PeakRewards program~~ public service company demand response programs; and

(ii) the problems underlying the complaints;

(d) states whether, after consulting with the Department of Budget and Management, the Department of Labor, Licensing, and Regulation is able to identify additional ways of enhancing the efficient resolution of consumer complaints; and

(e) states whether the Board has:

(1) filled the final vacant consumer and industry member positions; and

(2) provided full geographic representation on the Board.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 180

(Senate Bill 117)

AN ACT concerning

State Board of Podiatric Medical Examiners – Unannounced Inspections

FOR the purpose of requiring the State Board of Podiatric Medical Examiners to conduct certain inspections of certain offices of podiatrists against whom a certain complaint has been filed with the Board to determine compliance with the Centers for Disease Control and Prevention's guidelines on universal precautions; and generally relating to unannounced inspections of the office of a podiatrist.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 16–205(b)(4)
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

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

Article – Health Occupations

16–205.

(b) In addition to the duties set forth elsewhere in this title, the Board shall:

(4) **[**Conduct**]** **EXCEPT FOR AN OFFICE OF A PODIATRIST IN A HOSPITAL, RELATED INSTITUTION, FREESTANDING MEDICAL FACILITY, OR FREESTANDING BIRTHING CENTER, CONDUCT** an unannounced inspection of the office of a podiatrist **AGAINST WHOM A COMPLAINT HAS BEEN FILED WITH THE BOARD REGARDING A VIOLATION OF THE CENTERS FOR DISEASE CONTROL AND PREVENTION'S GUIDELINES ON UNIVERSAL PRECAUTIONS[**, other than an office of a podiatrist in a hospital, related institution, freestanding medical facility, or a freestanding birthing center,**]** to determine compliance at that office with the **[**Centers for Disease Control and Prevention's**]** guidelines **[**on universal precautions**]**.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 181

(House Bill 36)

AN ACT concerning

State Board of Podiatric Medical Examiners – Unannounced Inspections

FOR the purpose of requiring the State Board of Podiatric Medical Examiners to conduct certain inspections of certain offices of podiatrists against whom a certain complaint has been filed with the Board to determine compliance with the Centers for Disease Control and Prevention's guidelines on universal precautions; and generally relating to unannounced inspections of the office of a podiatrist.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 16–205(b)(4)
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

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

Article – Health Occupations

16–205.

(b) In addition to the duties set forth elsewhere in this title, the Board shall:

(4) **[**Conduct**]** **EXCEPT FOR AN OFFICE OF A PODIATRIST IN A HOSPITAL, RELATED INSTITUTION, FREESTANDING MEDICAL FACILITY, OR FREESTANDING BIRTHING CENTER, CONDUCT** an unannounced inspection of the office of a podiatrist **AGAINST WHOM A COMPLAINT HAS BEEN FILED WITH THE BOARD REGARDING A VIOLATION OF THE CENTERS FOR DISEASE CONTROL AND PREVENTION'S GUIDELINES ON UNIVERSAL PRECAUTIONS[**, other than an office of a podiatrist in a hospital, related institution, freestanding medical facility, or a freestanding birthing center,**]** to determine compliance at that office with the **[**Centers for Disease Control and Prevention's**]** guidelines **[**on universal precautions**]**.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 182

(Senate Bill 125)

AN ACT concerning

Baltimore City – Used Car Dealers – Sunday Operations

FOR the purpose of authorizing in Baltimore City a used car dealer to sell, barter, deliver, give away, show, or offer for sale a motor vehicle or certificate of title for a motor vehicle on Sunday, instead of Saturday, if the dealer notifies the Motor Vehicle Administration in advance that the dealer intends to conduct business on Sunday, instead of Saturday; and generally relating to Sunday operations of used car dealers in Baltimore City.

BY repealing and reenacting, with amendments,
Article – Business Regulation
Section 18–101
Annotated Code of Maryland
(2010 Replacement Volume and 2010 Supplement)

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

Article – Business Regulation

18–101.

(a) (1) This section does not apply to the laws that relate to the sale of alcoholic beverages.

(2) This section does not apply in Wicomico County.

(b) Subject to this section and § 3–704 of the Labor and Employment Article, a retail or wholesale establishment may do business on Sunday.

(c) Notwithstanding an agreement to the contrary between a merchant and landlord:

(1) the landlord may not directly or indirectly require the merchant to open the merchant's place of business on Sunday; and

(2) a landlord may not directly or indirectly cancel or refuse to renew the merchant's lease because the merchant refuses to open the merchant's place of business on Sunday.

(d) Except in Howard, Montgomery, and Prince George's counties, and except as provided in **[**subsection (g)**]** **SUBSECTIONS (G) AND (H)** of this section, a new or used car dealer may not sell, barter, deliver, give away, show, or offer for sale a motor vehicle or certificate of title for a motor vehicle on Sunday.

(e) In Anne Arundel County, a dealer may sell, barter, deliver, give away, show, or offer for sale on Sunday a new or used camping trailer, mobile home, or travel trailer, as those terms are defined in Title 11 of the Transportation Article.

(f) A new or used car dealer who violates subsection (d) of this section is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $10,000.

(g) In Anne Arundel County and Worcester County, a dealer may sell, barter, deliver, give away, show, or offer for sale a motorcycle, as defined in § 11–136 of the Transportation Article, or certificate of title for a motorcycle on Sunday.

(H) IN BALTIMORE CITY, A USED CAR DEALER MAY SELL, BARTER, DELIVER, GIVE AWAY, SHOW, OR OFFER FOR SALE A MOTOR VEHICLE OR CERTIFICATE OF TITLE FOR A MOTOR VEHICLE ON SUNDAY, INSTEAD OF SATURDAY, IF THE DEALER NOTIFIES THE MOTOR VEHICLE ADMINISTRATION IN ADVANCE THAT THE DEALER INTENDS TO CONDUCT BUSINESS ON SUNDAY, INSTEAD OF SATURDAY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 183

(House Bill 624)

AN ACT concerning

Baltimore City – Used Car Dealers – Sunday Operations

FOR the purpose of authorizing in Baltimore City a used car dealer to sell, barter, deliver, give away, show, or offer for sale a motor vehicle or certificate of title for a motor vehicle on Sunday, instead of Saturday, if the dealer notifies the Motor Vehicle Administration in advance that the dealer intends to conduct business on Sunday, instead of Saturday; and generally relating to Sunday operations of used car dealers in Baltimore City.

BY repealing and reenacting, with amendments,
Article – Business Regulation
Section 18–101
Annotated Code of Maryland
(2010 Replacement Volume and 2010 Supplement)

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

Article – Business Regulation

18–101.

(a) (1) This section does not apply to the laws that relate to the sale of alcoholic beverages.

(2) This section does not apply in Wicomico County.

(b) Subject to this section and § 3–704 of the Labor and Employment Article, a retail or wholesale establishment may do business on Sunday.

(c) Notwithstanding an agreement to the contrary between a merchant and landlord:

(1) the landlord may not directly or indirectly require the merchant to open the merchant's place of business on Sunday; and

(2) a landlord may not directly or indirectly cancel or refuse to renew the merchant's lease because the merchant refuses to open the merchant's place of business on Sunday.

(d) Except in Howard, Montgomery, and Prince George's counties, and except as provided in **[**subsection (g)**]** **SUBSECTIONS (G) AND (H)** of this section, a new or used car dealer may not sell, barter, deliver, give away, show, or offer for sale a motor vehicle or certificate of title for a motor vehicle on Sunday.

(e) In Anne Arundel County, a dealer may sell, barter, deliver, give away, show, or offer for sale on Sunday a new or used camping trailer, mobile home, or travel trailer, as those terms are defined in Title 11 of the Transportation Article.

(f) A new or used car dealer who violates subsection (d) of this section is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $10,000.

(g) In Anne Arundel County and Worcester County, a dealer may sell, barter, deliver, give away, show, or offer for sale a motorcycle, as defined in § 11–136 of the Transportation Article, or certificate of title for a motorcycle on Sunday.

(H) IN BALTIMORE CITY, A USED CAR DEALER MAY SELL, BARTER, DELIVER, GIVE AWAY, SHOW, OR OFFER FOR SALE A MOTOR VEHICLE OR CERTIFICATE OF TITLE FOR A MOTOR VEHICLE ON SUNDAY, INSTEAD OF SATURDAY, IF THE DEALER NOTIFIES THE MOTOR VEHICLE ADMINISTRATION IN ADVANCE THAT THE DEALER INTENDS TO CONDUCT BUSINESS ON SUNDAY, INSTEAD OF SATURDAY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 184

(Senate Bill 142)

AN ACT concerning

Civil Action – Disclosure of Information – ~~Repeal of~~ *Modification of Requirements for* Certification ~~Requirement~~

FOR the purpose of repealing the requirement that a plaintiff ~~file a certain certification with the court and serve the certification on an insurer or person that has a self–insurance plan before the~~ *set forth in detail, in a certain certification, certain efforts by the plaintiff to locate a defendant before a certain* insurer or person with a self–insurance plan is required to provide the plaintiff with certain information on the last known home and business addresses of the defendant; making ~~a stylistic change~~ *stylistic changes*; providing for the application of this Act; and generally relating to the disclosure of information in a civil action.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 6–311
Annotated Code of Maryland
(2006 Replacement Volume and 2010 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

6–311.

(a) In this section, "person" has the meaning stated in Rule 1–202 of the Maryland Rules.

(b) (1) This section applies to an action against a person who had applicable insurance coverage under an insurance policy or self–insurance plan at the time the alleged liability that is the subject of the action was incurred.

(2) Subject to paragraph (1) of this subsection, this section applies to a person who is a defendant subject to a complaint, counterclaim, cross–claim, or third–party complaint.

(c) (1) **[**Subject to subsections (d) and (e) of this section, on**]** ~~ON~~ written request of a ~~party~~ ***PLAINTIFF*** to the action, an insurer or a person that has a self–insurance plan shall provide to the ~~party~~ ***PLAINTIFF*** the defendant's last known home and business **[**address**]** **ADDRESSES** if known.

(2) An insurer or a person that has a self–insurance plan, and their employees and agents, may not be civilly or criminally liable for the disclosure of information required under this subsection.

(d) **[**Subsection (c)(1) of this section applies only if the plaintiff files a certification that ***STATES THAT THE DEFENDANT***:

(1) ~~States that the defendant had~~ ***HAD*** applicable insurance coverage at the time the alleged liability was incurred; ***AND***

(2) ~~Sets forth in detail the reasonable efforts made, in good faith, by the plaintiff to locate the defendant; and~~

~~(3)~~ ~~States that the defendant is~~ ***IS*** evading service of process or the whereabouts of the defendant are unknown to the plaintiff.

(e) A plaintiff shall file a certification described under subsection (d) of this section with the clerk of the court in which the case is filed and serve the certification on the insurer or the person that has the self–insurance plan, as provided in the Maryland Rules.

(f)**]** A defendant who is subject to the provisions of this section is deemed to have consented to the disclosure of the information described 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 before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 185

(Senate Bill 146)

AN ACT concerning

State Board of Veterinary Medical Examiners – Licensing

FOR the purpose of authorizing the State Board of Veterinary Medical Examiners to require an applicant for a license to practice veterinary medicine, a veterinarian, or a veterinary practitioner to submit to a mental or physical examination under certain circumstances; providing that an applicant, a veterinarian, or a veterinary practitioner has consented to submit to an examination if directed by the Board; providing that an applicant, a veterinarian, or a veterinary practitioner waives any claim of privilege regarding a report of an exam under this Act; providing that the report or testimony of an examining physician or other person is confidential, except under certain circumstances; providing that the failure to submit to an examination under this Act is prima facie evidence of the inability to practice veterinary medicine, subject to certain findings by the Board; requiring the Board to pay the reasonable cost of any examination made under this Act; clarifying that the Board's authority to refuse, suspend, or revoke an application or license applies to veterinary practitioners; repealing and replacing obsolete terminology; clarifying that the Board may refuse, suspend, or revoke a license if an individual is determined to be professionally incompetent; defining a certain term; and generally relating to the authority of the State Board of Veterinary Medical Examiners.

BY adding to
Article – Agriculture
Section 2–301(b–1) and 2–307.1
Annotated Code of Maryland
(2007 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, without amendments,
Article – Agriculture
Section 2–301(h) and (i)
Annotated Code of Maryland
(2007 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,
Article – Agriculture
Section 2–310
Annotated Code of Maryland
(2007 Replacement Volume and 2010 Supplement)

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

Article – Agriculture

2–301.

(B–1) "CONVICTED" INCLUDES:

(1) A FINDING OF GUILT BY A COURT OR A JURY; AND

(2) THE ACCEPTANCE BY A COURT OF A DEFENDANT'S PLEA OF GUILTY, NOLO CONTENDERE, OR ALFORD PLEA.

(h) "Veterinarian" means any person who is a graduate of a college of veterinary medicine.

(i) "Veterinary practitioner" means a licensed and registered veterinarian engaged in the practice of veterinary medicine.

2–307.1.

(A) IN REVIEWING AN APPLICATION FOR LICENSURE OF A VETERINARIAN OR IN INVESTIGATING ANY MATTER BROUGHT AGAINST A VETERINARY PRACTITIONER, THE BOARD MAY DIRECT THE APPLICANT, VETERINARIAN, OR VETERINARY PRACTITIONER TO SUBMIT TO A MENTAL OR PHYSICAL EXAMINATION WHEN THE BOARD HAS REASONABLE EVIDENCE INDICATING THE INABILITY OF THAT INDIVIDUAL TO PRACTICE VETERINARY MEDICINE COMPETENTLY.

(B) IN RETURN FOR THE PRIVILEGE GIVEN BY THE STATE IN ISSUING A LICENSE OR REGISTRATION, THE APPLICANT, VETERINARIAN, OR VETERINARY PRACTITIONER IS DEEMED TO HAVE:

(1) CONSENTED TO SUBMIT TO AN EXAMINATION UNDER THIS SECTION IF DIRECTED BY THE BOARD IN WRITING; AND

(2) WAIVED ANY CLAIM OF PRIVILEGE AS TO THE EXAMINATION REPORT OR TESTIMONY REGARDING THE REPORT.

(C) THE REPORT OR TESTIMONY OF AN EXAMINING PHYSICIAN OR OTHER PERSON DESIGNATED BY THE BOARD IS CONFIDENTIAL EXCEPT AS TO CONTESTED CASE PROCEEDINGS AS DEFINED BY THE ADMINISTRATIVE PROCEDURE ACT.

(D) THE UNREASONABLE FAILURE OR REFUSAL OF AN APPLICANT, A VETERINARIAN, OR A VETERINARY PRACTITIONER TO SUBMIT TO AN EXAMINATION IS PRIMA FACIE EVIDENCE OF THE APPLICANT'S, VETERINARIAN'S, OR VETERINARY PRACTITIONER'S INABILITY TO PRACTICE VETERINARY MEDICINE COMPETENTLY UNLESS THE BOARD FINDS THAT THE FAILURE OR REFUSAL WAS BEYOND THE CONTROL OF THE APPLICANT, VETERINARIAN, OR VETERINARY PRACTITIONER.

(E) THE BOARD SHALL PAY THE REASONABLE COST OF ANY EXAMINATION MADE UNDER THIS SECTION.

2–310.

The Board may refuse, suspend, or revoke any application or license, and censure or place on probation any licensee after a hearing, if the veterinarian **OR VETERINARY PRACTITIONER**:

(1) Is **[**adjudicated insane**] UNABLE TO PRACTICE VETERINARY MEDICINE COMPETENTLY DUE TO A PHYSICAL OR MENTAL DISABILITY**;

(2) Is convicted of a violation of any federal or State law relating to prescription drugs, a controlled dangerous substance under Title 5, Subtitle 4 of the Criminal Law Article, or a controlled substance as defined by 21 U.S.C. § 812;

(3) Is convicted of a felony, or of a crime involving moral turpitude;

(4) Is convicted of violating any provision of this subtitle, any unlawful or fraudulent practice, or any fraudulent, misleading, or deceptive representation or advertising concerning his professional qualifications or the quality of materials or drugs used by him in his professional work or in the treatment of animals;

(5) Has a final judgment entered against him in a civil malpractice case involving gross personal negligence;

(6) Obtains the license by fraud or misrepresentation, either in the application, or in passing the examination;

(7) Is guilty of employing or permitting to practice veterinary medicine any person who does not hold a license to practice veterinary medicine in the State;

(8) Fails to comply with Board rules or regulations after receiving a license;

(9) Is grossly negligent or deliberately cruel to an animal;

(10) **[**After a hearing is**]** **IS** determined by four members to be **PROFESSIONALLY** incompetent as a veterinary practitioner; or

(11) Is disciplined by a licensing authority of another state, including the suspension or revocation of a license to practice veterinary medicine, for an act that would be grounds for disciplinary action under this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 186

(Senate Bill 147)

AN ACT concerning

State Commission of Real Estate Appraisers and Home Inspectors – Home Inspectors – Continuing Professional Competency

FOR the purpose of requiring the State Commission of Real Estate Appraisers and Home Inspectors to adopt regulations to require a demonstration of continuing professional competency of a certain number of educational hours as a condition of renewal of a license to provide home inspection services; providing for the implementation of the continuing professional competency requirement on a phased–in basis; *providing that certain educational hours from courses offered by certain entities satisfy the continuing professional competency requirement under certain circumstances;* and generally relating to the State Commission of Real Estate Appraisers and Home Inspectors.

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 16–3A–07
Annotated Code of Maryland
(2010 Replacement Volume)

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

Article – Business Occupations and Professions

16–3A–07.

(a) Unless a license is renewed for a 2–year term as provided in this section, the license expires on a staggered basis as determined by the Secretary.

(b) At least 1 month before a license expires, the Commission shall mail to the licensee, at the last known address of the licensee:

(1) a renewal application form; and

(2) a notice that states:

(i) the date on which the current license expires; and

(ii) the amount of the renewal fee.

(c) Before a license expires, the licensee may renew it for an additional 2–year term, if the licensee:

(1) otherwise is entitled to be licensed;

(2) pays to the Commission a renewal fee not to exceed $400;

(3) submits a renewal application on the form that the Commission provides; and

(4) submits proof of compliance with the insurance requirement of § 16–4A–04 of this title.

(d) The Commission shall renew the license of and issue a license to each licensee who meets the requirements of this section.

(E) (1) THE COMMISSION SHALL ADOPT REGULATIONS TO REQUIRE A DEMONSTRATION OF CONTINUING PROFESSIONAL COMPETENCY OF UP TO 30 EDUCATIONAL HOURS FOR A LICENSEE AS A CONDITION OF RENEWAL OF A LICENSE UNDER THIS SECTION IN ACCORDANCE WITH PARAGRAPHS (2) THROUGH ~~(5)~~ *(6)* OF THIS SUBSECTION.

(2) CONTINUING PROFESSIONAL COMPETENCY REQUIREMENTS DO NOT APPLY TO THE FIRST RENEWAL OF A LICENSE.

(3) IF A LICENSE EXPIRES ON OR BEFORE SEPTEMBER 30, 2013, A LICENSEE IS NOT REQUIRED TO FULFILL THE CONTINUING PROFESSIONAL COMPETENCY REQUIREMENTS.

(4) IF A LICENSE EXPIRES BETWEEN OCTOBER 1, 2013, AND SEPTEMBER 30, 2014, A LICENSEE IS REQUIRED TO FULFILL 50% OF THE CONTINUING PROFESSIONAL COMPETENCY REQUIREMENTS AS PROVIDED IN THE REGULATIONS ADOPTED BY THE COMMISSION UNDER THIS SUBSECTION.

(5) IF A LICENSE EXPIRES ON OR AFTER OCTOBER 1, 2014, A LICENSEE IS REQUIRED TO FULFILL THE FULL CONTINUING PROFESSIONAL COMPETENCY REQUIREMENTS AS PROVIDED IN THE REGULATIONS ADOPTED BY THE COMMISSION UNDER THIS SUBSECTION.

(6) EDUCATIONAL HOURS FROM A CONTINUING PROFESSIONAL COMPETENCY COURSE SATISFY THE REQUIREMENT OF PARAGRAPH (1) OF THIS SUBSECTION IF:

(I) THE COURSE IS OFFERED BY:

1. THE AMERICAN SOCIETY OF HOME INSPECTORS; ~~OR~~

2. THE NATIONAL ASSOCIATION OF HOME INSPECTORS; ~~AND~~ OR

3. ANY OTHER PROVIDER APPROVED BY THE COMMISSION; AND

(II) THE COMMISSION DETERMINES THAT THE COURSE INCREASES THE LICENSEE'S KNOWLEDGE OF THE PROVISION OF HOME INSPECTION SERVICES, INCLUDING ONE OR MORE COMPONENTS OF AN EXISTING RESIDENTIAL BUILDING.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 187

(Senate Bill 148)

AN ACT concerning

Maryland Consolidated Capital Bond Loan of 2010 – Prince George's County – Largo High School PTSA Track Renovation

FOR the purpose of amending the Maryland Consolidated Capital Bond Loan of 2010 to reduce the amount of a matching fund a certain grantee must provide; changing the name of a certain grantee to the Prince George's County Board of Education; extending the deadline for a certain grantee to present evidence that a matching fund will be provided; making this Act an emergency measure; and requiring that the Board of Public Works expend or encumber the proceeds of the loan by June 1, ~~2013~~ 2012.

BY repealing and reenacting, with amendments,
Chapter 483 of the Acts of the General Assembly of 2010
Section 1(3) Item ZA02(BH)

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

Chapter 483 of the Acts of 2010

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

(3) ZA02 LOCAL SENATE INITIATIVES

(BH) Largo High School PTSA Track Renovation. Provide a grant **[**equal to the lesser of (i)**]** **OF** $180,000 **[**or (ii) the amount of the matching fund provided**]**, to the **[**Largo High School Parent Teacher Association**]** **PRINCE GEORGE'S COUNTY BOARD OF EDUCATION** for the planning, design, construction, repair, renovation, and reconstruction of the Largo High School Track, located in Largo**, SUBJECT TO A REQUIREMENT THAT THE GRANTEE PROVIDE AND EXPEND A MATCHING FUND OF $90,000**. Notwithstanding 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**. NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE GRANTEE HAS UNTIL JUNE 1, ~~2013~~ 2012, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED. NOTWITHSTANDING SECTION 1(7) OF THIS ACT, THE PROCEEDS OF THE LOAN MUST BE EXPENDED OR ENCUMBERED BY THE BOARD OF PUBLIC WORKS FOR THE PURPOSES PROVIDED IN THIS ACT NO LATER THAN JUNE 1, ~~2013~~ 2012** (Prince George's County) . 180,000

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 10, 2011.

Chapter 188

(Senate Bill 149)

AN ACT concerning

Maryland Consolidated Capital Bond Loan of 2010 – Prince George's County – Forestville Military Academy Track

FOR the purpose of amending the Maryland Consolidated Capital Bond Loan of 2010 to reduce the amount of a matching fund a certain grantee must provide; changing the name of a certain grantee to the Prince George's County Board of Education; extending the deadline for a certain grantee to present evidence that a matching fund will be provided; making this Act an emergency measure; and requiring that the Board of Public Works expend or encumber the proceeds of the loan by June 1, ~~2013~~ 2012.

BY repealing and reenacting, with amendments,
Chapter 483 of the Acts of the General Assembly of 2010
Section 1(3) Item ZA02(BE)

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

Chapter 483 of the Acts of 2010

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

(3) ZA02 LOCAL SENATE INITIATIVES

(BE) Forestville Military Academy Track. Provide a grant **[**equal to the lesser of (i)**]** **OF** $180,000 **[**or (ii) the amount of the matching fund provided**]**, to the **[**Forestville High School PTA**]** **PRINCE GEORGE'S COUNTY BOARD OF EDUCATION** for the planning, design, construction, repair, renovation, and

reconstruction of the Forestville Military Academy Track, located in Forestville**, SUBJECT TO A REQUIREMENT THAT THE GRANTEE PROVIDE AND EXPEND A MATCHING FUND OF $90,000**. Notwithstanding 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**. NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE GRANTEE HAS UNTIL JUNE 1, ~~2013~~ 2012, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED. NOTWITHSTANDING SECTION 1(7) OF THIS ACT, THE PROCEEDS OF THE LOAN MUST BE EXPENDED OR ENCUMBERED BY THE BOARD OF PUBLIC WORKS FOR THE PURPOSES PROVIDED IN THIS ACT NO LATER THAN JUNE 1, ~~2013~~ 2012** (Prince George's County) 180,000

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 10, 2011.

Chapter 189

(Senate Bill 151)

AN ACT concerning

~~Child Care Articles –~~ Public Health – Containers of Infant Formula Manufactured with Bisphenol–A – Prohibition

FOR the purpose of prohibiting the State from purchasing infant formula in containers containing a certain amount of bisphenol–A on or after a certain date; prohibiting the manufacture, sale, or distribution of certain ~~child care articles~~ containers of infant formula containing a certain amount of bisphenol–A on or after a certain date; requiring the Department of Health and Mental Hygiene to adopt certain regulations on or before a certain date; ~~altering a certain definition; making stylistic and conforming changes;~~ authorizing the Secretary of Health and Mental Hygiene to suspend implementation of certain provisions of this Act under certain circumstances; requiring the Department to make a certain report to certain committees of the General Assembly on or before a certain date; and generally relating to ~~prohibitions on~~ containers of infant formula and bisphenol–A ~~in child care articles~~.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 24–304
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

Preamble

WHEREAS, The presence of the chemical bisphenol–A is of concern because of potential adverse side effects; and

WHEREAS, The National Institute of Environmental Health Sciences and the U.S. Food and Drug Administration are engaged in a 2–year research effort, including psychologically–based pharmacokinetic modeling studies and rodent subchronic and behavioral or neuroanatomical pilot studies that are due in 2012, to identify health risks associated with bisphenol–A; and

WHEREAS, The U.S. Food and Drug Administration will update its assessment of bisphenol–A and will be prepared to take additional action if warranted; now, therefore,

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

Article – Health – General

24–304.

(a) (1) In this section, "child care article" means ~~[~~an~~]:~~

~~(I)~~ ~~AN~~ empty bottle or cup to be filled with food or liquid that is designed or intended by a manufacturer to be used by a child under the age of 4 years~~; AND~~.

~~(II) A CAN, A JAR, OR ANY OTHER CONTAINER THAT HOLDS A LIQUID, FOOD, OR BEVERAGE INTENDED PRIMARILY FOR CONSUMPTION BY A CHILD UNDER THE AGE OF 4 YEARS.~~

(2) If a federal law regulating the use of bisphenol–A in child care articles is enacted, "child care article" shall be defined as specified in the federal law.

(b) ~~(1)~~ On or after January 1, 2012, a person may not manufacture, knowingly sell, or distribute in commerce any child care article ~~DESCRIBED IN SUBSECTION (A)(1)(I) OF THIS SECTION~~ containing bisphenol–A.

~~(2) ON OR AFTER JANUARY 1, 2013, A PERSON MAY NOT MANUFACTURE, KNOWINGLY SELL, OR DISTRIBUTE IN COMMERCE ANY CHILD CARE ARTICLE DESCRIBED IN SUBSECTION (A)(1)(II) OF THIS SECTION CONTAINING BISPHENOL–A.~~

(C) EXCEPT AS PROVIDED IN SUBSECTION (G) OF THIS SECTION, ON OR AFTER JULY 1, 2014:

(1) THE STATE MAY NOT PURCHASE INFANT FORMULA IN CONTAINERS CONTAINING MORE THAN 0.5 PARTS PER BILLION OF BISPHENOL–A; AND

(2) A PERSON MAY NOT MANUFACTURE, KNOWINGLY SELL, OR DISTRIBUTE IN COMMERCE A CONTAINER OF INFANT FORMULA CONTAINING MORE THAN 0.5 PARTS PER BILLION OF BISPHENOL–A.

~~(c)~~ **(D)** In complying with ~~subsection (b)~~ **SUBSECTIONS (B) AND (C)** of this section, a person:

(1) Shall use ~~the least toxic alternative~~ **A SAFE AND LEGAL ALTERNATIVE** when replacing bisphenol–A; and

(2) May not replace bisphenol–A with:

(i) Carcinogens rated by the United States Environmental Protection Agency as Group A, B, or C carcinogens; or

(ii) Reproductive toxicants that cause birth defects, reproductive harm, or developmental harm as identified by the United States Environmental Protection Agency.

~~(d)~~ **(E)** A person that violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $10,000 for each violation.

~~(e)~~ **(F)** ~~**(1)**~~ On or before January 1, ~~2011~~ **2012**, the Department shall adopt regulations to carry out **SUBSECTION (B)**~~**(1)**~~ **OF** this section.

~~(2) ON OR BEFORE JANUARY 1, 2012, THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT SUBSECTION (B)(2) OF THIS SECTION.~~

(G) IF THE SECRETARY CERTIFIES THAT THE SAFETY CONCERNS FOR BISPHENOL–A ARE RESOLVED BY ADDITIONAL RESEARCH OR IF IMPLEMENTATION OF SUBSECTION (C) OF THIS SECTION WOULD ADVERSELY AFFECT THE HEALTH OR WELL–BEING OF CHILDREN OR ADULTS, THE

SECRETARY MAY SUSPEND IMPLEMENTATION OF SUBSECTION (C) OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) On or before September 1, 2012, the Department of Health and Mental Hygiene shall report to the House Health and Government Operations Committee and the Senate Finance Committee, in accordance with § 2–1246 of the State Government Article, on the findings of federal research and regulatory activities related to bisphenol–A.

(b) The report required under subsection (a) of this section shall address the availability and safety of substitutes for bisphenol–A used in food containers containing infant formula.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~July~~ June 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 190

(House Bill 4)

AN ACT concerning

Public Health – Containers of Infant Formula Manufactured with Bisphenol–A – Prohibition

FOR the purpose of prohibiting the State from purchasing infant formula in containers containing a certain amount of bisphenol–A on or after a certain date; prohibiting the manufacture, sale, or distribution of certain ~~cans, jars, or other~~ containers of infant formula containing a certain amount of bisphenol–A on or after a certain date ~~if the cans, jars, or other containers contain a liquid, food, or beverage intended primarily for consumption by a child under a certain age; prohibiting the manufacture, sale, or distribution of sports water bottles containing bisphenol–A~~; requiring the Department of Health and Mental Hygiene to adopt certain regulations on or before a certain date; authorizing the Secretary of Health and Mental Hygiene to suspend implementation of certain provisions of this Act under certain circumstances; requiring the Department to make a certain report to certain committees of the General Assembly on or before a certain date; and generally relating to containers of infant formula and bisphenol–A.

BY repealing and reenacting, with amendments,

Article – Health – General
Section 24–304
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

Preamble

WHEREAS, The presence of the chemical bisphenol–A is of concern because of potential adverse side effects; and

WHEREAS, The National Institute of Environmental Health Sciences and the U.S. Food and Drug Administration are engaged in a 2–year research effort, including psychologically–based pharmacokinetic modeling studies and rodent subchronic and behavioral or neuroanatomical pilot studies that are due in 2012, to identify health risks associated with bisphenol–A; and

WHEREAS, The U.S. Food and Drug Administration will update its assessment of bisphenol–A and will be prepared to take additional action if warranted; now, therefore,

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

Article – Health – General

24–304.

(a) (1) In this section, "child care article" means an empty bottle or cup to be filled with food or liquid that is designed or intended by a manufacturer to be used by a child under the age of 4 years.

(2) If a federal law regulating the use of bisphenol–A in child care articles is enacted, "child care article" shall be defined as specified in the federal law.

(b) On or after January 1, 2012, a person may not manufacture, knowingly sell, or distribute in commerce any ~~OF THE FOLLOWING ITEMS:~~

~~(1)~~ ~~A~~ child care article containing bisphenol–A~~;~~

~~(2) A CAN, JAR, OR OTHER CONTAINER CONTAINING BISPHENOL–A AT A LEVEL OF .5 PARTS PER BILLION, IF THE CAN, JAR, OR OTHER CONTAINER CONTAINS A LIQUID, FOOD, OR BEVERAGE INTENDED PRIMARILY FOR CONSUMPTION BY A CHILD UNDER THE AGE OF 4 YEARS; OR~~

~~(3) A SPORTS WATER BOTTLE CONTAINING BISPHENOL–A~~.

(C) EXCEPT AS PROVIDED IN SUBSECTION (G) OF THIS SECTION, ON OR AFTER JULY 1, 2014:

(1) THE STATE MAY NOT PURCHASE INFANT FORMULA IN CONTAINERS CONTAINING MORE THAN 0.5 PARTS PER BILLION OF BISPHENOL–A; AND

(2) A PERSON MAY NOT MANUFACTURE, KNOWINGLY SELL, OR DISTRIBUTE IN COMMERCE A CONTAINER OF INFANT FORMULA CONTAINING MORE THAN 0.5 PARTS PER BILLION OF BISPHENOL–A.

~~(c)~~ **(D)** In complying with ~~subsection (b)~~ **SUBSECTIONS (B) AND (C)** of this section, a person:

(1) Shall use ~~the least toxic alternative~~ **A SAFE AND LEGAL ALTERNATIVE** when replacing bisphenol–A; and

(2) May not replace bisphenol–A with:

(i) Carcinogens rated by the United States Environmental Protection Agency as Group A, B, or C carcinogens; or

(ii) Reproductive toxicants that cause birth defects, reproductive harm, or developmental harm as identified by the United States Environmental Protection Agency.

~~(d)~~ **(E)** A person that violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $10,000 for each violation.

~~(e)~~ ~~**(1)**~~ **(F)** On or before January 1, ~~2011~~ **2012**, the Department shall adopt regulations to carry out **SUBSECTION (B)**~~**(1)**~~ **OF** this section.

~~**(2) ON OR BEFORE JULY 1, 2011, THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT SUBSECTION (B)(2) AND (3) OF THIS SECTION.**~~

(G) IF THE SECRETARY CERTIFIES THAT THE SAFETY CONCERNS FOR BISPHENOL–A ARE RESOLVED BY ADDITIONAL RESEARCH OR IF IMPLEMENTATION OF SUBSECTION (C) OF THIS SECTION WOULD ADVERSELY AFFECT THE HEALTH OR WELL–BEING OF CHILDREN OR ADULTS, THE SECRETARY MAY SUSPEND IMPLEMENTATION OF SUBSECTION (C) OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) On or before September 1, 2012, the Department of Health and Mental Hygiene shall report to the House Health and Government Operations Committee and the Senate Finance Committee, in accordance with § 2–1246 of the State Government Article, on the findings of federal research and regulatory activities related to bisphenol–A.

(b) The report required under subsection (a) of this section shall address the availability and safety of substitutes for bisphenol–A used in food containers containing infant formula.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 191

(Senate Bill 167)

AN ACT concerning

~~Higher Education – Tuition Charges – Maryland High School Students~~
Public Institutions of Higher Education – Tuition Rates – Exemptions

FOR the purpose of extending the time period within which an honorably discharged veteran must present certain evidence in order to qualify for a certain tuition rate; establishing that certain individuals~~, other than certain nonresident individuals,~~ shall be exempt from paying ~~the nonresident tuition rate~~ certain tuition rates *and shall be eligible to pay certain tuition rates* at certain public institutions of higher education under certain circumstances; requiring certain individuals to provide certain documentation regarding certain Maryland income tax ~~withholding or~~ filing at certain times; *requiring certain individuals, as a condition of being exempt from paying the out–of–state tuition rate, to provide to a community college certain documentation of registration with the Selective Service System;* requiring certain information collected as part of certain students' registration to remain confidential; requiring community colleges and public senior higher education institutions that admit certain students to keep a record of the number of individuals paying ~~resident tuition charges~~ *tuition rates* in accordance with this Act and to report certain information to the Maryland Higher Education Commission; requiring the Commission to submit a certain report to the General Assembly each year; requiring the governing board of each public institution of higher education to adopt certain policies; *providing that certain students may not be counted as in–State students for certain purposes;* defining a certain term; and generally

relating to tuition ~~charges~~ rates for certain individuals attending public institutions of higher education in the State.

BY repealing and reenacting, with amendments,
Article – Education
Section 15–106.4(b)
Annotated Code of Maryland
(2008 Replacement Volume and 2010 Supplement)

BY adding to
Article – Education
Section 15–106.8
Annotated Code of Maryland
(2008 Replacement Volume and 2010 Supplement)

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

Article – Education

15–106.4.

(b) Notwithstanding any other provision of this article, an individual described in subsection (a) of this section who attends a public institution of higher education in the State is exempt from paying nonresident tuition at a public institution of higher education in this State if:

(1) The active duty member referred to in subsection (a) of this section:

(i) Is stationed in this State;

(ii) Resides in this State; or

(iii) Is domiciled in this State;

(2) The honorably discharged veteran presents the following documentation within **[**1 year**] 4 YEARS** after the veteran's discharge:

(i) Evidence that the veteran attended a public or private secondary school in this State for at least 3 years; and

(ii) Documentation that the veteran graduated from a public or private secondary school in this State or received the equivalent of a high school diploma in this State; or

(3) The National Guard member described in subsection (a)(5) of this section is a member of the Maryland National Guard and joined or subsequently serves in the Maryland National Guard to:

(i) Provide a Critical Military Occupational Skill; or

(ii) Be a member of the Air Force Critical Specialty Code as determined by the National Guard.

15–106.8.

(A) IN THIS SECTION, "INDIVIDUAL":

(1) INCLUDES AN UNDOCUMENTED IMMIGRANT INDIVIDUAL; AND

(2) DOES NOT INCLUDE A NONIMMIGRANT ALIEN WITHIN THE MEANING OF 8 U.S.C. § 1101(A)(15).

~~(A)~~ (B) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, AN INDIVIDUAL~~, OTHER THAN A STUDENT WITHIN THE MEANING OF 8 U.S.C. § 1101(A)(15),~~ SHALL BE EXEMPT FROM PAYING THE ~~NONRESIDENT~~ OUT–OF–STATE TUITION RATE AT A ~~PUBLIC INSTITUTION OF HIGHER EDUCATION REGARDLESS OF RESIDENCY~~ COMMUNITY COLLEGE IN THE STATE, IF THE INDIVIDUAL:

(1) ~~ATTENDED~~ BEGINNING WITH THE 2005–2006 SCHOOL YEAR, ATTENDED A PUBLIC OR NONPUBLIC SECONDARY SCHOOL IN ~~THIS~~ THE STATE FOR AT LEAST ~~2~~ 3 YEARS;

(2) ~~GRADUATED~~ BEGINNING WITH THE 2007–2008 SCHOOL YEAR, GRADUATED FROM A PUBLIC OR NONPUBLIC SECONDARY SCHOOL IN ~~THIS~~ THE STATE OR RECEIVED THE EQUIVALENT OF A HIGH SCHOOL DIPLOMA IN ~~THIS~~ THE STATE;

(3) REGISTERS AS AN ENTERING STUDENT IN A ~~PUBLIC INSTITUTION OF HIGHER EDUCATION~~ COMMUNITY COLLEGE IN ~~THIS~~ THE STATE NOT EARLIER THAN THE 2011 FALL SEMESTER;

(4) PROVIDES TO THE ~~PUBLIC INSTITUTION OF HIGHER EDUCATION~~ COMMUNITY COLLEGE DOCUMENTATION THAT THE INDIVIDUAL OR THE INDIVIDUAL'S PARENT OR LEGAL GUARDIAN HAS ~~HAD MARYLAND INCOME TAX WITHHELD OR HAS~~ FILED A MARYLAND INCOME TAX RETURN:

(I) ~~WHILE~~ ANNUALLY FOR THE 3 YEARS WHILE THE INDIVIDUAL ATTENDED A PUBLIC OR NONPUBLIC SECONDARY SCHOOL IN THE STATE IN ACCORDANCE WITH ITEM (1) OF THIS SUBSECTION;

(II) ANNUALLY DURING THE PERIOD, IF ANY, BETWEEN GRADUATION FROM A PUBLIC OR NONPUBLIC SECONDARY SCHOOL IN THE STATE AND REGISTRATION AT A COMMUNITY COLLEGE IN THE STATE; AND

(III) ~~DURING~~ ANNUALLY DURING THE PERIOD OF ATTENDANCE AT THE COMMUNITY COLLEGE ~~DURING THE YEAR PRIOR TO THE INDIVIDUAL GRADUATING FROM A PUBLIC OR NONPUBLIC SECONDARY SCHOOL IN THIS STATE~~;

(5) IN THE CASE OF AN INDIVIDUAL WHO IS NOT A PERMANENT RESIDENT, PROVIDES TO THE ~~PUBLIC INSTITUTION OF HIGHER EDUCATION~~ COMMUNITY COLLEGE AN AFFIDAVIT STATING THAT THE INDIVIDUAL WILL FILE AN APPLICATION TO BECOME A PERMANENT RESIDENT WITHIN 30 DAYS AFTER THE INDIVIDUAL BECOMES ELIGIBLE TO DO SO; ~~AND~~

(6) IN THE CASE OF AN INDIVIDUAL WHO IS REQUIRED TO REGISTER WITH THE SELECTIVE SERVICE SYSTEM, PROVIDES TO THE COMMUNITY COLLEGE DOCUMENTATION THAT THE INDIVIDUAL HAS COMPLIED WITH THE REGISTRATION REQUIREMENT; AND

~~(6)~~ *(7)* ~~MAKES OR HAS MADE AN APPLICATION TO ATTEND A PUBLIC INSTITUTION OF HIGHER EDUCATION~~ REGISTERS IN A COMMUNITY COLLEGE IN ~~THIS~~ THE STATE NOT LATER THAN ~~3~~ 4 YEARS AFTER GRADUATING FROM A PUBLIC OR NONPUBLIC SECONDARY SCHOOL IN ~~THIS~~ THE STATE OR RECEIVING THE EQUIVALENT OF A HIGH SCHOOL DIPLOMA IN ~~THIS~~ THE STATE.

(C) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE *AND SUBJECT TO SUBSECTION (H) OF THIS SECTION*, AN INDIVIDUAL SHALL BE ~~EXEMPT FROM PAYING THE NONRESIDENT~~ *ELIGIBLE TO PAY A RATE THAT IS EQUIVALENT TO THE RESIDENT* TUITION RATE AT A PUBLIC SENIOR HIGHER EDUCATION INSTITUTION, IF THE INDIVIDUAL:

(1) ATTENDED A COMMUNITY COLLEGE ~~UNDER~~ *NOT EARLIER THAN THE 2010 FALL SEMESTER AND MET* THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION, *EXCEPT FOR THE REQUIREMENT SET FORTH IN SUBSECTION (B)(3) OF THIS SECTION*;

(2) WAS AWARDED AN ASSOCIATE'S DEGREE BY OR ACHIEVED 60 CREDITS AT A COMMUNITY COLLEGE IN THE STATE;

(3) PROVIDES THE PUBLIC SENIOR HIGHER EDUCATION INSTITUTION A COPY OF THE AFFIDAVIT SUBMITTED UNDER SUBSECTION (B)(5) OF THIS SECTION;

(4) PROVIDES TO THE PUBLIC SENIOR HIGHER EDUCATION INSTITUTION DOCUMENTATION THAT THE INDIVIDUAL OR THE INDIVIDUAL'S PARENT OR LEGAL GUARDIAN HAS ~~HAD MARYLAND INCOME TAX WITHHELD OR HAS~~ FILED A MARYLAND INCOME TAX RETURN:

(I) ~~WHILE~~ ANNUALLY WHILE THE INDIVIDUAL ATTENDED A COMMUNITY COLLEGE IN THE STATE;

(II) ANNUALLY DURING THE PERIOD, IF ANY, BETWEEN GRADUATION FROM *OR ACHIEVING 60 CREDITS AT* A COMMUNITY COLLEGE IN THE STATE AND REGISTRATION AT A PUBLIC SENIOR HIGHER EDUCATION INSTITUTION IN THE STATE; AND

(III) ~~DURING~~ ANNUALLY DURING THE PERIOD OF ATTENDANCE AT THE PUBLIC SENIOR HIGHER EDUCATION INSTITUTION; AND

(5) REGISTERS AT A PUBLIC SENIOR HIGHER EDUCATION INSTITUTION IN THE STATE NOT LATER THAN 4 YEARS AFTER GRADUATING FROM *OR ACHIEVING 60 CREDITS AT* A COMMUNITY COLLEGE IN THE STATE.

(D) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, AN INDIVIDUAL SHALL BE ~~EXEMPT FROM PAYING THE OUT–OF–COUNTY~~ *ELIGIBLE TO PAY A RATE THAT IS EQUIVALENT TO THE IN–COUNTY* TUITION RATE AT A COMMUNITY COLLEGE IN THE STATE IF THE INDIVIDUAL:

(1) MEETS THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION; AND

(2) ATTENDS A COMMUNITY COLLEGE SUPPORTED BY THE COUNTY IN WHICH:

(I) THE SECONDARY SCHOOL FROM WHICH THE INDIVIDUAL GRADUATED IS LOCATED; OR

(II) IN THE CASE OF AN INDIVIDUAL WHO RECEIVED THE EQUIVALENT OF A HIGH SCHOOL DIPLOMA IN THE STATE, THE SECONDARY SCHOOL MOST RECENTLY ATTENDED BY THE INDIVIDUAL IS LOCATED.

(E) INFORMATION COLLECTED UNDER THIS SECTION AS PART OF A STUDENT'S REGISTRATION SHALL REMAIN CONFIDENTIAL.

~~(B)~~ (F) (1) A COMMUNITY COLLEGE OR PUBLIC SENIOR HIGHER EDUCATION INSTITUTION THAT ADMITS AN INDIVIDUAL WHO QUALIFIES FOR ~~RESIDENT TUITION CHARGES~~ *THE TUITION RATE* UNDER THIS SECTION SHALL:

(I) KEEP A RECORD OF THE NUMBER OF INDIVIDUALS WHO PAY ~~RESIDENT TUITION CHARGES~~ *THE TUITION RATE* IN ACCORDANCE WITH THE REQUIREMENTS UNDER SUBSECTION (B) ~~OR (C)~~, *(C), OR (D)* OF THIS SECTION; AND

(II) REPORT THE INFORMATION REQUIRED IN ITEM (I) OF THIS PARAGRAPH TO THE COMMISSION EACH YEAR.

(2) THE COMMISSION SHALL SUBMIT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, AN ANNUAL REPORT CONSISTING OF A COMPILATION OF THE REPORTS SUBMITTED TO THE COMMISSION UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(G) THE GOVERNING BOARD OF EACH PUBLIC INSTITUTION OF HIGHER EDUCATION SHALL ADOPT APPROPRIATE POLICIES TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

(H) THE STUDENTS THAT ARE RECEIVING THE TUITION RATE IN SUBSECTION (C) OF THIS SECTION MAY NOT BE COUNTED AS IN–STATE STUDENTS FOR THE PURPOSES OF DETERMINING THE NUMBER OF MARYLAND UNDERGRADUATE STUDENTS ENROLLED AT A PUBLIC SENIOR HIGHER EDUCATION INSTITUTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 192

(Senate Bill 196)

AN ACT concerning

Sexual Offense in the Fourth Degree – Statute of Limitations – Increase

FOR the purpose of altering the period of time within which a prosecution for ~~any~~ a certain sexual offense in the fourth degree must be instituted after the offense was committed, if the victim was a minor at the time of the offense; and generally relating to the statute of limitations for prosecuting a sexual offense in the fourth degree.

BY repealing and reenacting, without amendments,
Article – Courts and Judicial Proceedings
Section 5–106(a)
Annotated Code of Maryland
(2006 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 5–106(z)
Annotated Code of Maryland
(2006 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, without amendments,
Article – Criminal Law
Section 3–308
Annotated Code of Maryland
(2002 Volume and 2010 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

5–106.

(a) Except as provided by this section and § 1–303 of the Environment Article, a prosecution for a misdemeanor shall be instituted within 1 year after the offense was committed.

(z) A prosecution for a misdemeanor offense under ~~[~~§ 3–308(c)~~]~~ ~~§ 3–308~~ **OR, IF THE VICTIM WAS A MINOR AT THE TIME OF THE OFFENSE, § 3–308(B)(1)** of the Criminal Law Article shall be instituted within 3 years after the offense was committed.

Article – Criminal Law

3–308.

(a) In this section, "person in a position of authority":

(1) means a person who:

(i) is at least 21 years old;

(ii) is employed as a full–time permanent employee by a public or private preschool, elementary school, or secondary school; and

(iii) because of the person's position or occupation, exercises supervision over a minor who attends the school; and

(2) includes a principal, vice principal, teacher, or school counselor at a public or private preschool, elementary school, or secondary school.

(b) A person may not engage in:

(1) sexual contact with another without the consent of the other;

(2) except as provided in § 3–307(a)(4) of this subtitle, a sexual act with another if the victim is 14 or 15 years old, and the person performing the sexual act is at least 4 years older than the victim; or

(3) except as provided in § 3–307(a)(5) of this subtitle, vaginal intercourse with another if the victim is 14 or 15 years old, and the person performing the act is at least 4 years older than the victim.

(c) (1) Except as provided in § 3–307(a)(4) of this subtitle or subsection (b)(2) of this section, a person in a position of authority may not engage in a sexual act or sexual contact with a minor who, at the time of the sexual act or sexual contact, is a student enrolled at a school where the person in a position of authority is employed.

(2) Except as provided in § 3–307(a)(5) of this subtitle or subsection (b)(3) of this section, a person in a position of authority may not engage in vaginal intercourse with a minor who, at the time of the vaginal intercourse, is a student enrolled at a school where the person in a position of authority is employed.

(d) (1) Except as provided in paragraph (2) of this subsection, a person who violates this section is guilty of the misdemeanor of sexual offense in the fourth degree and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding $1,000 or both.

(2) (i) On conviction of a violation of this section, a person who has been convicted on a prior occasion not arising from the same incident of a violation of §§ 3–303 through 3–312 or § 3–315 of this subtitle or § 3–602 of this title is subject to imprisonment not exceeding 3 years or a fine not exceeding $1,000 or both.

(ii) If the State intends to proceed against a person under subparagraph (i) of this paragraph, it shall comply with the procedures set forth in the Maryland Rules for the indictment and trial of a subsequent offender.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 193

(House Bill 724)

AN ACT concerning

Sexual Offense in the Fourth Degree – Statute of Limitations – Increase

FOR the purpose of altering the period of time within which a prosecution for ~~any~~ *a certain* sexual offense in the fourth degree must be instituted after the offense was committed, if the victim was a minor at the time of the offense; and generally relating to the statute of limitations for prosecuting a sexual offense in the fourth degree.

BY repealing and reenacting, without amendments,
Article – Courts and Judicial Proceedings
Section 5–106(a)
Annotated Code of Maryland
(2006 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 5–106(z)
Annotated Code of Maryland
(2006 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, without amendments,
Article – Criminal Law
Section 3–308
Annotated Code of Maryland
(2002 Volume and 2010 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

5–106.

(a) Except as provided by this section and § 1–303 of the Environment Article, a prosecution for a misdemeanor shall be instituted within 1 year after the offense was committed.

(z) A prosecution for a misdemeanor offense under **[**§ 3–308(c)**]** ~~**§ 3–308**~~ **OR, IF THE VICTIM WAS A MINOR AT THE TIME OF THE OFFENSE,** ~~**§ 3–308(B)**~~ ***§ 3–308(B)(1)*** of the Criminal Law Article shall be instituted within 3 years after the offense was committed.

Article – Criminal Law

3–308.

(a) In this section, "person in a position of authority":

(1) means a person who:

(i) is at least 21 years old;

(ii) is employed as a full–time permanent employee by a public or private preschool, elementary school, or secondary school; and

(iii) because of the person's position or occupation, exercises supervision over a minor who attends the school; and

(2) includes a principal, vice principal, teacher, or school counselor at a public or private preschool, elementary school, or secondary school.

(b) A person may not engage in:

(1) sexual contact with another without the consent of the other;

(2) except as provided in § 3–307(a)(4) of this subtitle, a sexual act with another if the victim is 14 or 15 years old, and the person performing the sexual act is at least 4 years older than the victim; or

(3) except as provided in § 3–307(a)(5) of this subtitle, vaginal intercourse with another if the victim is 14 or 15 years old, and the person performing the act is at least 4 years older than the victim.

(c) (1) Except as provided in § 3–307(a)(4) of this subtitle or subsection (b)(2) of this section, a person in a position of authority may not engage in a sexual act or sexual contact with a minor who, at the time of the sexual act or sexual contact, is a student enrolled at a school where the person in a position of authority is employed.

(2) Except as provided in § 3–307(a)(5) of this subtitle or subsection (b)(3) of this section, a person in a position of authority may not engage in vaginal

intercourse with a minor who, at the time of the vaginal intercourse, is a student enrolled at a school where the person in a position of authority is employed.

(d) (1) Except as provided in paragraph (2) of this subsection, a person who violates this section is guilty of the misdemeanor of sexual offense in the fourth degree and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding $1,000 or both.

(2) (i) On conviction of a violation of this section, a person who has been convicted on a prior occasion not arising from the same incident of a violation of §§ 3–303 through 3–312 or § 3–315 of this subtitle or § 3–602 of this title is subject to imprisonment not exceeding 3 years or a fine not exceeding $1,000 or both.

(ii) If the State intends to proceed against a person under subparagraph (i) of this paragraph, it shall comply with the procedures set forth in the Maryland Rules for the indictment and trial of a subsequent offender.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 194

(Senate Bill 200)

AN ACT concerning

Juvenile Services – Recidivism – Reporting

FOR the purpose of requiring the Secretary of Juvenile Services to report to the General Assembly on or before a certain date each year on the recidivism rates of children committed to the Department of Juvenile Services for placement <u>in residential care</u>; establishing that the report shall include recidivism rates ~~by certain regions and~~ by certain ~~facilities~~ <u>residential care programs</u>; specifying certain requirements for the report; and generally relating to a report on recidivism rates of children committed to the Department of Juvenile Services for placement.

BY adding to
Article – Human Services
Section 9–204(i)
Annotated Code of Maryland
(2007 Volume and 2010 Supplement)

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

Article – Human Services

9–204.

(I) (1) ON OR BEFORE JANUARY 1 OF EACH YEAR, THE SECRETARY SHALL REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, ON THE RECIDIVISM RATES OF CHILDREN COMMITTED TO THE DEPARTMENT FOR PLACEMENT IN RESIDENTIAL CARE.

(2) THE REPORT SHALL INCLUDE:

(I) RECIDIVISM RATES FOR ALL CHILDREN COMMITTED TO THE DEPARTMENT FOR PLACEMENT IN RESIDENTIAL CARE;

(II) RECIDIVISM RATES BY REGION FOR ALL CHILDREN COMMITTED TO THE DEPARTMENT FOR PLACEMENT IN RESIDENTIAL CARE ~~IN EACH OF THE FOLLOWING REGIONS:~~

~~1. BALTIMORE CITY;~~

~~2. THE CENTRAL REGION;~~

~~3. THE WESTERN REGION;~~

~~4. THE EASTERN REGION;~~

~~5. THE SOUTHERN REGION; AND~~

~~6. THE METRO REGION~~; AND

(III) RECIDIVISM RATES ~~BY FACILITY FOR EACH FACILITY~~ FOR EACH RESIDENTIAL CARE PROGRAM IN WHICH A CHILD COMMITTED TO THE DEPARTMENT IS PLACED.

(3) THE REPORT SHALL INCLUDE DATA FROM THE PRIOR 3 FISCAL YEARS.

(4) THE REPORT SHALL INCLUDE RECIDIVISM RATES THAT ARE CALCULATED FOR 1 YEAR AND 3 YEAR TIME FRAMES.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 195

(Senate Bill 204)

AN ACT concerning

Criminal Law – Sexual Crimes – Definitions

FOR the purpose of altering the definition of "sexual act" to include an act in which a part of an individual's body is used to penetrate certain body parts of another individual; altering the definition of "sexual contact"; and generally relating to definitions relating to sexual crimes.

BY repealing and reenacting, without amendments,
Article – Criminal Law
Section 3–301(a)
Annotated Code of Maryland
(2002 Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 3–301(e) and (f)
Annotated Code of Maryland
(2002 Volume and 2010 Supplement)

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

Article – Criminal Law

3–301.

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

(e) (1) "Sexual act" means any of the following acts, regardless of whether semen is emitted:

(i) analingus;

(ii) cunnilingus;

(iii) fellatio;

(iv) anal intercourse, including penetration, however slight, of the anus; or

(v) an act:

1. in which an object **OR PART OF AN INDIVIDUAL'S BODY** penetrates, however slightly, into another individual's genital opening or anus; and

2. that can reasonably be construed to be for sexual arousal or gratification, or for the abuse of either party.

(2) "Sexual act" does not include:

(i) vaginal intercourse; or

(ii) an act in which an object **OR PART OF AN INDIVIDUAL'S BODY** penetrates an individual's genital opening or anus for an accepted medical purpose.

(f) (1) "Sexual contact", as used in §§ 3–307, 3–308, and 3–314 of this subtitle, means an intentional touching of the victim's or actor's genital, anal, or other intimate area for sexual arousal or gratification, or for the abuse of either party.

(2) **[**"Sexual contact" includes an act:

(i) in which a part of an individual's body, except the penis, mouth, or tongue, penetrates, however slightly, into another individual's genital opening or anus; and

(ii) that can reasonably be construed to be for sexual arousal or gratification, or for the abuse of either party.

(3)**]** "Sexual contact" does not include:

(i) a common expression of familial or friendly affection; or

(ii) an act for an accepted medical purpose.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 196

(House Bill 1128)

AN ACT concerning

Criminal Law – Sexual Crimes – Definitions

FOR the purpose of altering the definition of "sexual act" to include an act in which a part of an individual's body is used to penetrate certain body parts of another individual; altering the definition of "sexual contact"; and generally relating to definitions relating to sexual crimes.

BY repealing and reenacting, without amendments,
Article – Criminal Law
Section 3–301(a)
Annotated Code of Maryland
(2002 Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 3–301(e) and (f)
Annotated Code of Maryland
(2002 Volume and 2010 Supplement)

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

Article – Criminal Law

3–301.

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

(e) (1) "Sexual act" means any of the following acts, regardless of whether semen is emitted:

(i) analingus;

(ii) cunnilingus;

(iii) fellatio;

(iv) anal intercourse, including penetration, however slight, of the anus; or

(v) an act:

1. in which an object **OR PART OF AN INDIVIDUAL'S BODY** penetrates, however slightly, into another individual's genital opening or anus; and

2. that can reasonably be construed to be for sexual arousal or gratification, or for the abuse of either party.

(2) "Sexual act" does not include:

(i) vaginal intercourse; or

(ii) an act in which an object **OR PART OF AN INDIVIDUAL'S BODY** penetrates an individual's genital opening or anus for an accepted medical purpose.

(f) (1) "Sexual contact", as used in §§ 3–307, 3–308, and 3–314 of this subtitle, means an intentional touching of the victim's or actor's genital, anal, or other intimate area for sexual arousal or gratification, or for the abuse of either party.

(2) **[**"Sexual contact" includes an act:

(i) in which a part of an individual's body, except the penis, mouth, or tongue, penetrates, however slightly, into another individual's genital opening or anus; and

(ii) that can reasonably be construed to be for sexual arousal or gratification, or for the abuse of either party.

(3)**]** "Sexual contact" does not include:

(i) a common expression of familial or friendly affection; or

(ii) an act for an accepted medical purpose.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 197

(Senate Bill 221)

AN ACT concerning

Environment – Decabrominated Diphenyl Ether – Trace Amounts

FOR the purpose of exempting certain aircraft from the application of a prohibition on the manufacture, lease, sale, or distribution for sale or lease of certain products that contain decabrominated diphenyl ether; altering certain prohibitions on the manufacturing, leasing, selling, or distributing of certain products that contain decabrominated diphenyl ether; making this Act an emergency measure; and generally relating to the use of decabrominated diphenyl ether.

BY repealing and reenacting, without amendments,
Article – Environment
Section 6–1201(a) and (b)
Annotated Code of Maryland
(2007 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,
Article – Environment
Section 6–1202.1
Annotated Code of Maryland
(2007 Replacement Volume and 2010 Supplement)

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

Article – Environment

6–1201.

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

(b) "DecaBDE" means decabrominated diphenyl ether.

6–1202.1.

(a) (1) In this section, "transportation equipment", "military equipment", and "components of transportation or military equipment" do not include shipping pallets used to transport unpackaged fruits and vegetables.

(2) This section does not apply to:

(i) Original equipment manufacturer replacement service parts or other products manufactured before January 1, 2011, if the part or products were manufactured in compliance with applicable federal, State, and local laws; and

(ii) 1. A vehicle, as defined in § 11–176 of the Transportation Article; ~~or~~

2. AN AIRCRAFT, AS DEFINED IN § 5–101 OF THE TRANSPORTATION ARTICLE; OR

~~2.~~ **3.** A product, part, or replacement part for use in a vehicle **OR AIRCRAFT**.

(b) (1) Beginning on December 31, 2010, a person may not manufacture, lease, sell, or distribute for sale or lease in the State any of the following products that contain **MORE THAN ONE–TENTH OF 1% OF** decaBDE **BY MASS** ~~OF THE PRODUCT AS A WHOLE~~:

(i) Mattresses;

(ii) Upholstered furniture designed for residential use; and

(iii) Electrical or electronic equipment.

(2) Except as provided in paragraph (3) of this subsection, beginning on December 31, 2012, a person may not manufacture, lease, sell, or distribute for sale or lease in the State any product that contains **MORE THAN ONE–TENTH OF 1% OF** decaBDE **BY MASS** ~~OF THE PRODUCT AS A WHOLE~~.

(3) Paragraph (2) of this subsection does not apply to:

(i) Transportation equipment;

(ii) Military equipment; or

(iii) Components of transportation or military equipment.

(c) On or after December 31, 2013, a person may not manufacture, lease, sell, or distribute for sale or lease in the State the following products that contain **MORE THAN ONE–TENTH OF 1% OF** decaBDE **BY MASS** ~~OF THE PRODUCT AS A WHOLE~~:

(1) Transportation equipment;

(2) Military equipment; or

(3) Components of transportation or military equipment.

(d) This section does not prohibit:

(1) A retailer that is in possession of a product prohibited for manufacture, lease, sale, or distribution for sale or lease under subsections (b) and (c) of this section from selling, recycling, or otherwise disposing of a product that is in the retailer's or lessor's inventory on or after the date that the prohibition takes effect;

(2) A person from recycling a product that contains decaBDE;

(3) A person from selling, leasing, recycling, or otherwise disposing of a product that contains recycled decaBDE;

(4) Any activity involving a product that contains decaBDE that occurs subsequent to first sale at retail; or

(5) A person from transporting or storing a product prohibited under subsections (b) and (c) of this section for later distribution outside the State.

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 10, 2011.

Chapter 198

(House Bill 54)

AN ACT concerning

Environment – Decabrominated Diphenyl Ether – Trace Amounts

FOR the purpose of <u>exempting certain aircraft from the application of a prohibition on the manufacture, lease, sale, or distribution for sale or lease of certain products that contain decabrominated diphenyl ether;</u> altering certain prohibitions on the manufacturing, leasing, selling, or distributing of certain products that contain decabrominated diphenyl ether; making this Act an emergency measure; and generally relating to the use of decabrominated diphenyl ether.

BY repealing and reenacting, without amendments,
Article – Environment

Section 6–1201(a) and (b)
Annotated Code of Maryland
(2007 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,
Article – Environment
Section 6–1202.1
Annotated Code of Maryland
(2007 Replacement Volume and 2010 Supplement)

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

Article – Environment

6–1201.

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

(b) "DecaBDE" means decabrominated diphenyl ether.

6–1202.1.

(a) (1) In this section, "transportation equipment", "military equipment", and "components of transportation or military equipment" do not include shipping pallets used to transport unpackaged fruits and vegetables.

(2) This section does not apply to:

(i) Original equipment manufacturer replacement service parts or other products manufactured before January 1, 2011, if the part or products were manufactured in compliance with applicable federal, State, and local laws; and

(ii) 1. A vehicle, as defined in § 11–176 of the Transportation Article; ~~or~~

2. AN AIRCRAFT, AS DEFINED IN § 5–101 OF THE TRANSPORTATION ARTICLE; OR

~~2.~~ **3.** A product, part, or replacement part for use in a vehicle **OR AIRCRAFT**.

(b) (1) Beginning on December 31, 2010, a person may not manufacture, lease, sell, or distribute for sale or lease in the State any of the following products that contain **MORE THAN ONE–TENTH OF 1% OF** decaBDE **BY MASS**:

(i) Mattresses;

(ii) Upholstered furniture designed for residential use; and

(iii) Electrical or electronic equipment.

(2) Except as provided in paragraph (3) of this subsection, beginning on December 31, 2012, a person may not manufacture, lease, sell, or distribute for sale or lease in the State any product that contains **MORE THAN ONE–TENTH OF 1% OF** decaBDE **BY MASS**.

(3) Paragraph (2) of this subsection does not apply to:

(i) Transportation equipment;

(ii) Military equipment; or

(iii) Components of transportation or military equipment.

(c) On or after December 31, 2013, a person may not manufacture, lease, sell, or distribute for sale or lease in the State the following products that contain **MORE THAN ONE–TENTH OF 1% OF** decaBDE **BY MASS**:

(1) Transportation equipment;

(2) Military equipment; or

(3) Components of transportation or military equipment.

(d) This section does not prohibit:

(1) A retailer that is in possession of a product prohibited for manufacture, lease, sale, or distribution for sale or lease under subsections (b) and (c) of this section from selling, recycling, or otherwise disposing of a product that is in the retailer's or lessor's inventory on or after the date that the prohibition takes effect;

(2) A person from recycling a product that contains decaBDE;

(3) A person from selling, leasing, recycling, or otherwise disposing of a product that contains recycled decaBDE;

(4) Any activity involving a product that contains decaBDE that occurs subsequent to first sale at retail; or

(5) A person from transporting or storing a product prohibited under subsections (b) and (c) of this section for later distribution outside the State.

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 10, 2011.

Chapter 199

(Senate Bill 227)

AN ACT concerning

Charlotte Hall Veterans Home – Gifts and Grants – Authority to Accept and Spend

FOR the purpose of authorizing the Charlotte Hall Veterans Home to accept certain gifts and grants for use at the Home; providing for certain uses and administration of the gifts and grants accepted for use at the Home; requiring the Director of the Veterans Home Program and the Secretary of Veterans Affairs to report each year on the status of the gifts and grants accepted for use at the Home; and generally relating to the authority of the Charlotte Hall Veterans Home to accept and spend certain gifts and grants.

BY adding to
Article – State Government
Section 9–912.1
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

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

Article – State Government

9–912.1.

(A) SUBJECT TO TITLE 7 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, TO CARRY OUT THE PURPOSES OR GOALS OF THE DEPARTMENT, THE CHARLOTTE HALL VETERANS HOME MAY:

(1) ACCEPT A GIFT OR GRANT FOR USE AT THE CHARLOTTE HALL VETERANS HOME; AND

(2) UNLESS THE TERMS OF A GIFT OR GRANT REQUIRE OTHERWISE, AND SUBJECT TO THE APPROVAL OF THE SECRETARY, SPEND THE PRINCIPAL AND INCOME OF THE GIFT OR GRANT FOR USE AT THE CHARLOTTE HALL VETERANS HOME.

(B) GIFTS AND GRANTS THAT THE CHARLOTTE HALL VETERANS HOME ACCEPTS UNDER SUBSECTION (A) OF THIS SECTION FOR USE AT THE HOME:

(1) SHALL BE ADMINISTERED BY THE DIRECTOR OF THE VETERANS HOME PROGRAM; AND

(2) ARE NOT SUBJECT TO REVERSION UNDER § 7–302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(C) (1) ON OR BEFORE JULY 31 OF EACH YEAR, THE DIRECTOR OF THE VETERANS HOME PROGRAM SHALL SUBMIT A REPORT TO THE SECRETARY ON THE STATUS OF THE GIFTS AND GRANTS ACCEPTED FOR USE AT THE CHARLOTTE HALL VETERANS HOME.

(2) ON OR BEFORE AUGUST 31 OF EACH YEAR, THE SECRETARY SHALL SUBMIT A REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2–1246 OF THIS ARTICLE, ON THE STATUS OF THE GIFTS AND GRANTS ACCEPTED FOR USE AT THE CHARLOTTE HALL VETERANS HOME.

(3) THE REPORTS REQUIRED UNDER THIS SUBSECTION SHALL INCLUDE THE FOLLOWING INFORMATION ON THE GIFTS AND GRANTS ACCEPTED FOR USE AT THE CHARLOTTE HALL VETERANS HOME DURING THE PREVIOUS FISCAL YEAR:

(I) THE GROSS AMOUNT OF THE GIFTS AND GRANTS;

(II) THE COSTS OF ADMINISTRATION OF THE GIFTS AND GRANTS; AND

(III) A DETAILED ACCOUNTING OF THE USE OF THE GIFTS AND GRANTS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 200

(House Bill 332)

AN ACT concerning

Charlotte Hall Veterans Home – Gifts and Grants – Authority to Accept and Spend

FOR the purpose of authorizing the Charlotte Hall Veterans Home to accept certain gifts and grants for use at the Home; providing for certain uses and administration of the gifts and grants accepted for use at the Home; requiring the Director of the Veterans Home Program and the Secretary of Veterans Affairs to report each year on the status of the gifts and grants accepted for use at the Home; and generally relating to the authority of the Charlotte Hall Veterans Home to accept and spend certain gifts and grants.

BY adding to
Article – State Government
Section 9–912.1
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

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

Article – State Government

9–912.1.

(A) SUBJECT TO TITLE 7 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, TO CARRY OUT THE PURPOSES OR GOALS OF THE DEPARTMENT, THE CHARLOTTE HALL VETERANS HOME MAY:

(1) ACCEPT A GIFT OR GRANT FOR USE AT THE CHARLOTTE HALL VETERANS HOME; AND

(2) UNLESS THE TERMS OF A GIFT OR GRANT REQUIRE OTHERWISE, AND SUBJECT TO THE APPROVAL OF THE SECRETARY, SPEND THE PRINCIPAL AND INCOME OF THE GIFT OR GRANT FOR USE AT THE CHARLOTTE HALL VETERANS HOME.

(B) GIFTS AND GRANTS THAT THE CHARLOTTE HALL VETERANS HOME ACCEPTS UNDER SUBSECTION (A) OF THIS SECTION FOR USE AT THE HOME:

(1) SHALL BE ADMINISTERED BY THE DIRECTOR OF THE VETERANS HOME PROGRAM; AND

(2) ARE NOT SUBJECT TO REVERSION UNDER § 7–302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(C) (1) ON OR BEFORE JULY 31 OF EACH YEAR, THE DIRECTOR OF THE VETERANS HOME PROGRAM SHALL SUBMIT A REPORT TO THE SECRETARY ON THE STATUS OF THE GIFTS AND GRANTS ACCEPTED FOR USE AT THE CHARLOTTE HALL VETERANS HOME.

(2) ON OR BEFORE AUGUST 31 OF EACH YEAR, THE SECRETARY SHALL SUBMIT A REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2–1246 OF THIS ARTICLE, ON THE STATUS OF THE GIFTS AND GRANTS ACCEPTED FOR USE AT THE CHARLOTTE HALL VETERANS HOME.

(3) THE REPORTS REQUIRED UNDER THIS SUBSECTION SHALL INCLUDE THE FOLLOWING INFORMATION ON THE GIFTS AND GRANTS ACCEPTED FOR USE AT THE CHARLOTTE HALL VETERANS HOME DURING THE PREVIOUS FISCAL YEAR:

(I) THE GROSS AMOUNT OF THE GIFTS AND GRANTS;

(II) THE COSTS OF ADMINISTRATION OF THE GIFTS AND GRANTS; AND

(III) A DETAILED ACCOUNTING OF THE USE OF THE GIFTS AND GRANTS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 201

(Senate Bill 235)

AN ACT concerning

~~Department of Labor, Licensing, and Regulation –~~ State Board of Master Electricians – Sunset Extension~~, Revision, and Report~~ and Revision

FOR the purpose of continuing the State Board of Master Electricians in accordance with the provisions of the Maryland Program Evaluation Act (sunset law) by extending to a certain date the termination provisions relating to the statutory and regulatory authority of the State Board; requiring the State Board to adopt regulations to establish continuing education requirements; conditioning the ability to renew a certain license on compliance with certain continuing education requirements; requiring that an evaluation of the State Board and the statutes and regulations that relate to the State Board be performed on or before a certain date; requiring the State Board, in conjunction with the Department of Labor, Licensing, and Regulation, to submit a certain report on or before a certain date; ~~requiring the Department to convene a certain group of interested and affected parties to make certain recommendations regarding the establishment of a State Board of Electricians; establishing the membership of the group; requiring the Secretary of Labor, Licensing, and Regulation to submit a certain report and draft legislation to the Senate Education, Health, and Environmental Affairs Committee and the House Economic Matters Committee on or before a certain date; requiring the Division to investigate the feasibility of certain special funding authority for a State Board of Electricians under certain circumstances; requiring the Division to investigate certain fee–setting authority for a State Board of Electricians under certain circumstances; requiring the Division to study certain methods of funding;~~ and generally relating to the State Board of Master Electricians.

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 6–205, 6–310(c), and 6–702
Annotated Code of Maryland
(2010 Replacement Volume)

BY repealing and reenacting, without amendments,
Article – State Government
Section 8–403(a)
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 8–403(b)(18)
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

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

Article – Business Occupations and Professions

6–205.

In addition to any powers and duties set forth elsewhere, the State Board shall:

(1) twice a year hold a seminar and invite members from each local licensing jurisdiction to discuss any industry or licensing problems; and

(2) adopt regulations to establish:

(i) application and examination fees; **[**and**]**

(II) CONTINUING EDUCATION REQUIREMENTS; AND

[(ii)**]** **(III)** application deadlines.

6–310.

(c) Before a State license expires, the State licensee periodically may renew it for an additional 2–year term, if the State licensee:

(1) otherwise is entitled to be licensed;

(2) pays to the State Board a renewal fee of $25; **[**and**]**

(3) COMPLIES WITH CONTINUING EDUCATION REQUIREMENTS ESTABLISHED BY THE STATE BOARD IN REGULATION; AND

[(3)**]** **(4)** submits to the State Board a renewal application on the form that the State Board provides.

6–702.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this title and all regulations adopted under this title shall terminate and be of no effect after July 1, **[**2013**]** ~~**2017**~~ **2023**.

Article – State Government

8–403.

(a) On or before December 15 of the 2nd year before the evaluation date of a governmental activity or unit, the Legislative Policy Committee, based on a preliminary evaluation, may waive as unnecessary the evaluation required under this section.

(b) Except as otherwise provided in subsection (a) of this section, on or before the evaluation date for the following governmental activities or units, an evaluation shall be made of the following governmental activities or units and the statutes and regulations that relate to the governmental activities or units:

(18) Electricians, State Board of Master (§ 6–201 of the Business Occupations and Professions Article: July 1, **[**2012**]** ~~**2016**~~ **2022**);

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before October 1, 2012, the State Board of Master Electricians, in conjunction with the Department of Labor, Licensing, and Regulation, shall submit a report to the Senate Education, Health, and Environmental Affairs Committee and the House Economic Matters Committee, in accordance with § 2–1246 of the State Government Article, on the status of nonstatutory alternative recommendations contained in the Sunset Review: Evaluation of the State Board of Master Electricians conducted by the Department of Legislative Services, specifically:

(1) the enforcement of the reporting requirements established under Chapter 163 of the Acts of 2002;

(2) the implementation of continuing education requirements for master electricians;

(3) the findings of the Division of Occupational and Professional Licensing on appropriate membership of the State Board of Master Electricians, including whether it remains feasible to have three consumer member positions; and

(4) whether to limit the number of employees that may work under a qualified license.

~~SECTION 3. AND BE IT FURTHER ENACTED, That:~~

~~(a) (1) The Division of Occupational and Professional Licensing of the Department of Labor, Licensing, and Regulation shall convene a group of stakeholders, both public and private, and representatives of interested and affected parties to make recommendations regarding the establishment of a State Board of Electricians that:~~

~~(i) is subject to the Maryland Program Evaluation Act (sunset law);~~

~~(ii) has statewide regulatory authority;~~

~~(iii) has an effective date of July 1, 2013, to coincide with the termination of the State Board of Master Electricians; and~~

~~(iv) has a termination date of July 1, 2021.~~

~~(2) The group convened under paragraph (1) of this subsection shall include:~~

~~(i) affected county and municipal officials;~~

~~(ii) affected State agencies;~~

~~(iii) master, journeyman, qualified agent, and apprentice electricians;~~

~~(iv) union and nonunion industry representatives;~~

~~(v) representatives of the State Board of Master Electricians; and~~

~~(vi) consumers.~~

~~(3) The recommendations developed under this subsection for the establishment of a State Board of Electricians shall provide for multiple licensing levels, and shall include:~~

~~(i) the types of statewide licenses to establish, including State-administered master, master inactive, qualified agent, journeyman, restricted, limited, apprentice, and other licenses;~~

~~(ii) continuing education requirements for renewal of licenses;~~

~~(iii) appropriate membership for the new State Board;~~

~~(iv) whether to limit the number of employees that may work under a qualified agent or successor license;~~

~~(v) steps necessary to preempt the right of a county or municipality to maintain local boards and to license electricians, including a process to eliminate local boards and electrician licensing systems; and~~

~~(vi) how to grandfather certain local licenses for a limited period after the establishment of the new State Board until State licensing can be fully implemented.~~

~~(b) On or before October 1, 2012, the Secretary of Labor, Licensing, and Regulation shall submit to the Senate Education, Health, and Environmental Affairs Committee and the House Economic Matters Committee:~~

~~(1) a report, in accordance with § 2–1246 of the State Government Article, on the plans of the Division of Occupational and Professional Licensing to create and operate a new program for the statewide regulation of electricians under a State Board of Electricians; and~~

~~(2) legislation drafted for approval by the General Assembly that would enact the consensus recommendations developed under this section and facilitate preparations for the State Board of Electricians.~~

~~(c) The Division of Occupational and Professional Licensing shall:~~

~~(1) (i) investigate the feasibility of establishing special funding authority for the State Board of Electricians in order to maintain more control over its enhanced regulatory activities; or~~

~~(ii) if special funding is not feasible, investigate the feasibility of establishing fee–setting authority to more adequately recoup funding for the operations of the State Board of Electricians; and~~

~~(2) study methods of tying the cost of licensing fees to the cost of regulating electricians.~~

SECTION ~~4.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 202

(Senate Bill 244)

AN ACT concerning

Public Service Commission – Customer Education on Customer Choice

FOR the purpose of requiring the Public Service Commission to educate consumers about customer choice in accordance with a certain provision of law; requiring the Commission to host a certain section on its Web site related to customer choice; requiring the Web site to comply with certain standards and to include certain information; requiring the Commission to maintain a certain secure portal on its Web site to receive certain information from certain electricity suppliers; requiring certain electricity suppliers to submit certain information to the Commission through the secure portal at certain intervals; requiring the Commission to work with certain media outlets to develop and air certain public service announcements related to customer choice; requiring the Commission to

recover certain costs in accordance with a certain provision of law; requiring the Commission to submit a certain report to the General Assembly each year by a certain date; requiring the Commission to convene a certain workgroup for a certain purpose; providing for the membership and duties of the workgroup; requiring the workgroup to report to the Commission and certain committees by a certain date; requiring the Commission to ~~implement~~ take action on certain recommendations ~~by a certain date~~ as soon as practicable; and generally relating to customer choice.

BY repealing and reenacting, without amendments,
Article – Public Utilities
Section 7–504 and 7–505(a)(1)
Annotated Code of Maryland
(2010 Replacement Volume)

BY adding to
Article – Public Utilities
Section 7–510.1
Annotated Code of Maryland
(2010 Replacement Volume)

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

Article – Public Utilities

7–504.

The General Assembly finds and declares that the purpose of this subtitle is to:

(1) establish customer choice of electricity supply and electricity supply services;

(2) create competitive retail electricity supply and electricity supply services markets;

(3) deregulate the generation, supply, and pricing of electricity;

(4) provide economic benefits for all customer classes; and

(5) ensure compliance with federal and State environmental standards.

7–505.

(a) (1) In assessing and approving each electric company's restructuring plan, and overseeing the transition process and regulation of the restructured electric

industry, the Commission shall provide that the transition to a competitive electricity supply and electricity supply services market shall be orderly, maintain electric system reliability, and ensure compliance with federal and State environmental regulations, be fair to customers, electric company investors, customers of municipal electric utilities, electric companies, and electricity suppliers, and provide economic benefits to all customer classes.

7–510.1.

(A) THE COMMISSION SHALL EDUCATE CUSTOMERS ABOUT CUSTOMER CHOICE IN ACCORDANCE WITH THIS SECTION.

(B) (1) THE COMMISSION SHALL:

(I) HOST AND REGULARLY UPDATE A USER–FRIENDLY CUSTOMER CHOICE EDUCATION SECTION ON ITS WEB SITE THAT COMPLIES WITH STANDARDS ISSUED UNDER § 508 OF THE FEDERAL REHABILITATION ACT OF 1973; AND

(II) PROMINENTLY DISPLAY A LINK TO THAT SECTION OF THE COMMISSION'S WEB SITE ON THE HOME PAGE OF THE COMMISSION'S WEB SITE.

(2) THE CUSTOMER CHOICE EDUCATION SECTION OF THE COMMISSION'S WEB SITE SHALL INCLUDE:

(I) A CLEAR AND SIMPLE DESCRIPTION OF:

1. CUSTOMER CHOICE;

2. HOW CUSTOMERS CAN SHOP FOR AN ELECTRICITY SUPPLIER;

3. WHAT KINDS OF COMPETITIVE ELECTRICITY SUPPLY OPTIONS CUSTOMERS HAVE, INCLUDING:

A. RENEWABLE ENERGY SUPPLY;

B. FIXED AND VARIABLE PRICING; AND

C. OTHER COMMON CONTRACT TERMS;

4. THE CURRENT PRICE OF STANDARD OFFER SERVICE IN THE SERVICE TERRITORY OF EACH ELECTRIC COMPANY; AND

5. THE CONTINUING ROLE OF THE ELECTRIC COMPANY IN DELIVERING ELECTRICITY TO A CUSTOMER THAT CHOOSES AN ELECTRICITY SUPPLIER;

(II) FACT SHEETS THAT:

1. ANSWER COMMON QUESTIONS ABOUT CUSTOMER CHOICE;

2. ADVISE CUSTOMERS ABOUT THE QUESTIONS CUSTOMERS SHOULD ASK WHEN CHOOSING AN ELECTRICITY SUPPLIER; AND

3. LIST THE KINDS OF DISCLOSURES THAT ELECTRICITY SUPPLIERS MUST MAKE TO CUSTOMERS; ~~AND~~

(III) A LIST OF ALL ELECTRICITY SUPPLIERS THAT HAVE OPEN OFFERS TO SUPPLY ELECTRICITY IN A CUSTOMER'S SERVICE AREA, SEARCHABLE BY SERVICE TERRITORY OR JURISDICTION; AND

(IV) A STATEMENT INDICATING THAT CUSTOMERS WHO HAVE ENTERED INTO A CONTRACT WITH A COMPETITIVE ELECTRICITY SUPPLIER FOR ELECTRICITY SUPPLY SHOULD BE AWARE OF THE ENDING DATE OF THE CONTRACT SO THAT THEY MAY DETERMINE, BEFORE BEING PLACED INTO A RENEWAL CONTRACT WITH THE CURRENT ELECTRICITY SUPPLIER, WHETHER THEY WOULD LIKE TO:

1. SHOP FOR AN ALTERNATIVE ELECTRICITY SUPPLIER;

2. RENEW WITH THE CURRENT ELECTRICITY SUPPLIER; OR

3. RETURN TO THE STANDARD OFFER SERVICE WHICH MAY BE OFFERED AT A PRICE THAT IS LESS THAN THE RENEWAL PRICE OFFERED BY THE CURRENT ELECTRICITY SUPPLIER.

(3) TO THE EXTENT PRACTICABLE, THE LIST OF ELECTRICITY SUPPLIERS REQUIRED UNDER PARAGRAPH (2)(III) OF THIS SUBSECTION SHALL INCLUDE:

(I) THE TERMS OF ANY OPEN OFFERS TO SUPPLY ELECTRICITY, INCLUDING:

1. THE DURATION OF THE CONTRACT;

2. THE COST OF ELECTRICITY PER KILOWATT–HOUR; AND

3. ANY CANCELLATION FEES; AND

(II) A LINK TO THE WEB SITE OF EACH ELECTRICITY SUPPLIER WITH AN OPEN OFFER TO SUPPLY ELECTRICITY.

(C) (1) TO ENSURE THE CURRENCY AND ACCURACY OF INFORMATION REQUIRED UNDER SUBSECTION (B)(2)(III) OF THIS SECTION, THE COMMISSION SHALL MAINTAIN A SECURE PORTAL ON ITS WEB SITE TO RECEIVE INFORMATION ABOUT OFFERS TO SUPPLY ELECTRICITY FROM ELECTRICITY SUPPLIERS.

(2) AT LEAST ONCE EACH MONTH, EACH ELECTRICITY SUPPLIER WITH AN OPEN OFFER TO SUPPLY ELECTRICITY SHALL SUBMIT DETAILED INFORMATION ABOUT THE OFFER TO THE COMMISSION THROUGH A SECURE PORTAL MAINTAINED BY THE COMMISSION ON THE COMMISSION'S WEB SITE FOR THIS PURPOSE.

(D) THE COMMISSION SHALL WORK WITH MEDIA OUTLETS IN THE STATE TO DEVELOP AND AIR PUBLIC SERVICE ANNOUNCEMENTS PUBLICIZING CUSTOMER CHOICE AND DIRECTING CUSTOMERS TO THE COMMISSION'S WEB SITE FOR ADDITIONAL INFORMATION.

(E) THE COMMISSION SHALL RECOVER THE COST OF COMPLYING WITH THIS SECTION IN ACCORDANCE WITH § 2–110 OF THIS ARTICLE.

(F) ON OR BEFORE DECEMBER 31 OF EACH YEAR, THE COMMISSION SHALL REPORT, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY ON THE STATUS AND SUCCESS OF THE COMMISSION'S EFFORTS TO EDUCATE CUSTOMERS ABOUT CUSTOMER CHOICE UNDER THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) On or before July 1, 2011, the Public Service Commission shall convene a workgroup of interested parties to advise it on improvements to the Commission's Web site information and presentation concerning customer choice as required by this Act, and on additional information and methods of consumer education that can effectively supplement the requirements of this Act.

(b) The membership of the workgroup described under subsection (a) of this section shall be appointed by the Public Service Commission and include:

(1) the Attorney General or the Attorney General's designee;

(2) the Secretary of Disabilities or the Secretary's designee;

(3) the People's Counsel or the People's Counsel's designee;

(4) the Director of the Maryland Energy Administration or the Director's designee;

(5) appropriate staff of the Public Service Commission;

(6) a representative of each electric company;

(7) at least one representative of electricity suppliers serving residential customers in the State;

(8) a representative of the Retail Energy Supply Association;

(9) a Web site design specialist;

(10) an educational production and publication consultant;

(11) representatives of residential and small commercial retail electric customers; and

(12) any other individuals whom the Public Service Commission considers necessary or appropriate to the charge of the workgroup.

(c) The workgroup shall:

(1) study issues relating to:

(i) development and improvement of materials concerning customer choice on the Commission's Web site; and

(ii) options and recommendations for development of a customer education program by public units and private entities that will provide pertinent factual information to the public on the availability of customer choice, especially to customer classes that largely rely on standard offer service and to groups that may not adequately be able to rely on Web site–based sources of information on customer choice such as senior citizens and individuals with certain disabilities, and additional questions and issues that switching to or among competitive suppliers may present;

(2) develop recommendations for implementing suggested changes, new materials, and public outreach, including as appropriate a schedule for

developing, funding, and deploying customer education and materials on customer choice; and

(3) on or before December 31, 2011, report its recommendations to the Commission and, in accordance with § 2–1246 of the State Government Article, the Senate Finance Committee and the House Economic Matters Committee.

(d) ~~On or before March 31, 2012~~ As soon as practicable, the Commission shall ~~implement~~ take action on the recommendations of the workgroup.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 203

(House Bill 597)

AN ACT concerning

Public Service Commission – Customer Education on Customer Choice

FOR the purpose of requiring the Public Service Commission to educate consumers about customer choice in accordance with a certain provision of law; requiring the Commission to host a certain section on its Web site related to customer choice; requiring the Web site to comply with certain standards and to include certain information; requiring the Commission to maintain a certain secure portal on its Web site to receive certain information from certain electricity suppliers; requiring certain electricity suppliers to submit certain information to the Commission through the secure portal at certain intervals; requiring the Commission to work with certain media outlets to develop and air certain public service announcements related to customer choice; requiring the Commission to recover certain costs in accordance with a certain provision of law; requiring the Commission to submit a certain report to the General Assembly each year by a certain date; requiring the Commission to convene a certain workgroup for a certain purpose; providing for the membership and duties of the workgroup; requiring the workgroup to report to the Commission and certain committees by a certain date; requiring the Commission to ~~implement~~ take action on certain recommendations *as soon as practicable* ~~by a certain date~~; and generally relating to customer choice.

BY repealing and reenacting, without amendments,
Article – Public Utilities
Section 7–504 and 7–505(a)(1)

Annotated Code of Maryland
(2010 Replacement Volume)

BY adding to
Article – Public Utilities
Section 7–510.1
Annotated Code of Maryland
(2010 Replacement Volume)

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

Article – Public Utilities

7–504.

The General Assembly finds and declares that the purpose of this subtitle is to:

(1) establish customer choice of electricity supply and electricity supply services;

(2) create competitive retail electricity supply and electricity supply services markets;

(3) deregulate the generation, supply, and pricing of electricity;

(4) provide economic benefits for all customer classes; and

(5) ensure compliance with federal and State environmental standards.

7–505.

(a) (1) In assessing and approving each electric company's restructuring plan, and overseeing the transition process and regulation of the restructured electric industry, the Commission shall provide that the transition to a competitive electricity supply and electricity supply services market shall be orderly, maintain electric system reliability, and ensure compliance with federal and State environmental regulations, be fair to customers, electric company investors, customers of municipal electric utilities, electric companies, and electricity suppliers, and provide economic benefits to all customer classes.

7–510.1.

(A) THE COMMISSION SHALL EDUCATE CUSTOMERS ABOUT CUSTOMER CHOICE IN ACCORDANCE WITH THIS SECTION.

(B) (1) THE COMMISSION SHALL:

(I) HOST AND REGULARLY UPDATE A USER–FRIENDLY CUSTOMER CHOICE EDUCATION SECTION ON ITS WEB SITE THAT COMPLIES WITH STANDARDS ISSUED UNDER § 508 OF THE FEDERAL REHABILITATION ACT OF 1973; AND

(II) PROMINENTLY DISPLAY A LINK TO THAT SECTION OF THE COMMISSION'S WEB SITE ON THE HOME PAGE OF THE COMMISSION'S WEB SITE.

(2) THE CUSTOMER CHOICE EDUCATION SECTION OF THE COMMISSION'S WEB SITE SHALL INCLUDE:

(I) A CLEAR AND SIMPLE DESCRIPTION OF:

1. CUSTOMER CHOICE;

2. HOW CUSTOMERS CAN SHOP FOR AN ELECTRICITY SUPPLIER;

3. WHAT KINDS OF COMPETITIVE ELECTRICITY SUPPLY OPTIONS CUSTOMERS HAVE, INCLUDING:

A. RENEWABLE ENERGY SUPPLY;

B. FIXED AND VARIABLE PRICING; AND

C. OTHER COMMON CONTRACT TERMS;

4. THE CURRENT PRICE OF STANDARD OFFER SERVICE IN THE SERVICE TERRITORY OF EACH ELECTRIC COMPANY; AND

5. THE CONTINUING ROLE OF THE ELECTRIC COMPANY IN DELIVERING ELECTRICITY TO A CUSTOMER THAT CHOOSES AN ELECTRICITY SUPPLIER;

(II) FACT SHEETS THAT:

1. ANSWER COMMON QUESTIONS ABOUT CUSTOMER CHOICE;

2. ADVISE CUSTOMERS ABOUT THE QUESTIONS CUSTOMERS SHOULD ASK WHEN CHOOSING AN ELECTRICITY SUPPLIER; AND

3. LIST THE KINDS OF DISCLOSURES THAT ELECTRICITY SUPPLIERS MUST MAKE TO CUSTOMERS; ~~AND~~

(III) A LIST OF ALL ELECTRICITY SUPPLIERS THAT HAVE OPEN OFFERS TO SUPPLY ELECTRICITY IN A CUSTOMER'S SERVICE AREA, SEARCHABLE BY SERVICE TERRITORY OR JURISDICTION*; AND*

(IV) A STATEMENT INDICATING THAT CUSTOMERS WHO HAVE ENTERED INTO A CONTRACT WITH A COMPETITIVE ELECTRICITY SUPPLIER FOR ELECTRICITY SUPPLY SHOULD BE AWARE OF THE ENDING DATE OF THE CONTRACT SO THAT THEY MAY DETERMINE, BEFORE BEING PLACED INTO A RENEWAL CONTRACT WITH THE CURRENT ELECTRICITY SUPPLIER, WHETHER THEY WOULD LIKE TO:

1. SHOP FOR AN ALTERNATIVE ELECTRICITY SUPPLIER;

2. RENEW WITH THE CURRENT ELECTRICITY SUPPLIER; OR

***3. RETURN TO THE STANDARD OFFER SERVICE WHICH MAY BE OFFERED AT A PRICE THAT IS LESS THAN THE RENEWAL PRICE OFFERED BY THE CURRENT ELECTRICITY SUPPLIER*.**

(3) TO THE EXTENT PRACTICABLE, THE LIST OF ELECTRICITY SUPPLIERS REQUIRED UNDER PARAGRAPH (2)(III) OF THIS SUBSECTION SHALL INCLUDE:

(I) THE TERMS OF ANY OPEN OFFERS TO SUPPLY ELECTRICITY, INCLUDING:

1. THE DURATION OF THE CONTRACT;

2. THE COST OF ELECTRICITY PER KILOWATT–HOUR; AND

3. ANY CANCELLATION FEES; AND

(II) A LINK TO THE WEB SITE OF EACH ELECTRICITY SUPPLIER WITH AN OPEN OFFER TO SUPPLY ELECTRICITY.

(C) (1) TO ENSURE THE CURRENCY AND ACCURACY OF INFORMATION REQUIRED UNDER SUBSECTION (B)(2)(III) OF THIS SECTION, THE COMMISSION

SHALL MAINTAIN A SECURE PORTAL ON ITS WEB SITE TO RECEIVE INFORMATION ABOUT OFFERS TO SUPPLY ELECTRICITY FROM ELECTRICITY SUPPLIERS.

(2) AT LEAST ONCE EACH MONTH, EACH ELECTRICITY SUPPLIER WITH AN OPEN OFFER TO SUPPLY ELECTRICITY SHALL SUBMIT DETAILED INFORMATION ABOUT THE OFFER TO THE COMMISSION THROUGH A SECURE PORTAL MAINTAINED BY THE COMMISSION ON THE COMMISSION'S WEB SITE FOR THIS PURPOSE.

(D) THE COMMISSION SHALL WORK WITH MEDIA OUTLETS IN THE STATE TO DEVELOP AND AIR PUBLIC SERVICE ANNOUNCEMENTS PUBLICIZING CUSTOMER CHOICE AND DIRECTING CUSTOMERS TO THE COMMISSION'S WEB SITE FOR ADDITIONAL INFORMATION.

(E) THE COMMISSION SHALL RECOVER THE COST OF COMPLYING WITH THIS SECTION IN ACCORDANCE WITH § 2–110 OF THIS ARTICLE.

(F) ON OR BEFORE DECEMBER 31 OF EACH YEAR, THE COMMISSION SHALL REPORT, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY ON THE STATUS AND SUCCESS OF THE COMMISSION'S EFFORTS TO EDUCATE CUSTOMERS ABOUT CUSTOMER CHOICE UNDER THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) On or before July 1, 2011, the Public Service Commission shall convene a workgroup of interested parties to advise it on improvements to the Commission's Web site information and presentation concerning customer choice as required by this Act, and on additional information and methods of consumer education that can effectively supplement the requirements of this Act.

(b) The membership of the workgroup described under subsection (a) of this section shall be appointed by the Public Service Commission and include:

(1) the Attorney General or the Attorney General's designee;

(2) the Secretary of Disabilities or the Secretary's designee;

(3) the People's Counsel or the People's Counsel's designee;

(4) the Director of the Maryland Energy Administration or the Director's designee;

(5) appropriate staff of the Public Service Commission;

(6) a representative of each electric company;

(7) at least one representative of electricity suppliers serving residential customers in the State;

(8) a representative of the Retail Energy Supply Association;

(9) a Web site design specialist;

(10) an educational production and publication consultant;

(11) representatives of residential and small commercial retail electric customers; and

(12) any other individuals whom the Public Service Commission considers necessary or appropriate to the charge of the workgroup.

(c) The workgroup shall:

(1) study issues relating to:

(i) development and improvement of materials concerning customer choice on the Commission's Web site; and

(ii) options and recommendations for development of a customer education program by public units and private entities that will provide pertinent factual information to the public on the availability of customer choice, especially to customer classes that largely rely on standard offer service and to groups that may not adequately be able to rely on Web site–based sources of information on customer choice such as senior citizens and individuals with certain disabilities, and additional questions and issues that switching to or among competitive suppliers may present;

(2) develop recommendations for implementing suggested changes, new materials, and public outreach, including as appropriate a schedule for developing, funding, and deploying customer education and materials on customer choice; and

(3) on or before December 31, 2011, report its recommendations to the Commission and, in accordance with § 2–1246 of the State Government Article, the Senate Finance Committee and the House Economic Matters Committee.

(d) ~~On or before March 31, 2012~~ As soon as practicable, the Commission shall ~~implement~~ take action on the recommendations of the workgroup.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 204

(Senate Bill 248)

AN ACT concerning

Alcoholic Beverages – Direct Wine ~~Shipper's Permit~~ Shipment

FOR the purpose of repealing provisions that provide for a direct wine seller's permit; establishing a direct wine shipper's permit to be issued by the Office of the Comptroller; authorizing the Office ~~of the Comptroller~~ to issue a common carrier permit to certain persons; specifying a certain common carrier permit fee; requiring a person to ~~be licensed~~ obtain a certain permit before the person ~~or the person's agent~~ may engage in shipping wine directly to a direct wine consumer in the State; requiring an applicant to meet certain qualifications for a direct wine shipper's permit, submit an application and a copy of its current alcoholic beverages license or proof of the applicant's status to the Office ~~of the Comptroller~~, and pay a certain fee; specifying the term of a direct wine shipper's permit; requiring a direct wine shipper to perform certain actions; prohibiting a direct wine shipper from shipping more than a certain amount of wine ~~annually~~ each year to ~~any one consumer or~~ *a single* delivery address or ~~make~~ making deliveries on Sunday; requiring a direct wine shipper to meet certain requirements to renew the permit; authorizing the Office ~~of the Comptroller~~ to deny a renewal application under certain circumstances; specifying certain requirements for receiving a direct shipment of wine; requiring a common carrier to make a certain report; requiring a common carrier to submit certain information to the Comptroller in a certain manner at certain times; requiring a common carrier to verify certain information each year in a certain manner; requiring certain persons to maintain certain records for a certain period; allowing a shipment of wine to be ordered or purchased through electronic or other means; authorizing the Office ~~of the Comptroller~~ to adopt certain regulations; prohibiting a person without a permit from shipping wine directly to consumers in the State; providing that each violation of certain provisions is a separate violation, subject to certain penalties; providing for the application of certain provisions concerning delivery of alcoholic beverages; requiring a certain security to be posted under certain circumstances; defining certain terms; making certain technical corrections; altering a certain definition; requiring the Comptroller to study certain matters and submit a report to certain committees on or before a certain date; making the provisions of this Act severable; and generally relating to the establishment of a direct wine shipper's permit.

BY repealing

Article 2B – Alcoholic Beverages
Section 7.5–101 through 7.5–110 and the title "Title 7.5. Direct Wine Seller's Permit"
Annotated Code of Maryland
(2005 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 2–101(b)(1)(i) and (g), 9–102(a), 12–301, 14–202, and 15–204(b)
Annotated Code of Maryland
(2005 Replacement Volume and 2010 Supplement)

BY adding to
Article 2B – Alcoholic Beverages
Section 2–101(y); and 7.5–101 through ~~7.5–113~~ 7.5–114 to be under the new title "Title 7.5. Direct Wine Shipper's Permit"
Annotated Code of Maryland
(2005 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 16–503
Annotated Code of Maryland
(2005 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, without amendments,
Article – Tax – General
Section 5–101(a)
Annotated Code of Maryland
(2010 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Tax – General
Section 5–101(f), 5–201(d), and 13–825(b)
Annotated Code of Maryland
(2010 Replacement Volume)

BY adding to
Article – Tax – General
Section 13–825(i)
Annotated Code of Maryland
(2010 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 7.5–101 through 7.5–110 and the title "Title 7.5. Direct Wine Seller's Permit" of Article 2B – Alcoholic Beverages of the Annotated Code of Maryland be repealed.

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

Article 2B – Alcoholic Beverages

2–101.

(b) (1) (i) The Office of the Comptroller shall collect a fee for the issuance or renewal of the following permits:

1. $50 for a solicitor's permit, an individual storage permit, a nonresident winery permit, or a commercial nonbeverage permit;

2. $75 for a public storage permit, a public transportation permit, or an import and export permit;

3. $200 for a public storage and transportation permit, a nonresident dealer's permit, a resident dealer's permit, or a bulk transfer permit;

4. $400 for a family beer and wine facility permit; ~~and~~

5. **[**$10**]** ~~**$100**~~ **$200** for **ISSUANCE OR RENEWAL OF** a direct wine **[**seller's permit**] SHIPPER'S PERMIT; AND**

6. $100 FOR A COMMON CARRIER PERMIT.

(g) **(1)** The permit authorizes the operation of a warehouse for the storage of alcoholic beverages for the accounts of other persons and for the transportation for the accounts of other persons of alcoholic beverages into, within, or out of this State.

(2) A permit may be issued for transportation or storage, or both.

(3) A license or permit holder need not have a transportation permit to deliver alcoholic beverages which under this article the licensee or permit holder is authorized to acquire, store, sell, or use.

(Y) (1) THE OFFICE OF THE COMPTROLLER MAY ISSUE A COMMON CARRIER PERMIT TO A PERSON WHO MEETS THE DEFINITION OF A "COMMON CARRIER" UNDER § 7.5–101 OF THIS ARTICLE.

(2) THE HOLDER OF A COMMON CARRIER PERMIT MAY DELIVER WINE FROM A LOCATION INSIDE OR OUTSIDE THE STATE TO A CONSUMER IN THE STATE FOR THE CONSUMER'S PERSONAL USE UNDER TITLE 7.5 OF THIS ARTICLE.

(3) THE HOLDER OF A COMMON CARRIER PERMIT THAT DELIVERS WINE SOLELY UNDER TITLE 7.5 OF THIS ARTICLE MAY NOT BE REQUIRED TO OBTAIN A TRANSPORTATION PERMIT ISSUED UNDER SUBSECTION (G) OF THIS SECTION IN ADDITION TO THE COMMON CARRIER PERMIT.

TITLE 7.5. DIRECT WINE SHIPPER'S PERMIT.

7.5–101.

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

(B) (1) "COMMON CARRIER" MEANS A BUSINESS ENTITY THAT ~~HOLDS~~:

(I) HOLDS ITSELF OUT AS BEING AVAILABLE TO THE PUBLIC TO TRANSPORT IN INTERSTATE OR FOREIGN COMMERCE FOR COMPENSATION ANY CLASS OF PASSENGER OR PROPERTY; AND

(II) HOLDS A COMMON CARRIER PERMIT ISSUED UNDER § 2–101(Y) OF THIS ARTICLE.

(2) "COMMON CARRIER" DOES NOT INCLUDE A BUSINESS ENTITY THAT TRANSPORTS ONLY PROPERTY IT OWNS OR THAT IS CONSIGNED TO IT.

(C) "DIRECT WINE SHIPPER" MEANS THE HOLDER OF A DIRECT WINE SHIPPER'S PERMIT ISSUED UNDER THIS TITLE.

(D) "~~WINE~~ POMACE BRANDY" ~~INCLUDES~~ MEANS BRANDY THAT IS DISTILLED FROM THE PULPY RESIDUE OF THE WINE PRESS, INCLUDING THE SKINS, PIPS, AND STALKS OF GRAPES.

(E) (1) "WINE" INCLUDES POMACE BRANDY.

(2) "WINE" DOES NOT INCLUDE BEER, DISTILLED SPIRITS, OR ANY ALCOHOLIC BEVERAGE OTHER THAN WINE.

7.5–102.

A PERSON SHALL BE ISSUED A DIRECT WINE SHIPPER'S PERMIT BY THE OFFICE OF THE COMPTROLLER AS A DIRECT WINE SHIPPER BEFORE THE PERSON ~~OR THE PERSON'S AGENT~~ MAY ENGAGE IN SHIPPING WINE DIRECTLY TO A CONSUMER IN THE STATE.

7.5–103.

TO QUALIFY FOR A DIRECT WINE SHIPPER'S PERMIT, AN APPLICANT SHALL BE:

(1) A PERSON LICENSED OUTSIDE THE STATE TO ENGAGE IN THE MANUFACTURE OF WINE; OR

~~(2) AN AUTHORIZED BRAND OWNER OF WINE, A UNITED STATES IMPORTER OF WINE, OR A DESIGNATED MARYLAND AGENT OF A BRAND OWNER OR UNITED STATES IMPORTER;~~

~~(3)~~ (2) A HOLDER OF A CLASS 3 MANUFACTURER'S LICENSE OR A CLASS 4 MANUFACTURER'S LICENSE ISSUED UNDER THIS ARTICLE~~; OR~~

~~(4) A PERSON LICENSED BY THE STATE OR OUTSIDE THE STATE TO ENGAGE IN THE RETAIL SALE OF WINE FOR CONSUMPTION OFF THE PREMISES~~.

7.5–104.

(A) AN APPLICANT FOR A DIRECT WINE SHIPPER'S PERMIT SHALL:

(1) SUBMIT TO THE OFFICE OF THE COMPTROLLER A COMPLETED APPLICATION ON A FORM THAT THE OFFICE OF THE COMPTROLLER PROVIDES;

(2) PROVIDE TO THE OFFICE OF THE COMPTROLLER~~:~~

~~(I) A COPY OF THE APPLICANT'S CURRENT ALCOHOLIC BEVERAGES LICENSE; OR~~

~~(II) PROOF OF THE APPLICANT'S STATUS AS:~~

~~1. AN AUTHORIZED BRAND OWNER OF WINE;~~

~~2. A UNITED STATES IMPORTER OF WINE; OR~~

~~3. A DESIGNATED MARYLAND AGENT OF A BRAND OWNER; AND~~

~~(3) PAY A FEE OF $100~~ A COPY OF THE APPLICANT'S CURRENT ALCOHOLIC BEVERAGES LICENSE; AND

~~(2)~~ *(3)* PAY A FEE OF $200 FOR INITIAL ISSUANCE OF THE DIRECT WINE SHIPPER'S PERMIT.

(B) THE OFFICE OF THE COMPTROLLER SHALL ISSUE A DIRECT WINE SHIPPER'S PERMIT TO EACH APPLICANT WHO MEETS THE REQUIREMENTS OF THIS TITLE FOR THE DIRECT WINE SHIPPER'S PERMIT.

7.5–105.

A DIRECT WINE SHIPPER'S PERMIT ENTITLES THE HOLDER TO SELL WINE MANUFACTURED BY THE HOLDER THROUGH A HOLDER OF A COMMON CARRIER PERMIT TO A CONSUMER BY RECEIVING AND FILLING ORDERS THAT THE CONSUMER TRANSMITS BY ELECTRONIC OR OTHER MEANS.

7.5–106.

THE TERM OF A DIRECT WINE SHIPPER'S PERMIT IS 1 YEAR AND BEGINS ON ~~THE DAY THE COMPTROLLER ISSUES THE PERMIT~~ JULY 1.

7.5–107.

(A) A DIRECT WINE SHIPPER SHALL:

(1) ENSURE THAT ALL CONTAINERS OF WINE SHIPPED DIRECTLY TO A CONSUMER IN THE STATE ARE CONSPICUOUSLY LABELED WITH:

(I) THE NAME OF THE DIRECT WINE SHIPPER;

(II) THE NAME AND ADDRESS OF THE CONSUMER WHO IS THE INTENDED RECIPIENT; AND

(III) THE WORDS "CONTAINS ALCOHOL: SIGNATURE OF PERSON AT LEAST 21 YEARS OF AGE REQUIRED FOR DELIVERY";

(2) REPORT QUARTERLY TO THE OFFICE OF THE COMPTROLLER THE TOTAL AMOUNT OF WINE, BY TYPE, SHIPPED IN THE STATE, THE PRICE CHARGED, AND THE NAME AND ADDRESS OF EACH PURCHASER;

(3) FILE A QUARTERLY TAX RETURN IN ACCORDANCE WITH § 5–201(D) OF THE TAX – GENERAL ARTICLE;

(4) PAY QUARTERLY TO THE OFFICE OF THE COMPTROLLER ALL SALES TAXES AND EXCISE TAXES DUE ON SALES TO CONSUMERS IN THE STATE~~,~~

AND CALCULATE THE TAXES AS IF THE SALE WERE MADE ~~AT THE DELIVERY LOCATION~~ IN THE STATE;

(5) MAINTAIN FOR A PERIOD OF 3 YEARS COMPLETE AND ACCURATE RECORDS OF ALL INFORMATION NEEDED TO VERIFY COMPLIANCE WITH THIS TITLE;

~~(5)~~ (6) ALLOW THE OFFICE OF THE COMPTROLLER TO PERFORM AN AUDIT OF THE DIRECT WINE SHIPPER'S RECORDS ON REQUEST; AND

~~(6)~~ (7) CONSENT TO THE JURISDICTION OF THE OFFICE OF THE COMPTROLLER OR OTHER STATE UNIT AND THE STATE COURTS CONCERNING ENFORCEMENT OF THIS SECTION AND ANY RELATED LAW.

(B) A DIRECT WINE SHIPPER MAY NOT:

(1) SHIP MORE THAN ~~24~~ 18 9–LITER CASES OF WINE ANNUALLY TO ~~ANY ONE CONSUMER~~ A SINGLE DELIVERY ADDRESS; OR

(2) CAUSE WINE TO BE DELIVERED ON SUNDAY TO AN ADDRESS IN THE STATE.

7.5–108.

(A) A DIRECT WINE SHIPPER MAY ~~ANNUALLY~~ RENEW ITS *DIRECT WINE SHIPPER'S* PERMIT EACH YEAR IF THE DIRECT WINE SHIPPER:

(1) IS OTHERWISE ENTITLED TO HAVE A DIRECT WINE SHIPPER'S PERMIT;

(2) PROVIDES TO THE OFFICE OF THE COMPTROLLER A COPY OF ITS CURRENT PERMIT; AND

(3) PAYS TO THE OFFICE OF THE COMPTROLLER A RENEWAL FEE OF ~~$50~~ $200.

(B) THE OFFICE OF THE COMPTROLLER MAY DENY A RENEWAL APPLICATION OF A DIRECT WINE SHIPPER WHO FAILS TO:

(1) FILE A TAX RETURN REQUIRED UNDER THIS TITLE;

(2) PAY A FEE OR TAX WHEN DUE; OR

(3) AFTER RECEIVING NOTICE, COMPLY WITH A PROVISION OF THIS ARTICLE OR A REGULATION THAT THE OFFICE OF THE COMPTROLLER ADOPTS UNDER THIS ARTICLE.

7.5–109.

(A) TO RECEIVE A DIRECT SHIPMENT OF WINE, A CONSUMER IN THE STATE SHALL BE AT LEAST 21 YEARS OLD.

(B) A PERSON WHO RECEIVES A SHIPMENT OF WINE SHALL USE THE SHIPMENT FOR PERSONAL CONSUMPTION ONLY AND MAY NOT RESELL IT.

7.5–110.

(A) A PERSON SHALL BE ISSUED A COMMON CARRIER PERMIT BEFORE THE PERSON MAY ENGAGE IN TRANSPORTING WINE FROM A DIRECT WINE SHIPPER TO A CONSUMER.

(B) THE TERM OF A COMMON CARRIER PERMIT IS 1 YEAR AND BEGINS ON JULY 1.

~~(B)~~ (C) TO COMPLETE DELIVERY OF A SHIPMENT, THE COMMON CARRIER SHALL REQUIRE FROM A CONSUMER AT THE ADDRESS LISTED ON THE SHIPPING LABEL:

(1) THE SIGNATURE OF THE CONSUMER OR ANOTHER INDIVIDUAL AT THE ADDRESS WHO IS AT LEAST 21 YEARS OLD; AND

(2) ~~PHOTOGRAPHIC~~ GOVERNMENT–ISSUED PHOTOGRAPHIC IDENTIFICATION SHOWING THAT THE ~~CONSUMER~~ SIGNING INDIVIDUAL IS AT LEAST 21 YEARS OLD.

~~(C)~~ (D) A COMMON CARRIER SHALL REFUSE DELIVERY WHEN THE INTENDED RECEIVING ~~CONSUMER~~ INDIVIDUAL APPEARS TO BE UNDER 21 YEARS ~~OLD~~ OF AGE OR REFUSES TO PRESENT VALID IDENTIFICATION.

(E) AT THE TIME OF INITIAL APPLICATION FOR A COMMON CARRIER PERMIT AND ON REQUEST OF THE COMPTROLLER, A COMMON CARRIER SHALL SUBMIT TO THE COMPTROLLER INFORMATION CONCERNING THE TRAINING OF ITS DRIVERS IN VERIFYING THE AGE OF RECIPIENTS OF DIRECT WINE SHIPMENTS UNDER THIS TITLE.

(F) AT LEAST ONCE EACH YEAR, IN A MANNER ACCEPTABLE TO THE COMPTROLLER, A HOLDER OF A COMMON CARRIER PERMIT SHALL VERIFY

THAT THE SHIPPER OF WINE INTO THE STATE UNDER THIS TITLE HOLDS A *VALID* DIRECT WINE SHIPPER'S ~~LICENSE~~ *PERMIT*.

7.5–111.

(A) A COMMON CARRIER SHALL REPORT QUARTERLY TO THE OFFICE OF THE COMPTROLLER:

~~(A)~~ (1) THE DATE OF EACH DELIVERY OF WINE IN THE STATE; AND

~~(B)~~ (2) THE NAME AND ADDRESS OF THE DIRECT WINE SHIPPER AND THE RECEIVING CONSUMER OF EACH DELIVERY.

(B) A COMMON CARRIER SHALL MAINTAIN FOR A PERIOD OF 3 YEARS COMPLETE AND ACCURATE RECORDS OF ALL INFORMATION NEEDED TO VERIFY COMPLIANCE WITH THIS TITLE.

7.5–112.

THE OFFICE OF THE COMPTROLLER MAY ADOPT REGULATIONS TO CARRY OUT THIS TITLE.

7.5–113.

A ~~BUSINESS ENTITY~~ PERSON WITHOUT A DIRECT WINE SHIPPER'S PERMIT MAY NOT SHIP WINE DIRECTLY TO CONSUMERS IN THE STATE.

7.5–114.

EACH VIOLATION OF THIS TITLE IS A SEPARATE VIOLATION.

9–102.

(a) **(1)** No more than one license provided by this article, except by way of renewal or as otherwise provided in this section, shall be issued in any county or Baltimore City, to any person, or for the use of any partnership, corporation, unincorporated association, or limited liability company, in Baltimore City or any county of the ~~State, and no~~ **STATE.**

(2) NO more than one license shall be issued for the same premises except as provided in §§ 2–201 through 2–208, 2–301, **[**and**]** 6–701**, AND TITLE 7.5** of this ~~article, and nothing herein shall~~ **ARTICLE.**

(3) **THIS SUBSECTION MAY NOT** be construed to apply to § 6–201(r)(4), (15), (17), and (18), § 7–101(b) and (c), § 8–202(g)(2)(ii) and (iii), § 8–217(e), § 8–508, § 8–902, § 9–217(b–1), or § 12–202 of this article.

12–301.

(a) (1) A retail dealer may not employ any solicitor or salesman for the purpose of soliciting, outside of the licensed place of business, orders for the sale of any alcoholic beverages within this State.

(2) The sale of alcoholic beverages may not be consummated outside of the licensed place of business.

(3) These provisions do not prohibit the receiving of orders by mail, telephone or messenger and the filling of such orders by delivery and the payment for them at the place of delivery.

(b) Retail delivery to a purchaser of any alcoholic beverages is prohibited unless:

(1) The delivery is made from the retail licensed premises by the retail license holder or employee of the retail license holder authorized to sell and distribute alcoholic beverages by the local licensing authority in the jurisdiction where the delivery is made; and

(2) The retail license holder obtains a letter of authorization from the local licensing authority to make deliveries and complies with any regulations promulgated by the local licensing authority pertaining to those deliveries.

(c) (1) This subsection applies only in Howard County.

(2) An alcoholic beverages licensee may not make a retail delivery of alcoholic beverages unless the purchaser:

(i) Is physically present on the licensed premises when the purchaser orders the alcoholic beverages; and

(ii) Makes payment for the purchase at the time of the order.

(d) (1) This subsection applies only in Montgomery County.

(2) An alcoholic beverages licensee may not make an off–site retail delivery of alcoholic beverages unless:

(i) The deliverer is at least:

1. 21 years old; or

2. 18 years old and is accompanied by a supervisor who is at least 21 years old; and

(ii) The person taking possession of the delivery provides the deliverer with written certification supported by documentary proof that the person is of legal age to purchase alcoholic beverages. Certification shall be in the form set forth in § 12–109(1) of this article.

(3) (i) Each certification executed under this subsection shall be retained by the licensee for at least 1 year.

(ii) The certifications shall be available for examination during regular business hours by an authorized representative of the Board of License Commissioners.

(4) The Board of License Commissioners shall adopt regulations to implement this subsection.

(e) (1) This subsection applies only in Garrett County.

(2) The Board of License Commissioners may issue a delivery option that entitles an alcoholic beverages licensee or an authorized employee of the licensee to make an off–site retail delivery of alcoholic beverages if:

(i) The deliverer is at least 21 years old and certified by an approved alcohol awareness program;

(ii) The deliverer and purchaser endorse a delivery form that the Board of License Commissioners approves certifying that:

1. The person who receives the delivery claims to be at least 21 years old, and the claim is supported by documentary proof;

2. The person who receives the delivery knows that it is a criminal offense for alcoholic beverages to be furnished to a person under the age of 21 years; and

3. The deliverer examined the purchaser's identification.

(3) Each delivery form endorsed under paragraph (2)(ii) of this subsection shall be submitted to the Board of License Commissioners on or before the 10th day of the following month.

(4) (i) The annual fee for a delivery option is $150.

(ii) In addition to an annual fee, the Board of License Commissioners shall charge an issuing fee of $150.

(5) The Board of License Commissioners shall adopt regulations to carry out this subsection.

(F) THIS SECTION DOES NOT APPLY TO:

(1) THE DELIVERY OF WINE FROM A DIRECT WINE SHIPPER TO A CONSUMER USING A COMMON CARRIER IN ACCORDANCE WITH TITLE 7.5 OF THIS ARTICLE; OR

(2) THE HOLDER OF A COMMON CARRIER PERMIT IN THE COURSE OF DELIVERING DIRECTLY SHIPPED WINE IN ACCORDANCE WITH TITLE 7.5 OF THIS ARTICLE.

14–202.

(A) Every common carrier, by rail, air, water or highway, transporting alcoholic beverages, either in interstate or intrastate commerce, to points within the State of Maryland, and every person transporting alcoholic beverages by **[**whatsoever manner**] ANY MEANS** within the State of Maryland, shall at any time and from time to time, upon written request of the Comptroller, report under oath on forms prescribed by the Comptroller, all such consignments or deliveries of alcoholic beverages, for such period as the Comptroller may specify.

(B) If required by the Comptroller, **[**such**] THE** reports shall show **[**the**]:**

(1) THE name and address of the person to whom the deliveries of alcoholic beverages have actually and in fact been made**[**, the**];**

(2) THE name and address of the original consignee, if alcoholic beverages have been delivered to any other **PERSON** than the originally named consignee**[**, the**];**

(3) THE point of origin, the point of delivery, the date of delivery and the number and initials of each car, if shipped by rail, the name of the boat, barge or vessel, if shipped by water, the license number of each truck, if shipped by motor truck, or if delivered by other means, the manner in which **[**such**] THE** delivery was made**[**, the**];**

(4) THE kind of alcoholic beverages and the number of gallons **[**thereof**] OF EACH** contained in any such shipment or shipments**;** and **[**such**]**

(5) **ANY** other additional information relative to shipments **[**as**] THAT** the Comptroller may require.

(C) Nothing **[**herein**] IN THIS SECTION [**shall**] MAY** be construed to authorize **[**the**]:**

(1) **THE** consignment of alcoholic beverages from any point outside of the State to points within the State of Maryland, to any person except **[**the**]:**

(I) **THE** holder of a permit or manufacturer's or wholesaler's license, duly issued under **[**the provisions of**]** this article**;** or **[**the**]**

(II) **A CONSUMER UNDER TITLE 7.5 OF THIS ARTICLE; OR**

(2) **THE** consignment of alcoholic beverages from any point within this State to a point outside the State, to any person not authorized to receive the same under the law of the point of destination.

15–204.

(b) (1) Provided, that in Montgomery County no person, firm, or corporation shall keep for sale any alcoholic beverage not purchased from the Department of Liquor Control for Montgomery County, provided, however, that nothing in this subsection shall apply to a holder of a Class F license or a holder of a Class 1 beer, wine and liquor, Class 2 wine and liquor, Class 3 beer and wine, Class 4 beer, or Class 5 wine wholesaler's license, who may not sell or deliver any alcoholic beverage in Montgomery County for resale except to a county liquor dispensary.

(2) Notwithstanding paragraph (1) of this subsection:

(i) **1.** A holder of a Class 6 limited wine wholesaler's license or of a nonresident winery permit may sell or deliver wine directly to a county liquor dispensary, restaurant, or other retail dealer in Montgomery County; and

[(ii)**] 2.** A county liquor dispensary, restaurant, or other retail dealer in Montgomery County may purchase wine directly from a holder of a Class 6 limited wine wholesaler's license or of a nonresident winery permit**; AND**

(II) A HOLDER OF A DIRECT WINE SHIPPER'S PERMIT MAY SHIP WINE DIRECTLY TO A CONSUMER IN MONTGOMERY COUNTY.

16–503.

Any person violating the provisions of this article for which no penalty, other than the suspension or revocation of a license or permit, is provided, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not

more than one thousand dollars ($1,000.00) or to imprisonment for not more than two years in the House of Correction, or jail, or both fined and imprisoned.

Article – Tax – General

5–101.

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

(f) "Direct wine **[**seller"**]** **SHIPPER"** has the meaning stated in Article 2B, § 7.5–101 of the Code.

5–201.

(d) **[**(1)**]** A person who is a direct wine **[**seller**]** **SHIPPER** shall file with the Office of the Comptroller **[**an annual**]** **A QUARTERLY** tax return.

[(2) The annual tax return shall be due no later than October 15 of each year covering the previous 12 calendar months ending September 30.**]**

13–825.

(b) The Comptroller shall require:

(1) a manufacturer, wholesaler, or nonresident winery permit holder who sells or delivers beer or wine to retailers in the State to post security for the alcoholic beverage tax:

(i) in an amount not less than:

1. $1,000 for beer; and

2. $1,000 for wine; and

(ii) if the alcoholic beverage tax on beer and wine paid in any 1 month exceeds $1,000, in an additional amount at least equal to the excess; **[**and**]**

(2) a manufacturer or wholesaler who sells or delivers any distilled spirits or any wine and distilled spirits in the State to post a security for the alcoholic beverage tax:

(i) in an amount not less than $5,000; and

(ii) in an additional amount:

1. equal to twice the amount of its largest monthly alcoholic beverage tax liability for wine and distilled spirits in the preceding calendar year less $5,000; or

2. if the information for the preceding calendar year is not available or cannot be provided, equal to the amount that the Comptroller requires**; AND**

(3) EXCEPT AS PROVIDED IN SUBSECTION (I) OF THIS SECTION, A HOLDER OF A DIRECT WINE SHIPPER'S PERMIT TO POST SECURITY FOR THE ALCOHOLIC BEVERAGE TAX IN AN AMOUNT NOT LESS THAN ~~$250~~ $1,000.

(I) A PERSON NEED NOT POST SECURITY UNDER SUBSECTION (B)(3) OF THIS SECTION IF:

(1) THE PERSON IS A MANUFACTURER ~~OR WHOLESALER~~ THAT HAS POSTED SECURITY UNDER SUBSECTION (B)(2) OF THIS SECTION; OR

(2) ~~NOT LATER THAN THE THIRD ANNIVERSARY OF ISSUING A~~ AT ANY TIME STARTING 3 YEARS AFTER THE COMPTROLLER FIRST ISSUES A DIRECT WINE SHIPPER'S PERMIT TO THE PERSON, THE COMPTROLLER:

(I) DETERMINES THAT THE PERSON HAS A SUBSTANTIAL RECORD OF TAX AND REPORTING COMPLIANCE; AND

(II) WAIVES THE SECURITY REQUIREMENT.

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) The Comptroller shall study the effects of the implementation of this Act, including:

(1) the numbers of holders of direct wine shipper's permits and common carrier permits issued;

(2) the volume of wine shipped to Maryland consumers;

(3) the revenues and costs to the State associated with direct wine shipment; and

(4) the availability of certain imported varieties of wine to Maryland consumers.

(b) On or before December 31, 2012, the Comptroller shall submit a report on its findings under this section, in accordance with § 2–1246 of the State Government

Article, to the Senate Education, Health, and Environmental Affairs Committee and the House Economic Matters Committee.

SECTION ~~3.~~ 4. AND BE IT FURTHER ENACTED, That if any provision of this Act or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Act which can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are declared severable.

SECTION ~~4.~~ 5. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 205

(House Bill 1175)

AN ACT concerning

Alcoholic Beverages – Direct Wine Shipment

FOR the purpose of repealing provisions that provide for a direct wine seller's permit; establishing a direct wine shipper's permit to be issued by the Office of the Comptroller; authorizing the Office to issue a common carrier permit to certain persons; specifying a certain common carrier permit fee; requiring a person to ~~be licensed~~ obtain a certain permit before the person may engage in shipping wine directly to a direct wine consumer in the State; requiring an applicant to meet certain qualifications for a direct wine shipper's permit, submit an application and a copy of its current alcoholic beverages license or proof of the applicant's status to the Office, and pay a certain fee; specifying the term of a direct wine shipper's permit; requiring a direct wine shipper to perform certain actions; prohibiting a direct wine shipper from shipping more than a certain amount of wine each year to ~~any one consumer~~ a single delivery address or making deliveries on Sunday; requiring a direct wine shipper to meet certain requirements to renew the permit; authorizing the Office to deny a renewal application under certain circumstances; specifying certain requirements for receiving a direct shipment of wine; requiring a common carrier to make a certain report; requiring a common carrier to submit certain information to the Comptroller in a certain manner at certain times; requiring a common carrier to verify certain information each year in a certain manner; requiring certain persons to maintain certain records for a certain period; allowing a shipment of wine to be ordered or purchased through electronic or other means; authorizing the Office to adopt certain regulations; prohibiting a person without a permit

from shipping wine directly to consumers in the State; providing that each violation of certain provisions is a separate violation, subject to certain penalties; providing for the application of certain provisions concerning delivery of alcoholic beverages; requiring a certain security to be posted under certain circumstances; defining certain terms; making certain technical corrections; altering a certain definition; requiring the Comptroller to study certain matters and submit a report to certain committees on or before a certain date; making the provisions of this Act severable; and generally relating to the establishment of a direct wine shipper's permit.

BY repealing
Article 2B – Alcoholic Beverages
Section 7.5–101 through 7.5–110 and the title "Title 7.5. Direct Wine Seller's Permit"
Annotated Code of Maryland
(2005 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 2–101(b)(1)(i) and (g), 9–102(a), 12–301, 14–202, and 15–204(b)
Annotated Code of Maryland
(2005 Replacement Volume and 2010 Supplement)

BY adding to
Article 2B – Alcoholic Beverages
Section 2–101(y); and 7.5–101 through 7.5–114 to be under the new title "Title 7.5. Direct Wine Shipper's Permit"
Annotated Code of Maryland
(2005 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 16–503
Annotated Code of Maryland
(2005 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, without amendments,
Article – Tax – General
Section 5–101(a)
Annotated Code of Maryland
(2010 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Tax – General
Section 5–101(f), 5–201(d), and 13–825(b)
Annotated Code of Maryland
(2010 Replacement Volume)

BY adding to
Article – Tax – General
Section 13–825(i)
Annotated Code of Maryland
(2010 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 7.5–101 through 7.5–110 and the title "Title 7.5. Direct Wine Seller's Permit" of Article 2B – Alcoholic Beverages of the Annotated Code of Maryland be repealed.

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

Article 2B – Alcoholic Beverages

2–101.

(b) (1) (i) The Office of the Comptroller shall collect a fee for the issuance or renewal of the following permits:

1. $50 for a solicitor's permit, an individual storage permit, a nonresident winery permit, or a commercial nonbeverage permit;

2. $75 for a public storage permit, a public transportation permit, or an import and export permit;

3. $200 for a public storage and transportation permit, a nonresident dealer's permit, a resident dealer's permit, or a bulk transfer permit;

4. $400 for a family beer and wine facility permit; **[**and**]**

5. **[**$10**]** ~~**$300**~~ **$200** for **ISSUANCE OR RENEWAL OF** a direct wine **[**seller's**]** **SHIPPER'S** permit**; AND**

6. $100 FOR A COMMON CARRIER PERMIT.

(g) **(1)** The permit authorizes the operation of a warehouse for the storage of alcoholic beverages for the accounts of other persons and for the transportation for the accounts of other persons of alcoholic beverages into, within, or out of this State.

(2) A permit may be issued for transportation or storage, or both.

(3) A license or permit holder need not have a transportation permit to deliver alcoholic beverages which under this article the licensee or permit holder is authorized to acquire, store, sell, or use.

(Y) (1) THE OFFICE OF THE COMPTROLLER MAY ISSUE A COMMON CARRIER PERMIT TO A PERSON WHO MEETS THE DEFINITION OF A "COMMON CARRIER" UNDER § 7.5–101 OF THIS ARTICLE.

(2) THE HOLDER OF A COMMON CARRIER PERMIT MAY DELIVER WINE FROM A LOCATION INSIDE OR OUTSIDE THE STATE TO A CONSUMER IN THE STATE FOR THE CONSUMER'S PERSONAL USE UNDER TITLE 7.5 OF THIS ARTICLE.

(3) THE HOLDER OF A COMMON CARRIER PERMIT THAT DELIVERS WINE SOLELY UNDER TITLE 7.5 OF THIS ARTICLE MAY NOT BE REQUIRED TO OBTAIN A TRANSPORTATION PERMIT ISSUED UNDER SUBSECTION (G) OF THIS SECTION IN ADDITION TO THE COMMON CARRIER PERMIT.

TITLE 7.5. DIRECT WINE SHIPPER'S PERMIT.

7.5–101.

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

(B) (1) "COMMON CARRIER" MEANS A BUSINESS ENTITY THAT:

(I) HOLDS ITSELF OUT AS BEING AVAILABLE TO THE PUBLIC TO TRANSPORT IN INTERSTATE OR FOREIGN COMMERCE FOR COMPENSATION ANY CLASS OF PASSENGER OR PROPERTY; AND

(II) HOLDS A COMMON CARRIER PERMIT ISSUED UNDER § 2–101(Y) OF THIS ARTICLE.

(2) "COMMON CARRIER" DOES NOT INCLUDE A BUSINESS ENTITY THAT TRANSPORTS ONLY PROPERTY IT OWNS OR THAT IS CONSIGNED TO IT.

(C) "DIRECT WINE SHIPPER" MEANS THE HOLDER OF A DIRECT WINE SHIPPER'S PERMIT ISSUED UNDER THIS TITLE.

(D) "POMACE BRANDY" MEANS BRANDY THAT IS DISTILLED FROM THE PULPY RESIDUE OF THE WINE PRESS, INCLUDING THE SKINS, PIPS, AND STALKS OF GRAPES.

(E) (1) "WINE" INCLUDES POMACE BRANDY.

(2) "WINE" DOES NOT INCLUDE BEER, DISTILLED SPIRITS, OR ANY ALCOHOLIC BEVERAGE OTHER THAN WINE.

7.5–102.

A PERSON SHALL BE ISSUED A DIRECT WINE SHIPPER'S PERMIT BY THE OFFICE OF THE COMPTROLLER AS A DIRECT WINE SHIPPER BEFORE THE PERSON MAY ENGAGE IN SHIPPING WINE DIRECTLY TO A CONSUMER IN THE STATE.

7.5–103.

TO QUALIFY FOR A DIRECT WINE SHIPPER'S PERMIT, AN APPLICANT SHALL BE:

(1) A PERSON LICENSED OUTSIDE THE STATE TO ENGAGE IN THE MANUFACTURE OF WINE; OR

(2) A HOLDER OF A CLASS 3 MANUFACTURER'S LICENSE OR A CLASS 4 MANUFACTURER'S LICENSE ISSUED UNDER THIS ARTICLE.

7.5–104.

(A) AN APPLICANT FOR A DIRECT WINE SHIPPER'S PERMIT SHALL:

(1) SUBMIT TO THE OFFICE OF THE COMPTROLLER A COMPLETED APPLICATION ON A FORM THAT THE OFFICE OF THE COMPTROLLER PROVIDES;

(2) PROVIDE TO THE OFFICE OF THE COMPTROLLER A COPY OF THE APPLICANT'S CURRENT ALCOHOLIC BEVERAGES LICENSE; AND

(3) PAY A FEE OF ~~$300~~ $200 FOR INITIAL ISSUANCE OF THE DIRECT WINE SHIPPER'S PERMIT.

(B) THE OFFICE OF THE COMPTROLLER SHALL ISSUE A DIRECT WINE SHIPPER'S PERMIT TO EACH APPLICANT WHO MEETS THE REQUIREMENTS OF THIS TITLE FOR THE DIRECT WINE SHIPPER'S PERMIT.

7.5–105.

A DIRECT WINE SHIPPER'S PERMIT ENTITLES THE HOLDER TO SELL WINE MANUFACTURED BY THE HOLDER THROUGH A HOLDER OF A COMMON CARRIER PERMIT TO A CONSUMER BY RECEIVING AND FILLING ORDERS THAT THE CONSUMER TRANSMITS BY ELECTRONIC OR OTHER MEANS.

7.5–106.

THE TERM OF A DIRECT WINE SHIPPER'S PERMIT IS 1 YEAR AND BEGINS ON JULY 1.

7.5–107.

(A) A DIRECT WINE SHIPPER SHALL:

(1) ENSURE THAT ALL CONTAINERS OF WINE SHIPPED DIRECTLY TO A CONSUMER IN THE STATE ARE CONSPICUOUSLY LABELED WITH:

(I) THE NAME OF THE DIRECT WINE SHIPPER;

(II) THE NAME AND ADDRESS OF THE CONSUMER WHO IS THE INTENDED RECIPIENT; AND

(III) THE WORDS "CONTAINS ALCOHOL: SIGNATURE OF PERSON AT LEAST 21 YEARS OF AGE REQUIRED FOR DELIVERY";

(2) REPORT QUARTERLY TO THE OFFICE OF THE COMPTROLLER THE TOTAL AMOUNT OF WINE, BY TYPE, SHIPPED IN THE STATE, THE PRICE CHARGED, AND THE NAME AND ADDRESS OF EACH PURCHASER;

(3) FILE A QUARTERLY TAX RETURN IN ACCORDANCE WITH § 5–201(D) OF THE TAX – GENERAL ARTICLE;

(4) PAY QUARTERLY TO THE OFFICE OF THE COMPTROLLER ALL SALES TAXES AND EXCISE TAXES DUE ON SALES TO CONSUMERS IN THE STATE AND CALCULATE THE TAXES AS IF THE SALE WERE MADE ~~AT THE DELIVERY LOCATION~~ IN THE STATE;

(5) MAINTAIN FOR A PERIOD OF 3 YEARS COMPLETE AND ACCURATE RECORDS OF ALL INFORMATION NEEDED TO VERIFY COMPLIANCE WITH THIS TITLE;

(6) ALLOW THE OFFICE OF THE COMPTROLLER TO PERFORM AN AUDIT OF THE DIRECT WINE SHIPPER'S RECORDS ON REQUEST; AND

(7) CONSENT TO THE JURISDICTION OF THE OFFICE OF THE COMPTROLLER OR OTHER STATE UNIT AND THE STATE COURTS CONCERNING ENFORCEMENT OF THIS SECTION AND ANY RELATED LAW.

(B) A DIRECT WINE SHIPPER MAY NOT:

(1) SHIP MORE THAN ~~12~~ 18 9–LITER CASES OF WINE EACH YEAR TO ~~ANY ONE CONSUMER~~ A SINGLE DELIVERY ADDRESS; OR

(2) CAUSE WINE TO BE DELIVERED ON SUNDAY TO AN ADDRESS IN THE STATE.

7.5–108.

(A) A DIRECT WINE SHIPPER MAY RENEW ITS DIRECT WINE SHIPPER'S PERMIT EACH YEAR IF THE DIRECT WINE SHIPPER:

(1) IS OTHERWISE ENTITLED TO HAVE A DIRECT WINE SHIPPER'S PERMIT;

(2) PROVIDES TO THE OFFICE OF THE COMPTROLLER A COPY OF ITS CURRENT PERMIT; AND

(3) PAYS TO THE OFFICE OF THE COMPTROLLER A RENEWAL FEE OF ~~$300~~ $200.

(B) THE OFFICE OF THE COMPTROLLER MAY DENY A RENEWAL APPLICATION OF A DIRECT WINE SHIPPER WHO FAILS TO:

(1) FILE A TAX RETURN REQUIRED UNDER THIS TITLE;

(2) PAY A FEE OR TAX WHEN DUE; OR

(3) AFTER RECEIVING NOTICE, COMPLY WITH A PROVISION OF THIS ARTICLE OR A REGULATION THAT THE OFFICE OF THE COMPTROLLER ADOPTS UNDER THIS ARTICLE.

7.5–109.

(A) TO RECEIVE A DIRECT SHIPMENT OF WINE, A CONSUMER IN THE STATE SHALL BE AT LEAST 21 YEARS OLD.

(B) A PERSON WHO RECEIVES A SHIPMENT OF WINE SHALL USE THE SHIPMENT FOR PERSONAL CONSUMPTION ONLY AND MAY NOT RESELL IT.

7.5–110.

(A) A PERSON SHALL BE ISSUED A COMMON CARRIER PERMIT BEFORE THE PERSON MAY ENGAGE IN TRANSPORTING WINE FROM A DIRECT WINE SHIPPER TO A CONSUMER.

(B) THE TERM OF A COMMON CARRIER PERMIT IS 1 YEAR AND BEGINS ON JULY 1.

(C) TO COMPLETE DELIVERY OF A SHIPMENT, THE COMMON CARRIER SHALL REQUIRE FROM A CONSUMER AT THE ADDRESS LISTED ON THE SHIPPING LABEL:

(1) THE SIGNATURE OF THE CONSUMER OR ANOTHER INDIVIDUAL AT THE ADDRESS WHO IS AT LEAST 21 YEARS OLD; AND

(2) GOVERNMENT–ISSUED PHOTOGRAPHIC IDENTIFICATION SHOWING THAT THE SIGNING INDIVIDUAL IS AT LEAST 21 YEARS OLD.

(D) A COMMON CARRIER SHALL REFUSE DELIVERY WHEN THE INTENDED RECEIVING INDIVIDUAL APPEARS TO BE UNDER 21 YEARS OF AGE OR REFUSES TO PRESENT VALID IDENTIFICATION.

(E) AT THE TIME OF INITIAL APPLICATION FOR A COMMON CARRIER PERMIT AND ON REQUEST OF THE COMPTROLLER, A COMMON CARRIER SHALL SUBMIT TO THE COMPTROLLER INFORMATION CONCERNING THE TRAINING OF ITS DRIVERS IN VERIFYING THE AGE OF RECIPIENTS OF DIRECT WINE SHIPMENTS UNDER THIS TITLE.

(F) AT LEAST ONCE EACH YEAR, IN A MANNER ACCEPTABLE TO THE COMPTROLLER, A HOLDER OF A COMMON CARRIER PERMIT SHALL VERIFY THAT THE SHIPPER OF WINE INTO THE STATE UNDER THIS TITLE HOLDS A VALID DIRECT WINE SHIPPER'S PERMIT.

7.5–111.

(A) A COMMON CARRIER SHALL REPORT QUARTERLY TO THE OFFICE OF THE COMPTROLLER:

(1) THE DATE OF EACH DELIVERY OF WINE IN THE STATE; AND

(2) THE NAME AND ADDRESS OF THE DIRECT WINE SHIPPER AND THE RECEIVING CONSUMER OF EACH DELIVERY.

(B) A COMMON CARRIER SHALL MAINTAIN FOR A PERIOD OF 3 YEARS COMPLETE AND ACCURATE RECORDS OF ALL INFORMATION NEEDED TO VERIFY COMPLIANCE WITH THIS TITLE.

7.5–112.

THE OFFICE OF THE COMPTROLLER MAY ADOPT REGULATIONS TO CARRY OUT THIS TITLE.

7.5–113.

A ~~BUSINESS ENTITY~~ PERSON WITHOUT A DIRECT WINE SHIPPER'S PERMIT MAY NOT SHIP WINE DIRECTLY TO CONSUMERS IN THE STATE.

7.5–114.

EACH VIOLATION OF THIS TITLE IS A SEPARATE VIOLATION.

9–102.

(a) **(1)** No more than one license provided by this article, except by way of renewal or as otherwise provided in this section, shall be issued in any county or Baltimore City, to any person, or for the use of any partnership, corporation, unincorporated association, or limited liability company, in Baltimore City or any county of the State**[**, and no**]**.

(2) NO more than one license shall be issued for the same premises except as provided in §§ 2–201 through 2–208, 2–301, and 6–701 **AND TITLE 7.5** of this article**[**, and nothing herein shall**]**.

(3) THIS SUBSECTION MAY NOT be construed to apply to § 6–201(r)(4), (15), (17), and (18), § 7–101(b) and (c), § 8–202(g)(2)(ii) and (iii), § 8–217(e), § 8–508, § 8–902, § 9–217(b–1), or § 12–202 of this article.

12–301.

(a) (1) A retail dealer may not employ any solicitor or salesman for the purpose of soliciting, outside of the licensed place of business, orders for the sale of any alcoholic beverages within this State.

(2) The sale of alcoholic beverages may not be consummated outside of the licensed place of business.

(3) These provisions do not prohibit the receiving of orders by mail, telephone or messenger and the filling of such orders by delivery and the payment for them at the place of delivery.

(b) Retail delivery to a purchaser of any alcoholic beverages is prohibited unless:

(1) The delivery is made from the retail licensed premises by the retail license holder or employee of the retail license holder authorized to sell and distribute alcoholic beverages by the local licensing authority in the jurisdiction where the delivery is made; and

(2) The retail license holder obtains a letter of authorization from the local licensing authority to make deliveries and complies with any regulations promulgated by the local licensing authority pertaining to those deliveries.

(c) (1) This subsection applies only in Howard County.

(2) An alcoholic beverages licensee may not make a retail delivery of alcoholic beverages unless the purchaser:

(i) Is physically present on the licensed premises when the purchaser orders the alcoholic beverages; and

(ii) Makes payment for the purchase at the time of the order.

(d) (1) This subsection applies only in Montgomery County.

(2) An alcoholic beverages licensee may not make an off–site retail delivery of alcoholic beverages unless:

(i) The deliverer is at least:

1. 21 years old; or

2. 18 years old and is accompanied by a supervisor who is at least 21 years old; and

(ii) The person taking possession of the delivery provides the deliverer with written certification supported by documentary proof that the person is of legal age to purchase alcoholic beverages. Certification shall be in the form set forth in § 12–109(1) of this article.

(3) (i) Each certification executed under this subsection shall be retained by the licensee for at least 1 year.

(ii) The certifications shall be available for examination during regular business hours by an authorized representative of the Board of License Commissioners.

(4) The Board of License Commissioners shall adopt regulations to implement this subsection.

(e) (1) This subsection applies only in Garrett County.

(2) The Board of License Commissioners may issue a delivery option that entitles an alcoholic beverages licensee or an authorized employee of the licensee to make an off–site retail delivery of alcoholic beverages if:

(i) The deliverer is at least 21 years old and certified by an approved alcohol awareness program;

(ii) The deliverer and purchaser endorse a delivery form that the Board of License Commissioners approves certifying that:

1. The person who receives the delivery claims to be at least 21 years old, and the claim is supported by documentary proof;

2. The person who receives the delivery knows that it is a criminal offense for alcoholic beverages to be furnished to a person under the age of 21 years; and

3. The deliverer examined the purchaser's identification.

(3) Each delivery form endorsed under paragraph (2)(ii) of this subsection shall be submitted to the Board of License Commissioners on or before the 10th day of the following month.

(4) (i) The annual fee for a delivery option is $150.

(ii) In addition to an annual fee, the Board of License Commissioners shall charge an issuing fee of $150.

(5) The Board of License Commissioners shall adopt regulations to carry out this subsection.

(F) THIS SECTION DOES NOT APPLY TO:

(1) THE DELIVERY OF WINE FROM A DIRECT WINE SHIPPER TO A ~~CUSTOMER~~ CONSUMER USING A COMMON CARRIER IN ACCORDANCE WITH TITLE 7.5 OF THIS ARTICLE; OR

(2) THE HOLDER OF A COMMON CARRIER PERMIT IN THE COURSE OF DELIVERING DIRECTLY SHIPPED WINE IN ACCORDANCE WITH TITLE 7.5 OF THIS ARTICLE.

14–202.

(A) Every common carrier, by rail, air, water or highway, transporting alcoholic beverages, either in interstate or intrastate commerce, to points within the State of Maryland, and every person transporting alcoholic beverages by **[**whatsoever manner**] ANY MEANS** within the State of Maryland, shall at any time and from time to time, upon written request of the Comptroller, report under oath on forms prescribed by the Comptroller, all such consignments or deliveries of alcoholic beverages, for such period as the Comptroller may specify.

(B) If required by the Comptroller, **[**such**] THE** reports shall show **[**the**]:**

(1) THE name and address of the person to whom the deliveries of alcoholic beverages have actually and in fact been made **[**, the**];**

(2) THE name and address of the original consignee, if alcoholic beverages have been delivered to any other **PERSON** than the originally named consignee**[**, the**];**

(3) THE point of origin, the point of delivery, the date of delivery and the number and initials of each car, if shipped by rail, the name of the boat, barge or vessel, if shipped by water, the license number of each truck, if shipped by motor truck, or if delivered by other means, the manner in which **[**such**] THE** delivery was made**[**, the**];**

(4) THE kind of alcoholic beverages and the number of gallons **[**thereof**] OF EACH** contained in any such shipment or shipments**;** and **[**such**]**

(5) ANY other additional information relative to shipments **[**as**] THAT** the Comptroller may require.

(C) Nothing **[**herein shall**] IN THIS SECTION MAY** be construed to authorize **[**the**]:**

(1) THE consignment of alcoholic beverages from any point outside of the State to points within the State of Maryland, to any person except **[**the**]:**

(I) THE holder of a permit or manufacturer's or wholesaler's license, duly issued under **[**the provisions of**]** this article**;** or **[**the**]**

(II) A ~~PERSONAL~~ CONSUMER UNDER TITLE 7.5 OF THIS ARTICLE; OR

(2) THE consignment of alcoholic beverages from any point within this State to a point outside the State, to any person not authorized to receive the same under the law of the point of destination.

15–204.

(b) (1) Provided, that in Montgomery County no person, firm, or corporation shall keep for sale any alcoholic beverage not purchased from the Department of Liquor Control for Montgomery County, provided, however, that nothing in this subsection shall apply to a holder of a Class F license or a holder of a Class 1 beer, wine and liquor, Class 2 wine and liquor, Class 3 beer and wine, Class 4 beer, or Class 5 wine wholesaler's license, who may not sell or deliver any alcoholic beverage in Montgomery County for resale except to a county liquor dispensary.

(2) Notwithstanding paragraph (1) of this subsection:

(i) **1.** A holder of a Class 6 limited wine wholesaler's license or of a nonresident winery permit may sell or deliver wine directly to a county liquor dispensary, restaurant, or other retail dealer in Montgomery County; and

[(ii)**]** **2.** A county liquor dispensary, restaurant, or other retail dealer in Montgomery County may purchase wine directly from a holder of a Class 6 limited wine wholesaler's license or of a nonresident winery permit**; AND**

(II) A HOLDER OF A DIRECT WINE SHIPPER'S PERMIT MAY SHIP WINE DIRECTLY TO A CONSUMER IN MONTGOMERY COUNTY.

16–503.

Any person violating the provisions of this article for which no penalty, other than the suspension or revocation of a license or permit, is provided, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than one thousand dollars ($1,000.00) or to imprisonment for not more than two years in the House of Correction, or jail, or both fined and imprisoned.

Article – Tax – General

5–101.

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

(f) "Direct wine **[**seller"**]** **SHIPPER"** has the meaning stated in Article 2B, § 7.5–101 of the Code.

5–201.

(d) **[**(1)**]** A person who is a direct wine **[**seller**]** **SHIPPER** shall file with the Office of the Comptroller **[**an annual**]** **A QUARTERLY** tax return.

[(2) The annual tax return shall be due no later than October 15 of each year covering the previous 12 calendar months ending September 30.**]**

13–825.

(b) The Comptroller shall require:

(1) a manufacturer, wholesaler, or nonresident winery permit holder who sells or delivers beer or wine to retailers in the State to post security for the alcoholic beverage tax:

(i) in an amount not less than:

1. $1,000 for beer; and

2. $1,000 for wine; and

(ii) if the alcoholic beverage tax on beer and wine paid in any 1 month exceeds $1,000, in an additional amount at least equal to the excess; **[**and**]**

(2) a manufacturer or wholesaler who sells or delivers any distilled spirits or any wine and distilled spirits in the State to post a security for the alcoholic beverage tax:

(i) in an amount not less than $5,000; and

(ii) in an additional amount:

1. equal to twice the amount of its largest monthly alcoholic beverage tax liability for wine and distilled spirits in the preceding calendar year less $5,000; or

2. if the information for the preceding calendar year is not available or cannot be provided, equal to the amount that the Comptroller requires**; AND**

(3) EXCEPT AS PROVIDED IN SUBSECTION (I) OF THIS SECTION, A HOLDER OF A DIRECT WINE SHIPPER'S PERMIT TO POST SECURITY FOR THE ALCOHOLIC BEVERAGE TAX IN AN AMOUNT NOT LESS THAN $1,000.

(I) A PERSON NEED NOT POST SECURITY UNDER SUBSECTION (B)(3) OF THIS SECTION IF:

(1) THE PERSON IS A MANUFACTURER THAT HAS POSTED SECURITY UNDER SUBSECTION (B)(2) OF THIS SECTION; OR

(2) ~~NOT LATER THAN THE THIRD ANNIVERSARY OF ISSUING~~ AT ANY TIME STARTING 3 YEARS AFTER THE COMPTROLLER FIRST ISSUES A DIRECT WINE SHIPPER'S PERMIT TO THE PERSON, THE COMPTROLLER:

(I) DETERMINES THAT THE PERSON HAS A SUBSTANTIAL RECORD OF TAX AND REPORTING COMPLIANCE; AND

(II) WAIVES THE SECURITY REQUIREMENT.

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) The Comptroller shall study the effects of the implementation of this Act, including:

(1) the numbers of holders of direct wine shipper's permits and common carrier permits issued;

(2) the volume of wine shipped to Maryland consumers;

(3) the revenues and costs to the State associated with direct wine shipment; and

(4) the availability of certain imported varieties of wine to Maryland consumers.

(b) On or before December 31, 2012, the Comptroller shall submit a report on its findings under this section, in accordance with § 2–1246 of the State Government Article, to the Senate Education, Health, and Environmental Affairs Committee and the House Economic Matters Committee.

SECTION ~~3.~~ 4. AND BE IT FURTHER ENACTED, That if any provision of this Act or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Act which can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are declared severable.

SECTION ~~4.~~ 5. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 206

(Senate Bill 282)

AN ACT concerning

Family Day Care Providers – Amnesty Period – Repeal

FOR the purpose of repealing obsolete provisions of law relating to an amnesty period for unregistered family day care providers; and generally relating to the family day care providers amnesty program.

BY repealing
Article – Family Law
Section 5–552.1
Annotated Code of Maryland
(2006 Replacement Volume and 2010 Supplement)

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

Article – Family Law

[5–552.1.

(a) (1) There is an amnesty period, to be determined by the Department, for unregistered family day care providers.

(2) The purpose of the amnesty period is to encourage compliance with the registration requirements of this Part V.

(b) The amnesty is intended to encourage compliance with registration requirements by:

(1) having unregistered family day care providers voluntarily enter the registration process; and

(2) allowing unregistered family day care providers participating in the amnesty program to continue providing child care during the registration process.

(c) (1) (i) Notwithstanding any other provision of this Part V, from October 1, 1994 to September 30, 1997, there shall be an amnesty period in each of those years for unregistered family day care providers as provided in subparagraph (ii)

of this paragraph to allow unregistered family day care providers to continue in operation while becoming registered in accordance with the provisions of this section.

(ii) Except as provided in subparagraph (iii) of this paragraph, the amnesty period shall be 12 months for each year from October 1, 1994 to September 30, 1997.

(iii) Subject to subparagraph (iv) of this paragraph, the Department may reduce the number of months in the amnesty period to not less than 2 months for each of the 2 years from October 1, 1995 to September 30, 1997, if the Department finds that a 12–month period is not feasible.

(iv) If the Department reduces the number of the months in the amnesty period under subparagraph (iii) of this paragraph, the Department shall notify the General Assembly in writing, in accordance with § 2–1246 of the State Government Article.

(2) The State Superintendent shall adopt regulations for the implementation of the amnesty program.

(d) (1) The amnesty shall apply only to the registration required by this Part V, but only if the requirements of subsection (e) of this section are met.

(2) Any unregistered family day care provider participating in the amnesty:

(i) may not be enjoined by the Department as long as information is not made known to the Department that the health, safety, or welfare of any child in the care of the unregistered family day care provider is endangered, including any information or evidence provided by a State or local code enforcement authority or protective services or law enforcement agency;

(ii) is not subject to the penalty provided for in § 5–557 of this Part V; and

(iii) is subject to the group size requirements provided by § 5–553 of this Part V.

(e) For the purposes of this section, an unregistered family day care provider is participating in the amnesty program if:

(1) the unregistered family day care provider:

(i) between October 1, 1994 and September 30, 1997, files an application with the Department in accordance with the regulations adopted by the Department; and

(ii) makes a good faith effort, as determined by the Department, to complete the registration process within 1 year of the date of entering the amnesty; and

(2) information is not made known to the State Department of Education or the Department of Human Resources that the health, safety, or welfare of any child in the care of the unregistered family day care provider is endangered, including any information or evidence provided by a State or local code enforcement authority, or protective services or law enforcement agency.

(f) Notwithstanding any other provision of law, except for any willful or grossly negligent act, a State or local code enforcement authority, protective services or law enforcement agency, the Department of Human Resources, State Department of Education, and the personnel of a State or local code enforcement authority, protective services or law enforcement agency, the Maryland Department of Human Resources, or the State Department of Education shall be immune from civil liability for any act or injury to any child attributable to or resulting from the amnesty period provided for in this section.**]**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 207

(Senate Bill 285)

AN ACT concerning

State Real Estate Commission – Reinstatement of Licenses and Inactive Status

FOR the purpose of altering the time periods within which a licensee must reinstate a license that has expired and reactivate a license that has been placed on inactive status; requiring certain licensees to comply with certain continuing education requirements as a condition of licensure renewal; *providing for the application of this Act;* and generally relating to the State Real Estate Commission.

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 17–314 and 17–316
Annotated Code of Maryland
(2010 Replacement Volume)

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

Article – Business Occupations and Professions

17–314.

(a) Except as provided in subsection (c) of this section, unless a real estate broker license is renewed for a 2–year term as provided in this section, the license expires on the first March 1 that comes:

(1) after the effective date of the license; and

(2) in an even–numbered year.

(b) Except as provided in subsection (c) of this section, unless an associate real estate broker or real estate salesperson license is renewed for a 2–year term as provided in this section, the license expires on the first April 30 that comes:

(1) after the effective date of the license; and

(2) in an even–numbered year.

(c) The Secretary may determine that licenses issued under this title shall expire on a staggered basis.

(d) (1) At least 1 month before a license expires, the Commission shall mail to the licensee, as provided in paragraph (2) of this subsection:

(i) a renewal application form; and

(ii) a notice that states:

1. the date on which the current license expires;

2. the date by which the Commission must receive the renewal application for the renewal to be issued and mailed before the license expires; and

3. the amount of the renewal fee.

(2) (i) If the licensee is a real estate broker, the Commission shall mail the renewal application form and notice to the principal office of the broker.

(ii) If the licensee is an associate real estate broker or a real estate salesperson, the Commission shall mail the renewal application form and notice to the principal office of the real estate broker with whom the licensee is affiliated.

(e) Before a license expires, the licensee periodically may renew it for an additional 2–year term, if the licensee:

(1) otherwise is entitled to be licensed;

(2) pays to the Commission a renewal fee set by the Commission;

(3) submits to the Commission a renewal application on the form that the Commission provides;

(4) submits to the Commission the original certificate of completion verifying that the licensee has complied with the continuing education requirements under § 17–315 of this subtitle;

(5) notifies the Commission of the name of each real estate broker with whom the licensee then is affiliated; and

(6) for the renewal of a real estate broker license:

(i) submits to the Commission, by a credit reporting agency approved by the Commission, a credit report that contains the information required by the Commission; or

(ii) pays to the Commission or the Commission's designee a credit report fee in an amount not to exceed the cost charged by a credit reporting agency approved by the Commission to obtain a credit report that contains the information required by the Commission for renewal of a real estate broker license.

(f) The Commission shall renew the license of and issue a renewal certificate and pocket card to each licensee who meets the requirements of this section.

(g) The Commission shall reinstate the license of a licensee under this title whose license has expired if the licensee:

(1) applies to the Commission for reinstatement within **[**4**]** **3** years after the license expires;

(2) meets the requirement of good character and reputation;

(3) complies with the applicable continuing education requirement for the period during which the individual was not licensed; and

(4) pays to the Commission a reinstatement fee set by the Commission.

17–316.

(a) (1) The Commission shall place the license of a real estate broker on inactive status if the real estate broker:

(i) requests that the license of the broker be placed on inactive status; and

(ii) surrenders the license certificate and pocket card of the broker to the Commission.

(2) The Commission shall place the license of an associate real estate broker or a real estate salesperson on inactive status if:

(i) the associate broker or salesperson no longer is affiliated with the licensed real estate broker whose firm is named in the license certificate of the associate broker or salesperson; or

(ii) the associate broker or salesperson:

1. requests that the license of the associate broker or salesperson be placed on inactive status; and

2. surrenders the license certificate and pocket card of the associate broker or salesperson to the Commission.

(b) (1) A licensee whose license is on inactive status may not provide real estate brokerage services through that license.

(2) The placement of a license on inactive status does not affect the power of the Commission to suspend or revoke the license or to take any other disciplinary action against the licensee.

(c) Unless a license on inactive status is reactivated, the license expires **[**4**] 3** years after the date it is placed on inactive status.

(d) (1) Subject to paragraph (2) of this subsection, a licensee whose license is on inactive status remains responsible for renewing the license as required under § 17–314 of this subtitle.

(2) Subject to the **[**4–year**] 3–YEAR** limitation under subsection (c) of this section, a licensee may renew a license while it is on inactive status ~~without complying~~ **IF THE LICENSEE COMPLIES** with the continuing education requirements of § 17–315 of this subtitle.

(e) (1) The Commission shall reactivate the license of a real estate broker that is on inactive status and reissue a license certificate and pocket card to the broker if the broker:

(i) requests that the license be reactivated;

(ii) pays to the Commission a reissuance fee set by the Commission; and

(iii) meets the continuing education requirements that would have been required for renewal of a license under § 17–315 of this subtitle if the license had not been on inactive status.

(2) The Commission shall reactivate the license of an associate real estate broker or a real estate salesperson that is on inactive status and reissue a license certificate and pocket card to the associate broker or salesperson if the associate broker or salesperson:

(i) requests that the license be reactivated;

(ii) pays to the Commission a reissuance fee set by the Commission;

(iii) meets the continuing education requirements that would have been required for renewal of a license under § 17–315 of this subtitle if the license had not been on inactive status; and

(iv) submits to the Commission adequate evidence that the associate broker or salesperson has obtained, from a licensed real estate broker, a commitment providing that the associate broker or salesperson shall become affiliated with the broker as an associate real estate broker or a real estate salesperson on reactivation of the license of the associate broker or salesperson.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act applies only to licensees whose license is placed on inactive status on or after October 1, 2011.

SECTION ~~2.~~ *3.* AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 208

(Senate Bill 287)

AN ACT concerning

State Board of Public Accountancy – Educational Requirements for Examination and Licensure

FOR the purpose of altering the educational requirements for an applicant for a license to practice certified public accountancy to take the examination to be a certain number of semester hours or their equivalent and the possession of a baccalaureate or higher degree; maintaining the educational requirements for a license to practice certified public accountancy at a certain number of semester hours or their equivalent and the possession of a baccalaureate or higher degree; and generally relating to the educational requirements for examination and licensure as a certified public accountant.

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 2–303 and 2–305
Annotated Code of Maryland
(2010 Replacement Volume)

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

Article – Business Occupations and Professions

2–303.

(a) (1) **[**Prior to July 1, 1999, in addition to the other qualifications for a license set forth in this subtitle,**]** **IN ORDER TO TAKE THE EXAMINATION,** an applicant shall **HAVE SATISFACTORILY COMPLETED 120 SEMESTER HOURS OR THEIR EQUIVALENT, AND** hold a baccalaureate or higher degree that meets the requirements of this section.

(2) **[**On or after July 1, 1999,**]** **IN ORDER TO BECOME LICENSED,** in addition to the other qualifications for a license set forth in this subtitle, an applicant shall have satisfactorily completed 150 semester hours or their equivalent, including the attainment of a baccalaureate or higher degree that meets the requirements of this section.

(b) The applicant shall have completed for the degree a curriculum that the Board considers to constitute:

(1) a major in accounting; or

(2) a substantial equivalent to a major in accounting, of which required credits or courses may be taken at any 2– or 4–year regionally accredited institution of higher education.

(c) The degree required under this section shall be awarded by a school, college, university, or other institution that:

(1) is a member of the American Assembly of Collegiate Schools of Business;

(2) is a member of the Association of Collegiate Business Schools and Programs;

(3) is accredited by or is a constituent unit of an institution accredited by:

(i) the Middle States Association of Colleges and Schools; or

(ii) the equivalent regional accrediting association for other regional areas; or

(4) is recognized and approved by the Board.

(d) (1) The Board may use the services of any institution that it considers appropriate to determine what constitutes a substantial equivalent to a major in accounting under subsection (b)(2) of this section.

(2) If the Board uses an institution to determine curriculum equivalencies, the Board may accept as final the determination of that institution.

2–305.

(a) An applicant who **[**otherwise qualifies for a license**]** **MEETS THE EDUCATIONAL REQUIREMENTS ESTABLISHED BY THE BOARD** is entitled to be examined as provided in this section.

(b) The Board shall give examinations to applicants at least twice a year, at the times and places that the Board determines.

(c) The Board shall give each qualified applicant notice of the time and place of examination.

(d) (1) The Board shall give the examination prepared by the American Institute of Certified Public Accountants or an equivalent examination as determined by the Board.

(2) The Board may use the services of the American Institute of Certified Public Accountants to prepare or grade an examination. If the Board uses the services of the Institute, the Board may accept as final the grades that the Institute determines.

(3) The Board may use the services of any person whom the Board considers appropriate to proctor an examination.

(e) The Board shall adopt regulations that establish the passing score for an examination.

(f) (1) The Board shall mail to each applicant notice of the applicant's examination score.

(2) Any applicant who requests an appointment within 60 days after the date on which the notice is mailed may review the applicant's answers to the examination.

(g) (1) If the Board uses the services of the American Institute of Certified Public Accountants to grade an examination, the Board may send the examination answers to the Institute by electronic transmission, by mail, or by a private delivery service.

(2) If the Board sends out examination answers for grading in accordance with paragraph (1) of this subsection, the Board is not liable for the loss or destruction of any of the examination answers while the answers are out of the possession of the Board.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 209

(Senate Bill 289)

AN ACT concerning

Higher Education – Edward T. Conroy Memorial Scholarship Program – Eligibility

FOR the purpose of altering the eligibility requirements for the Edward T. Conroy Memorial Scholarship Program to include certain persons who live outside the State under certain circumstances; repealing a certain obsolete provision;

repealing a certain termination provision; and generally relating to eligibility for the Edward T. Conroy Memorial Scholarship Program.

BY repealing and reenacting, with amendments,
Article – Education
Section 18–601
Annotated Code of Maryland
(2008 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,
Chapter 418 of the Acts of the General Assembly of 2004
Section 2

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

Article – Education

18–601.

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

(2) "Disabled public safety employee" means a State or local public safety employee who sustains an injury in the line of duty that:

(i) Precludes the individual from continuing to serve or be employed as a State or local public safety employee; and

(ii) In the case of a volunteer member of a fire department or ambulance or rescue company or squad, precludes the member from continuing to be employed in the nonpublic safety occupation in which the member is engaged at the time of the injury.

(3) "Surviving spouse" means a person who has not remarried.

(4) "State or local public safety employee" means a person who is:

(i) A career or volunteer member of a:

1. Fire department;

2. Ambulance company or squad; or

3. Rescue company or squad;

(ii) A law enforcement officer;

(iii) A correctional officer; or

(iv) A member of the Maryland National Guard who was a resident of this State at the time of death.

(5) "Victim of the September 11, 2001, terrorist attacks" means a Maryland resident who was killed as a result of the attacks on the World Trade Center in New York City, the attack on the Pentagon in Virginia, or the crash of United Airlines Flight 93 in Pennsylvania.

(b) There is a program of scholarships that are awarded by eligible postsecondary institutions under this section.

(c) The Program is the Edward T. Conroy Memorial Scholarship Program.

(d) A person may apply to an eligible postsecondary institution for a scholarship under this section if the person:

(1) **(I)** **[**Except as provided in item (3)(iii) of this subsection and subsection (e) of this section, is**]** **IS** a resident of Maryland **AT THE TIME OF APPLICATION; OR**

(II) WAS A RESIDENT OF MARYLAND WHEN AN EVENT DESCRIBED IN PARAGRAPH (3) OF THIS SUBSECTION OCCURRED;

(2) (i) Is accepted for admission or enrolled in the regular undergraduate, graduate or professional program at an eligible institution; or

(ii) Is enrolled in a 2–year terminal certificate program in which the course work is acceptable for transfer credit for an accredited baccalaureate program in an eligible institution; and

(3) (i) Is at least 16 years old and a son or daughter of a member of the armed forces who:

1. Died as a result of military service after December 7, 1941;

2. Suffered a service connected 100% permanent disability after December 7, 1941; or

3. Was declared to be a prisoner of war or missing in action, if that occurred on or after January 1, 1960, as a result of the Vietnam conflict, and if the child was born prior to or while the parent was a prisoner of war or missing in action;

(ii) Was a prisoner of war or missing in action, if that occurred on or after January 1, 1960, as a result of the Vietnam conflict and was a resident of this State at the time the person was declared to be a prisoner of war or missing in action;

(iii) 1. **[**A.**]** Is at least 16 years old and a son or daughter of any State or local public safety employee killed in the line of duty; or

[B.**] 2.** Is the surviving spouse of any State or local public safety employee killed in the line of duty; **[**and

2. Is a resident of any state;**]**

(iv) 1. Is a disabled public safety employee;

2. Is at least 16 years old and a son or daughter of a disabled public safety employee who sustains an injury in the line of duty that renders the public safety employee 100% disabled; or

3. Is the surviving spouse of a disabled public safety employee who sustains an injury in the line of duty that renders the public safety employee 100% disabled;

(v) Is a veteran, as defined under § 9–901 of the State Government Article, who:

1. Suffers a service connected disability of 25% or greater; and

2. Has exhausted or is no longer eligible for federal veterans' educational benefits; or

(vi) Is at least 16 years old and a son or daughter of or the surviving spouse of a victim of the September 11, 2001, terrorist attacks.

[(e) For a person who graduates from a high school in this State in 2004, that person shall be eligible under subsection (d)(1) of this section if the person:

(1) Is a resident of Maryland;

(2) Is a student at a Maryland high school at the time of application; or

(3) Graduated from a Maryland high school within 3 months of application.**]**

[(f)**] (E)** A scholarship awarded under this section:

(1) May be used for the tuition and mandatory fees at any eligible institution; and

(2) May not:

(i) Exceed the equivalent annual tuition and mandatory fees of a resident undergraduate student at the 4–year public institution of higher education within the University System of Maryland, other than the University of Maryland University College and University of Maryland, Baltimore, with the highest annual expenses for a full–time resident undergraduate; and

(ii) Be less than the lesser of:

1. $3,000; or

2. The equivalent annual tuition and mandatory fees of a resident of the institution attended by the recipient of the scholarship.

[(g)**] (F)** (1) Each postsecondary institution shall determine the eligibility of persons who apply to the institution for the Edward T. Conroy Memorial Scholarship Program.

(2) Funds for the Edward T. Conroy Memorial Scholarship Program shall be allocated by the Commission to each postsecondary institution based on the number of eligible recipients attending each institution.

(3) In October and February of each year, each postsecondary institution shall report to the Commission the number of eligible recipients attending the institution.

(4) The Commission shall allocate funds for awards to postsecondary institutions upon verification of eligible recipients attending the institutions.

(5) If funds cannot be allocated in the fiscal year in which awards are made, priority shall be given to allocating funds for those awards in the following fiscal year.

[(h)**] (G)** (1) Each recipient of a scholarship under this section may hold the award for 5 years of full–time study or 8 years of part–time study.

(2) The number of eligible recipients under subsection (d)(3)(v) of this section shall be limited to 15 each year.

(3) An award provided under subsection (d)(3)(vi) of this section may not exceed the amount specified in subsection **[**(f)(2)**] (E)(2)** of this section when

combined with any other scholarship received by a student based on the student's status as a child or spouse of a victim of the September 11, 2001, terrorist attacks.

[(i)**] (H)** The Commission:

(1) May accept any gift or grant from any person for the Edward T. Conroy Scholarship Fund;

(2) Shall use any gift or grant that it receives for a scholarship from the Program; and

(3) Shall deposit any gift or grant that it receives for the Program with the State Treasurer in a nonbudgeted account.

Chapter 418 of the Acts of 2004

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2004. **[**It shall remain effective for a period of 10 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.**]**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 210

(Senate Bill 290)

AN ACT concerning

State Board for Professional Engineers – Examinations

FOR the purpose of eliminating specific references to the prescribed lengths of time and methods of delivery of the fundamentals of engineering examination and the principles and practice of engineering examination; and generally relating to the practice of professional engineering.

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 14–305(b), (c), and (d) and 14–307(d)
Annotated Code of Maryland
(2010 Replacement Volume)

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

Article – Business Occupations and Professions

14–305.

(b) (1) An applicant qualifies under this section if the applicant:

(i) has been graduated from a college or university on completion of at least a 4–year curriculum in engineering, or its equivalent, that the Board approves;

(ii) subject to paragraph (2) of this subsection, has at least 4 years of work experience in engineering that is satisfactory to the Board and that indicates to the Board that the applicant may be competent to practice engineering;

(iii) has passed **[**an 8–hour written**]** **THE** examination in the fundamentals of engineering given by the Board under this subtitle; and

(iv) after passing the examination in fundamentals, has passed **[**an 8–hour written**]** **THE** examination in the principles and practice of engineering given by the Board under this subtitle.

(2) If an applicant has completed graduate study in engineering that is satisfactory to the Board, it may allow the applicant up to a 1–year credit toward the experience requirement of paragraph (1)(ii) of this subsection.

(c) An applicant qualifies under this section if the applicant:

(1) has been graduated from a college or university on completion of at least a 4–year curriculum in engineering, or its equivalent, that the Board has not approved;

(2) has at least 8 years of work experience in engineering that is satisfactory to the Board and that indicates to the Board that the applicant may be competent to practice engineering;

(3) has passed **[**an 8–hour written**]** **THE** examination in the fundamentals of engineering given by the Board under this subtitle; and

(4) after passing the examination in fundamentals, has passed **[**an 8–hour written**]** **THE** examination in the principles and practice of engineering given by the Board under this subtitle.

(d) (1) An applicant qualifies under this section if the applicant:

(i) subject to paragraph (2) of this subsection, has at least 12 years of work experience in engineering that is satisfactory to the Board, in at least 5 years of which the applicant has been in responsible charge, if the collective experience indicates to the Board that the applicant may be competent to practice engineering; and

(ii) has passed **[**an 8–hour written**]** **THE** examination in the principles and practice of engineering given by the Board under this subtitle.

(2) If an applicant has completed 1 or more years of a college or university curriculum in engineering that the Board approves, it may allow, for each of those years, a 1–year credit towards the experience requirement of paragraph (1)(i) of this subsection.

(3) If an applicant has completed 1 or more years of a college or university curriculum in engineering that has not been approved by the Board, the Board may allow, for each of those years, a credit of up to 6 months towards the experience requirement under paragraph (1)(i) of this subsection.

14–307.

(d) (1) As provided under § 14–305 of this subtitle, the Board shall give the following 2 separate examinations:

(i) **[**an 8–hour written**]** **THE** examination in the fundamentals of engineering; and

(ii) **[**an 8–hour written**]** **THE** examination in the principles and practice of engineering.

(2) The Board shall determine the subjects, scope, and form of and method of grading and passing scores for examinations given under this subtitle.

(3) The Board shall structure the examinations to test the ability of an applicant to design, plan, and direct engineering works in order to ensure the safety of life, health, and property.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 211

(Senate Bill 291)

AN ACT concerning

State Government – Maryland Veterans Commission – Membership

FOR the purpose of altering the membership of the Maryland Veterans Commission; and generally relating to the Maryland Veterans Commission.

BY repealing and reenacting, without amendments,
Article – State Government
Section 9–916
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 9–917
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

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

Article – State Government

9–916.

There is a Maryland Veterans Commission in the Department that shall advise the Secretary of all matters pertaining to veterans issues.

9–917.

(a) (1) The Commission consists of 28 members appointed by the Governor.

(2) Of the members:

(i) 1 shall be appointed from each of the 8 congressional districts in the State;

(ii) 1 shall be a veteran appointed from the State at large;

(iii) 1 shall be a **[**representative of a women veterans organization in the State**]** **WOMAN VETERAN APPOINTED FROM THE STATE AT LARGE**;

(iv) 1 shall be a representative of a retired enlisted organization; and

(v) 1 shall be appointed from a list of individuals submitted to the Governor by each of the following organizations:

1. the American Ex–Prisoners of War, Inc.;

2. the American Legion;

3. the Amvets;

4. the Catholic War Veterans;

5. the Disabled American Veterans;

6. the Fleet Reserve Association;

7. the Jewish War Veterans;

8. the Marine Corps League;

9. the Maryland Military Officers Association of America;

10. the Military Order of the Purple Heart;

11. the Pearl Harbor Survivors Association;

12. the Polish Legion of American Veterans;

13. the Veterans of Foreign Wars;

14. the Vietnam Veterans of America;

15. the Korean War Veterans Association, Inc.;

16. the Black Veterans of All Wars, Inc.; and

17. the Colonial Chapter of the Paralyzed Veterans of America.

(b) Each member must be a resident of the State and a veteran.

(c) (1) The term of an appointed member is 5 years.

(2) The terms of the appointed members are staggered as required by the terms provided for members of the Commission on October 1, 1984.

(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) When an organization is no longer a part of the Commission, the appointment shall terminate at the end of the current member's term.

(d) A new organization may not be eligible for representation on the Commission, by appointment of the Governor, unless it is congressionally chartered.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 212

(Senate Bill 293)

AN ACT concerning

State Board of Examiners of Landscape Architects – Applicants for Licensure – Educational and Experience Requirements

FOR the purpose of clarifying the educational and experience requirements for applicants seeking to take the Landscape Architect Registration Examination (LARE); establishing additional criteria for meeting the educational and experience requirements for the LARE applicants; and generally relating to the practice of landscape architecture.

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 9–303
Annotated Code of Maryland
(2010 Replacement Volume)

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

Article – Business Occupations and Professions

9–303.

(a) Before an applicant takes the examination given by the Board, the applicant shall qualify under this section by meeting the educational and experience requirements set forth in subsection (b) **[**or (c)**], (C), (D), OR (E)** of this section.

(b) **[**(1)**]** An applicant qualifies under this section if the applicant:

[(i)**] (1)** has been graduated from a college or school of landscape architecture that **[**the Board approves**] HOLDS ACCREDITED STATUS FROM THE NATIONAL LANDSCAPE ARCHITECTURAL ACCREDITATION BOARD**; and

[(ii)**] (2)** has **[**practical**] AT LEAST 2 YEARS OF** work experience in landscape architecture that is**:**

(I) UNDER THE RESPONSIBLE CHARGE OF A LICENSED LANDSCAPE ARCHITECT OR OTHER AUTHORIZED INDIVIDUAL; AND

(II) OTHERWISE satisfactory to the Board.

[(2) The education and experience of the applicant under this subsection must total at least 6 years.**]**

(c) **[**(1) An applicant qualifies under this section if the applicant has at least 8 years of practical work experience in landscape architecture that is satisfactory to the Board.

(2) The Board may count each full year of study, at a college or school of landscape architecture that the Board approves, as 1 of the years of the work experience required under this subsection.**] AN APPLICANT QUALIFIES UNDER THIS SECTION IF THE APPLICANT:**

(1) HAS BEEN GRADUATED ON COMPLETION OF AT LEAST A 4–YEAR CURRICULUM IN A DESIGN–RELATED DISCIPLINE FROM A COLLEGE OR UNIVERSITY THAT IS ACCREDITED BY, OR IS A CONSTITUENT UNIT OF AN INSTITUTION ACCREDITED BY, THE MIDDLE STATES ASSOCIATION OF COLLEGES AND SCHOOLS OR THE EQUIVALENT REGIONAL ACCREDITING ASSOCIATION OF OTHER REGIONAL AREAS; AND

(2) HAS AT LEAST 4 YEARS OF WORK EXPERIENCE IN LANDSCAPE ARCHITECTURE THAT IS:

(I) UNDER THE RESPONSIBLE CHARGE OF A LICENSED LANDSCAPE ARCHITECT OR OTHER AUTHORIZED INDIVIDUAL; AND

(II) OTHERWISE SATISFACTORY TO THE BOARD.

(D) AN APPLICANT QUALIFIES UNDER THIS SECTION IF THE APPLICANT:

(1) HAS BEEN GRADUATED ON COMPLETION OF AT LEAST A 4–YEAR CURRICULUM IN A NONDESIGN–RELATED DISCIPLINE FROM A COLLEGE OR UNIVERSITY THAT IS ACCREDITED BY, OR IS A CONSTITUENT UNIT OF AN INSTITUTION ACCREDITED BY, THE MIDDLE STATES ASSOCIATION OF COLLEGES AND SCHOOLS OR THE EQUIVALENT REGIONAL ACCREDITING ASSOCIATION OF OTHER REGIONAL AREAS; AND

(2) HAS AT LEAST 6 YEARS OF PRACTICAL WORK EXPERIENCE IN LANDSCAPE ARCHITECTURE THAT IS:

(I) UNDER THE RESPONSIBLE CHARGE OF A LICENSED LANDSCAPE ARCHITECT OR OTHER AUTHORIZED INDIVIDUAL; AND

(II) OTHERWISE SATISFACTORY TO THE BOARD.

(E) (1) AN APPLICANT QUALIFIES UNDER THIS SECTION IF THE APPLICANT:

(I) IS A HIGH SCHOOL GRADUATE OR THE EQUIVALENT; AND

(II) HAS AT LEAST 8 YEARS OF PRACTICAL WORK EXPERIENCE IN LANDSCAPE ARCHITECTURE THAT IS:

1. UNDER THE RESPONSIBLE CHARGE OF A LICENSED LANDSCAPE ARCHITECT OR OTHER AUTHORIZED INDIVIDUAL; AND

2. OTHERWISE SATISFACTORY TO THE BOARD.

(2) THE BOARD MAY COUNT EACH FULL YEAR OF STUDY AT A COLLEGE OR SCHOOL OF LANDSCAPE ARCHITECTURE THAT MEETS THE CRITERIA SET FORTH IN SUBSECTION (B) OF THIS SECTION AS ONE OF THE YEARS OF THE WORK EXPERIENCE REQUIRED UNDER THIS SUBSECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 213

(Senate Bill 306)

AN ACT concerning

Vehicle Laws – ~~Motor Scooters – Definition~~ Motorized ~~Minibike~~ *Passenger Scooter* – Use in Ocean City

FOR the purpose of ~~altering the definition of "motor scooter" under the Maryland Vehicle Law~~ authorizing the use of a "motorized ~~minibike~~ *passenger scooter*" on certain highways under certain conditions; authorizing the State Highway Administration to prohibit the operation of a motorized ~~minibike~~ *passenger scooter* on certain highways under certain circumstances; defining certain terms; making this Act an emergency measure; and generally relating to ~~the definition of "motor scooter" under the Maryland Vehicle Law.~~ the use of a motorized ~~minibike~~ *passenger scooter* in Ocean City.

~~BY repealing and reenacting, with amendments,~~
~~Article – Transportation~~
~~Section 11–134.5~~
~~Annotated Code of Maryland~~
~~(2009 Replacement Volume and 2010 Supplement)~~

BY repealing and reenacting, without amendments,
Article – Transportation
Section ~~21–1201(e)~~ 21–101(a), (c), (d), and (e)
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

BY adding to
Article – Transportation
Section 25–102.2
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

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

Article – Transportation

~~11–134.5.~~

~~(a) "Motor scooter" means a nonpedal vehicle that:~~

~~(1) Has a seat for the operator;~~

~~(2) Has two **OR THREE** wheels, of which one is 10 inches or more in diameter;~~

~~(3) **(I)** **[**Has**] FOR A TWO-WHEEL VEHICLE, HAS** a step–through chassis**; OR**~~

~~**(II) FOR A THREE-WHEEL VEHICLE, HAS A COCKPIT**;~~

~~(4) Has a motor:~~

~~(i) With a rating of 2.7 brake horsepower or less; or~~

~~(ii) If the motor is an internal combustion engine, with a capacity of 50 cubic centimeters piston displacement or less; and~~

~~(5) Is equipped with an automatic transmission.~~

~~(b) "Motor scooter" does not include a vehicle that has been manufactured for off–road use, including a motorcycle and an all–terrain vehicle.~~

~~21–1201.~~

~~(c) With the exceptions stated in this subtitle, the provisions of this subtitle that are applicable to bicycles apply whenever a bicycle, an EPAMD, or a motor scooter is operated on any highway or whenever a bicycle or an EPAMD is operated on any path set aside for the exclusive use of bicycles.~~

21–101.

(a) In this title and Title 25 of this article the following words have the meanings indicated.

(c) "Bicycle path" means any travelway designed and designated by signing or signing and marking for bicycle use, located within its own right–of–way or in a shared right–of–way, and physically separated from motor vehicle traffic by berm, shoulder, curb, or other similar device.

(d) (1) "Bicycle way" means:

(i) Any trail, path, part of a highway, surfaced or smooth shoulder, or sidewalk; or

(ii) Any other travelway specifically signed, marked, or otherwise designated for bicycle travel.

(2) "Bicycle way" includes:

(i) Bicycle path; and

(ii) Bike lane.

(e) "Bike lane" means any portion of a roadway or shoulder designated for single directional bicycle flow.

25–102.2.

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

(2) (I) "LICENSED DRIVER" MEANS AN INDIVIDUAL WHO HOLDS A DRIVER'S LICENSE OF ANY CLASS ISSUED BY THE STATE OR, IF THE INDIVIDUAL IS A NONRESIDENT OF THE STATE, ISSUED BY ANOTHER STATE OR COUNTRY.

(II) "LICENSED DRIVER" DOES NOT INCLUDE AN INDIVIDUAL WHO HOLDS A LEARNER'S PERMIT OR A PROVISIONAL LICENSE ISSUED BY THE STATE OR, IF THE INDIVIDUAL IS A NONRESIDENT OF THE STATE, THE EQUIVALENT LICENSE ISSUED BY ANOTHER STATE OR COUNTRY.

(3) (I) "MOTORIZED ~~MINIBIKE~~ *PASSENGER SCOOTER*" MEANS A NONPEDAL VEHICLE THAT:

1. HAS A COCKPIT CONTAINING A SEAT FOR THE OPERATOR AND A PASSENGER;

2. HAS THREE WHEELS, OF WHICH ONE IS 10 INCHES OR MORE IN DIAMETER;

3. HAS A MOTOR:

A. WITH A RATING OF 2.7 BRAKE HORSEPOWER OR LESS; OR

B. IF THE MOTOR IS AN INTERNAL COMBUSTION ENGINE, WITH A CAPACITY OF 50 CUBIC CENTIMETERS PISTON DISPLACEMENT OR LESS; AND

4. IS EQUIPPED WITH AN AUTOMATIC TRANSMISSION.

(II) "MOTORIZED ~~MINIBIKE~~ *PASSENGER SCOOTER*" DOES NOT INCLUDE A VEHICLE THAT HAS BEEN MANUFACTURED FOR OFF–ROAD USE, INCLUDING A MOTORCYCLE AND AN ALL–TERRAIN VEHICLE.

(B) NOTWITHSTANDING ANY OTHER PROVISIONS OF THE MARYLAND VEHICLE LAW REGARDING THE OPERATION OF A VEHICLE ON A HIGHWAY IN THE STATE, IN THE MUNICIPAL BOUNDARIES OF OCEAN CITY, A LICENSED DRIVER MAY OPERATE A MOTORIZED ~~MINIBIKE~~ *PASSENGER SCOOTER* ON:

(1) A LOCAL HIGHWAY; AND

(2) SUBJECT TO SUBSECTION (C) OF THIS SECTION, ANY PORTION OF A STATE HIGHWAY DESIGNATED BY THE STATE HIGHWAY ADMINISTRATION AS A BICYCLE WAY.

(C) THE STATE HIGHWAY ADMINISTRATION MAY PROHIBIT THE OPERATION OF A MOTORIZED ~~MINIBIKE~~ *PASSENGER SCOOTER* ON A BICYCLE WAY UNDER THE JURISDICTION OF THE STATE HIGHWAY ADMINISTRATION IF IT DETERMINES THAT:

(1) AN OCCUPANT OF A MOTORIZED ~~MINIBIKE~~ *PASSENGER SCOOTER* IS PLACED AT AN UNACCEPTABLE RISK OF INJURY ON THE BICYCLE WAY; OR

(2) THE OPERATION OF A MOTORIZED ~~MINIBIKE~~ *PASSENGER SCOOTER* IS A THREAT TO THE SAFETY OR MOBILITY OF OTHERS ALONG THE BICYCLE WAY.

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 10, 2011.

Chapter 214

(House Bill 1167)

AN ACT concerning

Vehicle Laws – ~~Motor Scooters – Definition~~ Motorized Passenger Scooter – Use in Ocean City

FOR the purpose of ~~altering the definition of "motor scooter" under the Maryland Vehicle Law~~ authorizing the use of a "motorized passenger scooter" on certain highways under certain conditions; authorizing the State Highway Administration to prohibit the operation of a motorized passenger scooter on certain highways under certain circumstances; defining certain terms; making this Act an emergency measure; and generally relating to ~~the definition of "motor scooter" under the Maryland Vehicle Law.~~ the use of a motorized passenger scooter in Ocean City.

~~BY repealing and reenacting, with amendments,~~
~~Article – Transportation~~
~~Section 11–134.5~~
~~Annotated Code of Maryland~~
~~(2009 Replacement Volume and 2010 Supplement)~~

BY repealing and reenacting, without amendments,
Article – Transportation
Section ~~21–1201(e)~~ 21–101(a), (c), (d), and (e)
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

BY adding to
Article – Transportation
Section 25–102.2
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

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

Article – Transportation

~~11–134.5.~~

~~(a) "Motor scooter" means a nonpedal vehicle that:~~

~~(1) Has a seat for the operator;~~

~~(2) Has two **OR THREE** wheels, of which one is 10 inches or more in diameter;~~

~~(3) **(I)** **[**Has**]** **FOR A TWO-WHEEL VEHICLE, HAS** a step-through chassis**; OR**~~

~~**(II)** **FOR A THREE-WHEEL VEHICLE, HAS A COCKPIT**;~~

~~(4) Has a motor:~~

~~(i) With a rating of 2.7 brake horsepower or less; or~~

~~(ii) If the motor is an internal combustion engine, with a capacity of 50 cubic centimeters piston displacement or less; and~~

~~(5) Is equipped with an automatic transmission.~~

~~(b) "Motor scooter" does not include a vehicle that has been manufactured for off-road use, including a motorcycle and an all-terrain vehicle.~~

~~21–1201.~~

~~(c) With the exceptions stated in this subtitle, the provisions of this subtitle that are applicable to bicycles apply whenever a bicycle, an EPAMD, or a motor scooter is operated on any highway or whenever a bicycle or an EPAMD is operated on any path set aside for the exclusive use of bicycles.~~

21–101.

(a) In this title and Title 25 of this article the following words have the meanings indicated.

(c) "Bicycle path" means any travelway designed and designated by signing or signing and marking for bicycle use, located within its own right–of–way or in a shared right–of–way, and physically separated from motor vehicle traffic by berm, shoulder, curb, or other similar device.

(d) (1) "Bicycle way" means:

(i) Any trail, path, part of a highway, surfaced or smooth shoulder, or sidewalk; or

(ii) Any other travelway specifically signed, marked, or otherwise designated for bicycle travel.

(2) "Bicycle way" includes:

(i) Bicycle path; and

(ii) Bike lane.

(e) "Bike lane" means any portion of a roadway or shoulder designated for single directional bicycle flow.

25–102.2.

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

(2) (I) "LICENSED DRIVER" MEANS AN INDIVIDUAL WHO HOLDS A DRIVER'S LICENSE OF ANY CLASS ISSUED BY THE STATE OR, IF THE INDIVIDUAL IS A NONRESIDENT OF THE STATE, ISSUED BY ANOTHER STATE OR COUNTRY.

(II) "LICENSED DRIVER" DOES NOT INCLUDE AN INDIVIDUAL WHO HOLDS A LEARNER'S PERMIT OR A PROVISIONAL LICENSE ISSUED BY THE STATE OR, IF THE INDIVIDUAL IS A NONRESIDENT OF THE STATE, THE EQUIVALENT LICENSE ISSUED BY ANOTHER STATE OR COUNTRY.

(3) (I) "MOTORIZED PASSENGER SCOOTER" MEANS A NONPEDAL VEHICLE THAT:

1. HAS A COCKPIT CONTAINING A SEAT FOR THE OPERATOR AND A PASSENGER;

2. HAS THREE WHEELS, OF WHICH ONE IS 10 INCHES OR MORE IN DIAMETER;

3. HAS A MOTOR:

A. WITH A RATING OF 2.7 BRAKE HORSEPOWER OR LESS; OR

B. IF THE MOTOR IS AN INTERNAL COMBUSTION ENGINE, WITH A CAPACITY OF 50 CUBIC CENTIMETERS PISTON DISPLACEMENT OR LESS; AND

4. IS EQUIPPED WITH AN AUTOMATIC TRANSMISSION.

(II) "MOTORIZED PASSENGER SCOOTER" DOES NOT INCLUDE A VEHICLE THAT HAS BEEN MANUFACTURED FOR OFF–ROAD USE, INCLUDING A MOTORCYCLE AND AN ALL–TERRAIN VEHICLE.

(B) NOTWITHSTANDING ANY OTHER PROVISIONS OF THE MARYLAND VEHICLE LAW REGARDING THE OPERATION OF A VEHICLE ON A HIGHWAY IN THE STATE, IN THE MUNICIPAL BOUNDARIES OF OCEAN CITY, A LICENSED DRIVER MAY OPERATE A MOTORIZED PASSENGER SCOOTER ON:

(1) A LOCAL HIGHWAY; AND

(2) SUBJECT TO SUBSECTION (C) OF THIS SECTION, ANY PORTION OF A STATE HIGHWAY DESIGNATED BY THE STATE HIGHWAY ADMINISTRATION AS A BICYCLE WAY.

(C) THE STATE HIGHWAY ADMINISTRATION MAY PROHIBIT THE OPERATION OF A MOTORIZED PASSENGER SCOOTER ON A BICYCLE WAY UNDER THE JURISDICTION OF THE STATE HIGHWAY ADMINISTRATION IF IT DETERMINES THAT:

(1) AN OCCUPANT OF A MOTORIZED PASSENGER SCOOTER IS PLACED AT AN UNACCEPTABLE RISK OF INJURY ON THE BICYCLE WAY; OR

(2) THE OPERATION OF A MOTORIZED PASSENGER SCOOTER IS A THREAT TO THE SAFETY OR MOBILITY OF OTHERS ALONG THE BICYCLE WAY.

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 10, 2011.

Chapter 215

(Senate Bill 308)

AN ACT concerning

~~Public Health –~~ Medical Marijuana – Affirmative Defenses – Maryland Medical Marijuana Model Program Workgroup

FOR the purpose of ~~making marijuana a Schedule II controlled dangerous substance; prohibiting certain persons from distributing or dispensing marijuana to certain persons; providing for a certain penalty; requiring the Department of Health and Mental Hygiene (DHMH) to issue a certain request for proposals to select~~

~~authorized growers of marijuana for medical use; providing for certain requirements of authorized growers; prohibiting an authorized grower from holding any other permit issued under a certain provision of law or being a physician who prepares a certain written certification; requiring DHMH, jointly with the Department of Agriculture, to adopt certain regulations; requiring DHMH to establish a certain registration program to authorize certain entities to distribute marijuana for medical purposes; authorizing DHMH to charge a certain fee for the issuance of a certain permit; requiring certain entities and individuals to apply for a certain criminal history records check and to submit to certain drug testing; requiring the Department to assign a certain identification number to certain permit holders for certain purposes; requiring certain permit holders to display a certain permit at certain times; requiring certain permit holders to report certain changes to DHMH within a certain time period; authorizing a patient or primary caregiver to provide certain reimbursement to certain entities; prohibiting certain individuals issued a certain permit from holding any other permit issued under a certain provision of law or being a physician who prepares a certain written certification; prohibiting a physician that prepares a certain written certification from holding a permit issued under a certain provision of law; requiring DHMH, in consultation with the Board of Pharmacy and stakeholders to develop certain regulations on or before a certain date; requiring DHMH to establish a registry of qualifying patients and primary caregivers and to issue a certain registry identification card to certain individuals under certain circumstances; requiring DHMH to approve or deny an application or renewal for a registry identification card within a certain time period and in a certain manner; requiring a registry identification card to include certain information; requiring an individual who has been issued a registry identification card to provide a certain notification to DHMH under certain circumstances; requiring certain physicians to provide notice to certain patients and the Department regarding the withdrawal of a patient's written certification under certain circumstances; requiring the Department to send a certain notice; requiring certain patients and certain primary caregivers to send to the Department a certain registry identification card under certain circumstances and to dispose of any marijuana within the patient's possession within a certain number of days; requiring DHMH to maintain a confidential list of the individuals to whom DHMH has issued registry identification cards; providing that certain individuals and entities may not be subject to certain penalties or denied certain rights for the medical use of marijuana; providing that the possession of a registry identification card does not constitute probable cause to conduct a certain search by a government agency; providing that an individual may not be subject to arrest or prosecution for certain offenses for being in the presence of the medical use of marijuana; requiring certain pharmacies or dispensing centers to dispense a certain amount of usable marijuana to certain individuals for a certain period of time except under certain circumstances; prohibiting certain pharmacies and dispensing centers from dispensing more than a certain amount of marijuana to certain individuals within a certain period of time except under certain circumstances; authorizing certain pharmacies or dispensing centers to dispense more than a certain~~

~~amount of marijuana to certain individuals under certain circumstances; requiring certain pharmacies and dispensing centers to maintain certain records; requiring qualifying patients, primary caregivers, and certain pharmacies and dispensing centers to follow certain procedures; providing that a patient may be registered at only one pharmacy or dispensing center at a time; establishing procedures for a patient to change an authorized pharmacy or dispensing center; requiring the Secretary of Health and Mental Hygiene to establish a system to monitor the dispensation of marijuana for medical use in the State; providing that a person who knowingly gives certain false information is subject to a certain penalty; requiring certain physicians, pharmacies, and dispensing centers to provide certain information to the Secretary; providing for the construction of this Act; providing that this Act may not be construed to provide immunity to certain persons; providing that this Act may not be construed to require certain insurance reimbursement; requiring DHMH to submit certain reports to the Governor and General Assembly on or before certain dates; requiring DHMH to adopt certain regulations on or before a certain date; authorizing DHMH to accept certain funds; requiring DHMH to use certain fees in a certain manner; requiring DHMH to distribute certain funds to drug rehabilitation programs throughout the State; defining certain terms; and generally relating to marijuana for medical use~~ establishing that, in a prosecution for the use or possession of marijuana, ~~the defendant may introduce and the court shall consider as an affirmative defense certain evidence of medical necessity; requiring a court to enter a finding of not guilty if the court finds that a person possessed marijuana because of a medical necessity; establishing that, in a prosecution for the use of or possession with intent to use drug paraphernalia related to marijuana, the defendant may introduce and the court shall consider as an affirmative defense certain evidence of medical necessity; requiring a court to enter a finding of not guilty if the court finds that a person used or possessed with intent to use drug paraphernalia related to marijuana or manufactured marijuana for personal use because of a medical necessity; requiring the court to make a certain finding of medical necessity if the defendant establishes certain facts by clear and convincing evidence; establishing that certain evidence may include certain statements, records, or testimony~~ *or the use or possession with intent to use drug paraphernalia related to marijuana, it is an affirmative defense that the defendant used or possessed marijuana or drug paraphernalia related to marijuana because the defendant has a certain debilitating medical condition, the debilitating medical condition is severe and resistant to conventional medicine, and marijuana is likely to provide the defendant with therapeutic or palliative relief from the debilitating medical condition; providing that a certain affirmative defense may not be used under certain circumstances*; prohibiting the State Board of Physicians from reprimanding, placing on probation, or suspending or revoking a license of a licensee for providing a patient with a written statement, medical records, or testimony that, in the licensee's professional opinion, the patient is likely to receive therapeutic or palliative relief from marijuana; providing that this Act shall not be deemed to release a licensee from the duty to exercise a professional standard of care when

evaluating a patient's medical condition; requiring the Secretary of Health and Mental Hygiene to convene a Work Group to develop a model program to facilitate patient access to marijuana for medical purposes; providing for the membership and staffing of the Work Group; providing for the designation of the chair of the Work Group; prohibiting a member of the Work Group from receiving certain compensation; authorizing a member of the Work Group to receive certain reimbursement; specifying the duties of the Work Group; requiring the Work Group to make a certain report to certain committees of the General Assembly on or before a certain date; providing for the termination of a certain provision of this Act; *defining certain terms;* and generally relating to medical marijuana.

~~BY renumbering~~
~~Article – Criminal Law~~
~~Section 5–403(d), (e), and (f), respectively~~
~~to be Section 5–403(e), (f), and (g), respectively~~
~~Annotated Code of Maryland~~
~~(2002 Volume and 2010 Supplement)~~

~~BY repealing and reenacting, with amendments,~~
~~Article – Criminal Law~~
~~Section 5–402(d)(1)~~
~~Annotated Code of Maryland~~
~~(2002 Volume and 2010 Supplement)~~

~~BY adding to~~
~~Article – Criminal Law~~
~~Section 5–403(d) and 5–611~~
~~Annotated Code of Maryland~~
~~(2002 Volume and 2010 Supplement)~~

~~BY adding to~~
~~Article – Health – General~~
~~Section 13–3001 through 13–3013 to be under the new subtitle "Subtitle 30. Medical Marijuana"~~
~~Annotated Code of Maryland~~
~~(2009 Replacement Volume and 2010 Supplement)~~

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 5–601 and 5–619
Annotated Code of Maryland
(2002 Volume and 2010 Supplement)

BY adding to
Article – Health Occupations
Section 14–404(c)

Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That ~~Section(s) 5–403(d), (e), and (f), respectively, of Article – Criminal Law of the Annotated Code of Maryland be renumbered to be Section(s) 5–403(e), (f), and (g), respectively.~~

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

Article – Criminal Law

~~5–402.~~

~~(d) (1) A material, compound, mixture, or preparation that contains any of the following hallucinogenic or hallucinogenic–like substances is a substance listed in Schedule I:~~

~~(i) bufotenine;~~

~~(ii) diethyltryptamine;~~

~~(iii) dimethyltryptamine;~~

~~(iv) 4–methyl–2, 5–dimethoxyamphetamine;~~

~~(v) ibogaine;~~

~~(vi) lysergic acid diethylamide;~~

~~[(vii) marijuana;]~~

~~[(viii)] (VII) mescaline;~~

~~[(ix)] (VIII) peyote;~~

~~[(x)] (IX) psilocybin;~~

~~[(xi)] (X) psilocyn;~~

~~[(xii)] (XI) tetrahydrocannabinol;~~

~~[(xiii)] (XII) thiophene analog of phencyclidine;~~

~~[(xiv)] (XIII) 2, 5–dimethoxyamphetamine;~~

~~[(xv)] (XIV) 4–bromo–2, 5–dimethoxyamphetamine;~~

~~[(xvi)] (XV) 4–methoxyamphetamine;~~

~~[(xvii)] (XVI) 3, 4–methylenedioxyamphetamine;~~

~~[(xviii)] (XVII) 3, 4–methylenedioxymethamphetamine (MDMA);~~

~~[(xix)] (XVIII) 5–methoxy–3, 4–methylenedioxyamphetamine;~~

~~[(xx)] (XIX) 3, 4, 5–trimethoxyamphetamine;~~

~~[(xxi)] (XX) N–methyl–3–piperidyl benzilate;~~

~~[(xxii)] (XXI) N–ethyl–3–piperidyl benzilate;~~

~~[(xxiii)] (XXII) N–ethyl–1–phenylcyclohexylamine;~~

~~[(xxiv)] (XXIII) 1–(1–phenylcyclohexyl)–pyrrolidine;~~

~~[(xxv)] (XXIV) 1–(1–(2–thienyl)–cyclohexyl)–piperidine;~~

~~[(xxvi)] (XXV) 1–methyl–4–phenyl–4–propionoxypiperidine (MPPP); and~~

~~[(xxvii)] (XXVI) 1–(2–phenylethyl)–4–phenyl–4–acetyloxypiperidine (PEPAP).~~

~~5–403.~~

~~(D) A MATERIAL, COMPOUND, MIXTURE, OR PREPARATION THAT CONTAINS MARIJUANA IS A SUBSTANCE LISTED IN SCHEDULE II.~~

~~5–611.~~

~~(A) A PERSON WHO IS EMPLOYED BY A PHARMACY OR A DISPENSING CENTER REGISTERED WITH THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE TO DISPENSE MARIJUANA UNDER TITLE 13, SUBTITLE 30 OF THE HEALTH – GENERAL ARTICLE MAY NOT DISTRIBUTE OR DISPENSE MARIJUANA EXCEPT TO A REGISTERED QUALIFYING PATIENT OR A REGISTERED PRIMARY CAREGIVER.~~

~~(B) A PERSON WHO IS REGISTERED WITH THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE AS A QUALIFYING PATIENT OR A PATIENT'S~~

~~PRIMARY CAREGIVER UNDER TITLE 13, SUBTITLE 30 OF THE HEALTH – GENERAL ARTICLE MAY NOT DISTRIBUTE OR DISPENSE MARIJUANA TO ANOTHER PERSON WHO IS NOT A REGISTERED QUALIFYING PATIENT OR PRIMARY CAREGIVER.~~

~~(C) A PERSON WHO VIOLATES SUBSECTION (A) OR (B) OF THIS SECTION IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 7 YEARS OR A FINE NOT EXCEEDING $7,000 OR BOTH.~~

~~Article – Health – General~~

~~SUBTITLE 30. MEDICAL MARIJUANA.~~

~~13–3001.~~

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

~~(B) "AUTHORIZED GROWER" MEANS AN ENTITY THAT:~~

~~(1) IS SELECTED BY THE DEPARTMENT UNDER THIS SUBTITLE TO CULTIVATE MARIJUANA; AND~~

~~(2) MAY DISPENSE MARIJUANA CULTIVATED BY THE ENTITY TO A PHARMACY THAT HOLDS A REGISTRATION PERMIT TO DISTRIBUTE MARIJUANA UNDER THIS SUBTITLE OR TO A DISPENSING CENTER FOR A FEE.~~

~~(C) "BONA FIDE PHYSICIAN–PATIENT RELATIONSHIP" MEANS A RELATIONSHIP IN WHICH THE PHYSICIAN HAS ONGOING RESPONSIBILITY FOR THE ASSESSMENT, CARE, AND TREATMENT OF A PATIENT'S MEDICAL CONDITION.~~

~~(D) "DEBILITATING MEDICAL CONDITION" MEANS A CHRONIC OR DEBILITATING DISEASE OR MEDICAL CONDITION OR THE TREATMENT OF A CHRONIC OR DEBILITATING DISEASE OR MEDICAL CONDITION THAT PRODUCES ONE OR MORE OF THE FOLLOWING:~~

~~(1) CACHEXIA OR WASTING SYNDROME;~~

~~(2) SEVERE OR CHRONIC PAIN;~~

~~(3) SEVERE NAUSEA;~~

~~(4) SEIZURES;~~

~~(5) SEVERE AND PERSISTENT MUSCLE SPASMS; OR~~

~~(6) AS DOCUMENTED BY THE PHYSICIAN WITH WHOM THE PATIENT HAS A BONA FIDE PHYSICIAN–PATIENT RELATIONSHIP, ANY OTHER CONDITION THAT IS SEVERE AND RESISTANT TO CONVENTIONAL MEDICINE.~~

~~(E) "DISPENSING CENTER" MEANS AN ENTITY REGISTERED UNDER THIS SUBTITLE THAT ACQUIRES, POSSESSES, DELIVERS, TRANSFERS, TRANSPORTS, SUPPLIES, OR DISPENSES MARIJUANA OR RELATED SUPPLIES AND EDUCATIONAL MATERIALS.~~

~~(F) "MARIJUANA" HAS THE MEANING STATED IN § 5–101 OF THE CRIMINAL LAW ARTICLE.~~

~~(G) "MEDICAL USE" MEANS THE ACQUISITION, POSSESSION, CULTIVATION, MANUFACTURE, USE, DELIVERY, SALE, TRANSFER, OR TRANSPORTATION OF MARIJUANA OR PARAPHERNALIA RELATING TO THE ADMINISTRATION OF MARIJUANA TO TREAT OR ALLEVIATE A PATIENT'S CONDITION OR SYMPTOMS.~~

~~(H) "PHYSICIAN" MEANS AN INDIVIDUAL LICENSED BY THE STATE BOARD OF PHYSICIANS UNDER TITLE 14 OF THE HEALTH OCCUPATIONS ARTICLE TO PRACTICE MEDICINE.~~

~~(I) (1) "PRIMARY CAREGIVER" MEANS A RESIDENT OF THE STATE WHO:~~

~~(I) IS AT LEAST 18 YEARS OLD;~~

~~(II) HAS AGREED TO ASSIST WITH ONLY ONE QUALIFYING PATIENT'S MEDICAL USE OF MARIJUANA AT A TIME;~~

~~(III) HAS BEEN DESIGNATED AS PRIMARY CAREGIVER ON THE QUALIFYING PATIENT'S APPLICATION OR RENEWAL FOR A REGISTRY IDENTIFICATION CARD OR IN OTHER WRITTEN NOTIFICATION TO THE DEPARTMENT; AND~~

~~(IV) HAS SATISFIED THE CRIMINAL HISTORY RECORDS CHECK REQUIRED UNDER § 13–3004 OF THIS SUBTITLE.~~

~~(2) "PRIMARY CAREGIVER" DOES NOT INCLUDE THE QUALIFYING PATIENT'S PHYSICIAN.~~

~~(J) "QUALIFYING PATIENT" MEANS A RESIDENT OF THE STATE WHO:~~

~~(1) IS AT LEAST 18 YEARS OLD; AND~~

~~(2) HAS BEEN PROVIDED WITH WRITTEN CERTIFICATION BY A PHYSICIAN PURSUANT TO A BONA FIDE PHYSICIAN–PATIENT RELATIONSHIP.~~

~~(K) "REGISTRY IDENTIFICATION CARD" MEANS A DOCUMENT ISSUED BY THE DEPARTMENT THAT IDENTIFIES AN INDIVIDUAL AS A QUALIFYING PATIENT OR PRIMARY CAREGIVER.~~

~~(L) (1) "USABLE MARIJUANA" MEANS THE DRIED LEAVES AND FLOWERS OF MARIJUANA AND ANY MIXTURE OR PREPARATION OF THE DRIED LEAVES AND FLOWERS.~~

~~(2) "USABLE MARIJUANA" DOES NOT INCLUDE THE SEEDS, STALKS, OR ROOTS OF THE PLANT.~~

~~(M) "WRITTEN CERTIFICATION" MEANS A CERTIFICATION THAT MEETS THE REQUIREMENTS OF § 13–3004(A)(2) OF THIS SUBTITLE.~~

~~13–3002.~~

~~(A) THE DEPARTMENT SHALL ISSUE A REQUEST FOR PROPOSALS TO SELECT AUTHORIZED GROWERS OF MARIJUANA FOR MEDICAL USE IN THE STATE.~~

~~(B) (1) THE INITIAL REQUEST FOR PROPOSALS ISSUED UNDER THIS SECTION SHALL BE FOR AN AMOUNT SET BY THE DEPARTMENT IN REGULATIONS.~~

~~(2) THE DEPARTMENT MAY SET THE MINIMUM PROPOSAL AMOUNT FOR ANY SUBSEQUENT REQUEST FOR PROPOSALS ISSUED BY THE DEPARTMENT UNDER THIS SECTION.~~

~~(3) THE DEPARTMENT SHALL SELECT THE FEWEST NUMBER OF AUTHORIZED GROWERS UNDER THIS SECTION AS NECESSARY TO PROVIDE AN APPROPRIATE SUPPLY OF MEDICAL MARIJUANA TO MEET THE ANTICIPATED DEMAND OF ALL QUALIFYING PATIENTS IN THE STATE.~~

~~(C) AN AUTHORIZED GROWER SHALL:~~

~~(1) CULTIVATE THE MARIJUANA IN THE STATE;~~

~~(2) MEET CERTAIN SECURITY AND SAFETY STANDARDS THAT MAY BE VERIFIED BY AN OUTSIDE ENTITY AS APPROVED BY THE DEPARTMENT;~~

~~(3) SUBMIT TO PHARMACOLOGICAL TESTING OF THE MARIJUANA TO ENSURE:~~

~~(I) CONSISTENCY OF THE MARIJUANA CULTIVATED UNDER THIS SUBTITLE; AND~~

~~(II) THAT THERE IS NO ADULTERATION OR CONTAMINATION OF THE MARIJUANA; AND~~

~~(4) SUBMIT TO A CRIMINAL HISTORY RECORDS CHECK AND TO PERIODIC DRUG TESTING, AS DETERMINED BY THE DEPARTMENT IN REGULATIONS, FOR ANY EMPLOYEE OF THE AUTHORIZED GROWER AS PROVIDED FOR IN THIS SUBTITLE.~~

~~(D) AN AUTHORIZED GROWER MAY NOT:~~

~~(1) HOLD ANY OTHER PERMIT ISSUED UNDER THIS SUBTITLE; OR~~

~~(2) BE A PHYSICIAN WHO PREPARES A WRITTEN CERTIFICATION SUBMITTED TO THE DEPARTMENT UNDER § 13–3004 OF THIS SUBTITLE.~~

~~(E) (1) AN INDIVIDUAL WHO HAS BEEN CONVICTED OF POSSESSION OR SALE OF A CONTROLLED DANGEROUS SUBSTANCE MAY NOT BE AN EMPLOYEE OF AN AUTHORIZED GROWER, UNLESS THE CONVICTION WAS FOR A VIOLATION OF FEDERAL LAW RELATING TO POSSESSION OR SALE OF MARIJUANA FOR CONDUCT THAT IS LEGAL UNDER THIS SUBTITLE.~~

~~(2) AN INDIVIDUAL WHO HAS BEEN CONVICTED OF A FELONY MAY NOT BE AN EMPLOYEE OF AN AUTHORIZED GROWER.~~

~~(F) THE DEPARTMENT, JOINTLY WITH THE DEPARTMENT OF AGRICULTURE, SHALL ADOPT REGULATIONS TO BE FOLLOWED BY AN AUTHORIZED GROWER, INCLUDING:~~

~~(1) THE STANDARDS TO BE USED IN CULTIVATING THE MARIJUANA;~~

~~(2) THE SECURITY FEATURES TO BE REQUIRED ON THE PREMISES AND IN TRANSPORT TO AN ENTITY THAT OBTAINS A PERMIT TO DISPENSE MARIJUANA;~~

~~(3) THE LOCATION OF THE AUTHORIZED GROWER, INCLUDING THE CONSIDERATION OF THE PROXIMITY OF THE ENTITY TO SCHOOLS; AND~~

~~(4) THE ESTABLISHMENT OF A SYSTEM TO TRACK THE AMOUNT OF MARIJUANA DISPENSED AND TO WHOM THE MARIJUANA IS DISPENSED.~~

~~13–3003.~~

~~(A) (1) (I) THE DEPARTMENT SHALL ESTABLISH A REGISTRATION PROGRAM TO AUTHORIZE ENTITIES TO DISTRIBUTE MARIJUANA FOR MEDICAL PURPOSES.~~

~~(II) THE DEPARTMENT SHALL CHARGE A REASONABLE FEE FOR THE ISSUANCE OF A REGISTRATION PERMIT UNDER THIS SECTION THAT IS BASED ON THE AMOUNT OF THE MARIJUANA DISTRIBUTED BY THE ENTITY.~~

~~(2) THE FOLLOWING ENTITIES MAY REGISTER WITH THE DEPARTMENT TO DISTRIBUTE MARIJUANA FOR MEDICAL PURPOSES:~~

~~(I) A PHARMACY THAT HOLDS A PHARMACY PERMIT ISSUED BY THE BOARD OF PHARMACY; OR~~

~~(II) A DISPENSING CENTER AS PROVIDED FOR IN THIS SECTION.~~

~~(B) THE DEPARTMENT SHALL REQUIRE AN APPLICANT FOR A PERMIT TO PROVIDE THE FOLLOWING INFORMATION TO THE DEPARTMENT:~~

~~(1) THE NAME OF THE INDIVIDUAL WHO IS RESPONSIBLE FOR OPERATING THE PHARMACY OR DISPENSING CENTER;~~

~~(2) THE NAMES OF ANY EMPLOYEES, WHETHER VOLUNTEER OR PAID;~~

~~(3) THE LOCATION OF THE PHARMACY OR DISPENSING CENTER;~~

~~(4) THE SECURITY MEASURES THAT WILL BE FOLLOWED BY THE PHARMACY OR DISPENSING CENTER IN RECEIVING, STORING, AND DISPENSING THE MARIJUANA;~~

~~(5) THE METHOD BY WHICH THE PHARMACY OR DISPENSING CENTER WILL ACCOUNT FOR THE AMOUNT OF MARIJUANA RECEIVED AND DISPENSED; AND~~

~~(6) ANY OTHER INFORMATION THAT THE DEPARTMENT CONSIDERS NECESSARY.~~

~~(C) (1) AN ENTITY SEEKING TO DISPENSE OR CULTIVATE MARIJUANA UNDER THIS SUBTITLE SHALL APPLY TO THE CENTRAL REPOSITORY FOR A STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECK FOR EACH EMPLOYEE OF THE ENTITY.~~

~~(2) AS PART OF THE APPLICATION FOR THE CRIMINAL HISTORY RECORDS CHECK, THE ENTITY SHALL SUBMIT TO THE CENTRAL REPOSITORY:~~

~~(I) TWO COMPLETE SETS OF THE EMPLOYEE'S LEGIBLE FINGERPRINTS TAKEN ON FORMS APPROVED BY THE DIRECTOR OF THE CENTRAL REPOSITORY AND THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION;~~

~~(II) ANY FEE REQUIRED UNDER STATE LAW FOR ACCESS TO STATE CRIMINAL HISTORY RECORDS; AND~~

~~(III) THE MANDATORY PROCESSING FEE REQUIRED BY THE FEDERAL BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORDS CHECK.~~

~~(3) THE CENTRAL REPOSITORY SHALL FORWARD TO THE EMPLOYEE AND THE DEPARTMENT THE EMPLOYEE'S CRIMINAL HISTORY RECORD INFORMATION.~~

~~(4) INFORMATION OBTAINED FROM THE CENTRAL REPOSITORY UNDER THIS SUBSECTION IS CONFIDENTIAL AND MAY NOT BE DISSEMINATED.~~

~~(5) (I) AN INDIVIDUAL WHO HAS BEEN CONVICTED OF POSSESSION OR SALE OF A CONTROLLED DANGEROUS SUBSTANCE MAY NOT BE ISSUED A PERMIT TO OPERATE A DISPENSING CENTER OR PHARMACY OR BE AN EMPLOYEE OF A DISPENSING CENTER OR PHARMACY, UNLESS THE CONVICTION WAS FOR A VIOLATION OF FEDERAL LAW RELATING TO POSSESSION OR SALE OF MARIJUANA FOR CONDUCT THAT IS LEGAL UNDER THIS SUBTITLE.~~

~~(II) AN INDIVIDUAL WHO HAS BEEN CONVICTED OF A FELONY MAY NOT BE ISSUED A PERMIT TO OPERATE A DISPENSING CENTER OR PHARMACY OR BE AN EMPLOYEE OF A DISPENSING CENTER OR PHARMACY.~~

~~(D) AN ENTITY SEEKING TO DISPENSE OR CULTIVATE MARIJUANA UNDER THIS SUBTITLE SHALL REQUIRE EACH EMPLOYEE OF THE ENTITY TO~~

~~SUBMIT TO PERIODIC DRUG TESTING AS DETERMINED BY THE DEPARTMENT IN REGULATIONS.~~

~~(E) (1) THE DEPARTMENT SHALL ISSUE A PERMIT TO AN INDIVIDUAL TO OPERATE A DISPENSING CENTER OR PHARMACY IF:~~

~~(I) THE REQUIREMENTS OF THIS SECTION ARE MET; AND~~

~~(II) THE DEPARTMENT HAS VERIFIED THE INFORMATION CONTAINED IN THE APPLICATION.~~

~~(2) THE DEPARTMENT SHALL APPROVE OR DENY AN APPLICATION WITHIN 60 DAYS AFTER RECEIPT OF A COMPLETED APPLICATION.~~

~~(3) (I) THE DEPARTMENT SHALL ASSIGN TO EACH INDIVIDUAL WHO HAS BEEN ISSUED A PERMIT UNDER THIS SECTION A UNIQUE DISPENSING CENTER OR PHARMACY IDENTIFICATION NUMBER.~~

~~(II) THE IDENTIFICATION NUMBER ASSIGNED UNDER THIS PARAGRAPH SHALL:~~

~~1. BE PRINTED ON A REGISTRY IDENTIFICATION CARD ISSUED UNDER § 13–3004 OF THIS SUBTITLE; AND~~

~~2. IDENTIFY THE ONLY DISPENSING CENTER OR PHARMACY FROM WHICH THE REGISTRY IDENTIFICATION CARD HOLDER IS AUTHORIZED TO OBTAIN MARIJUANA.~~

~~(4) A DENIAL OF AN APPLICATION SHALL BE CONSIDERED A FINAL AGENCY DECISION FOR PURPOSES OF JUDICIAL REVIEW UNDER THE ADMINISTRATIVE PROCEDURE ACT.~~

~~(F) AN INDIVIDUAL WHO HAS BEEN ISSUED A PERMIT UNDER THIS SECTION SHALL DISPLAY THE PERMIT AT THE PHARMACY OR DISPENSING CENTER AT ALL TIMES WHEN THE PHARMACY OR DISPENSING CENTER IS IN POSSESSION OF THE MARIJUANA.~~

~~(G) A PERMIT HOLDER SHALL REPORT ANY CHANGE IN INFORMATION TO THE DEPARTMENT NO LATER THAN 10 DAYS AFTER THE CHANGE OR THE PERMIT WILL BE CONSIDERED VOID.~~

~~(H) A PATIENT OR A PRIMARY CAREGIVER OF THE PATIENT MAY REIMBURSE THE PHARMACY OR DISPENSING CENTER FOR REASONABLE COSTS ASSOCIATED WITH THE PRODUCTION OF MARIJUANA FOR THE CARDHOLDER.~~

~~(I) AN INDIVIDUAL WHO HAS BEEN ISSUED A PERMIT UNDER THIS SECTION MAY NOT:~~

~~(1) HOLD ANY OTHER PERMIT ISSUED UNDER THIS SUBTITLE; OR~~

~~(2) BE A PHYSICIAN WHO PREPARES A WRITTEN CERTIFICATION SUBMITTED TO THE DEPARTMENT UNDER § 13–3004 OF THIS SUBTITLE.~~

~~(J) ON OR BEFORE JULY 1, 2012, THE DEPARTMENT, IN CONSULTATION WITH THE BOARD OF PHARMACY AND STAKEHOLDERS, SHALL DEVELOP REGULATIONS REGARDING THE PROCEDURES TO BE FOLLOWED BY PHARMACIES AND DISPENSING CENTERS IN DISPENSING MARIJUANA UNDER THIS SUBTITLE.~~

~~13–3004.~~

~~(A) (1) THE DEPARTMENT SHALL ESTABLISH A REGISTRY OF QUALIFYING PATIENTS AND SHALL ISSUE A REGISTRY IDENTIFICATION CARD WITH A PHOTOGRAPH TO A QUALIFYING PATIENT WHO SUBMITS THE FOLLOWING INFORMATION TO THE DEPARTMENT:~~

~~(I) WRITTEN CERTIFICATION THAT THE INDIVIDUAL IS A QUALIFYING PATIENT;~~

~~(II) AN APPLICATION OR RENEWAL FEE THAT MAY BE BASED ON A SLIDING SCALE AS DETERMINED BY THE SECRETARY;~~

~~(III) THE NAME, ADDRESS, AND DATE OF BIRTH OF THE QUALIFYING PATIENT, INCLUDING DOCUMENTATION ESTABLISHING PROOF OF IDENTITY AND RESIDENCY TO THE SATISFACTION OF THE DEPARTMENT;~~

~~(IV) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE QUALIFYING PATIENT'S PHYSICIAN WHO PREPARED THE WRITTEN CERTIFICATION SUBMITTED UNDER ITEM (I) OF THIS PARAGRAPH; AND~~

~~(V) THE NAME, ADDRESS, AND DATE OF BIRTH OF THE QUALIFYING PATIENT'S PRIMARY CAREGIVER, IF ANY.~~

~~(2) THE WRITTEN CERTIFICATION REQUIRED UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION SHALL:~~

~~(I) BE PREPARED BY A PHYSICIAN:~~

~~1. WITH WHOM THE PATIENT HAS A BONA FIDE PHYSICIAN–PATIENT RELATIONSHIP;~~

~~2. WHO IS THE PRIMARY CARE PHYSICIAN, HOSPICE PHYSICIAN, OR PHYSICIAN RESPONSIBLE FOR ONGOING TREATMENT OF THE PATIENT'S DEBILITATING MEDICAL CONDITION; AND~~

~~3. WHOSE TREATMENT OF THE PATIENT MAY NOT BE LIMITED TO AUTHORIZATION FOR THE PATIENT TO USE MEDICAL MARIJUANA OR CONSULTATION FOR THAT PURPOSE; AND~~

~~(II) INCLUDE A STATEMENT BY THE PHYSICIAN THAT:~~

~~1. IN THE PHYSICIAN'S PROFESSIONAL OPINION, AFTER HAVING COMPLETED A FULL ASSESSMENT OF THE PATIENT'S MEDICAL HISTORY AND CURRENT MEDICAL CONDITION, THE PATIENT HAS A DEBILITATING MEDICAL CONDITION FOR WHICH:~~

~~A. RECOGNIZED DRUGS OR TREATMENTS WOULD NOT BE EFFECTIVE; OR~~

~~B. OTHER TREATMENT OPTIONS HAVE MORE SERIOUS SIDE EFFECTS OR A GREATER RISK OF ADDICTION; AND~~

~~2. THE POTENTIAL BENEFITS OF THE MEDICAL USE OF MARIJUANA WOULD LIKELY OUTWEIGH THE HEALTH RISKS FOR THE PATIENT.~~

~~(3) A PHYSICIAN WHO PREPARES A WRITTEN CERTIFICATION SUBMITTED UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION MAY NOT HOLD ANY PERMIT ISSUED UNDER THIS SUBTITLE.~~

~~(B) THE DEPARTMENT SHALL ESTABLISH A REGISTRY OF PRIMARY CAREGIVERS AND SHALL ISSUE A REGISTRY IDENTIFICATION CARD TO A PRIMARY CAREGIVER WHO SUBMITS THE FOLLOWING INFORMATION TO THE DEPARTMENT:~~

~~(1) AN APPLICATION OR RENEWAL FEE THAT MAY BE BASED ON A SLIDING SCALE AS DETERMINED BY THE SECRETARY;~~

~~(2) THE NAME, ADDRESS, AND DATE OF BIRTH OF THE QUALIFYING PATIENT, INCLUDING DOCUMENTATION ESTABLISHING PROOF OF IDENTITY AND RESIDENCY TO THE SATISFACTION OF THE DEPARTMENT;~~

~~(3) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE PATIENT'S PHYSICIAN WHO PREPARED THE WRITTEN CERTIFICATION SUBMITTED FOR THE PATIENT UNDER SUBSECTION (A) OF THIS SECTION; AND~~

~~(4) THE NAME, ADDRESS, AND DATE OF BIRTH OF THE PRIMARY CAREGIVER.~~

~~(C) BEFORE ISSUING AN IDENTIFICATION CARD, THE DEPARTMENT SHALL:~~

~~(1) VERIFY THE INFORMATION CONTAINED IN THE APPLICATION OR RENEWAL FORM SUBMITTED UNDER THIS SECTION; AND~~

~~(2) REQUIRE THE QUALIFYING PATIENT OR THE PRIMARY CAREGIVER TO CHOOSE THE DISPENSING CENTER OR PHARMACY FROM WHICH THE REGISTRANT WILL BE OBTAINING THE MARIJUANA.~~

~~(D) (1) THE DEPARTMENT SHALL:~~

~~(I) APPROVE OR DENY AN APPLICATION OR RENEWAL WITHIN 30 DAYS OF RECEIPT OF THE APPLICATION OR RENEWAL; AND~~

~~(II) ISSUE A REGISTRY IDENTIFICATION CARD WITHIN 5 DAYS OF APPROVING THE APPLICATION OR RENEWAL.~~

~~(2) THE DEPARTMENT MAY DENY AN APPLICATION OR RENEWAL ONLY IF THE APPLICANT FAILS TO PROVIDE THE INFORMATION REQUIRED UNDER THIS SECTION OR IF THE DEPARTMENT DETERMINES THAT THE INFORMATION WAS FALSIFIED.~~

~~(3) DENIAL OF THE APPLICATION SHALL BE CONSIDERED A FINAL AGENCY DECISION FOR PURPOSES OF JUDICIAL REVIEW UNDER THE ADMINISTRATIVE PROCEDURE ACT.~~

~~(E) (1) THE DEPARTMENT SHALL REQUIRE EACH APPLICANT SEEKING TO SERVE AS PRIMARY CAREGIVER TO APPLY TO THE CENTRAL REPOSITORY FOR A STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECK.~~

~~(2) THE DEPARTMENT SHALL PROVISIONALLY APPROVE AN APPLICATION TO SERVE AS PRIMARY CAREGIVER PENDING THE RESULTS OF A CRIMINAL HISTORY RECORDS CHECK.~~

~~(3) AS PART OF THE APPLICATION FOR THE CRIMINAL HISTORY RECORDS CHECK, THE APPLICANT SHALL SUBMIT TO THE CENTRAL REPOSITORY:~~

~~(I) TWO COMPLETE SETS OF THE APPLICANT'S LEGIBLE FINGERPRINTS TAKEN ON FORMS APPROVED BY THE DIRECTOR OF THE CENTRAL REPOSITORY AND THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION;~~

~~(II) ANY FEE REQUIRED UNDER STATE LAW FOR ACCESS TO STATE CRIMINAL HISTORY RECORDS; AND~~

~~(III) THE MANDATORY PROCESSING FEE REQUIRED BY THE FEDERAL BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORDS CHECK.~~

~~(4) THE CENTRAL REPOSITORY SHALL FORWARD TO THE APPLICANT AND TO THE DEPARTMENT THE EMPLOYEE'S CRIMINAL HISTORY RECORD INFORMATION.~~

~~(5) INFORMATION OBTAINED FROM THE CENTRAL REPOSITORY UNDER THIS SUBSECTION IS CONFIDENTIAL AND MAY NOT BE DISSEMINATED.~~

~~(6) (I) AN APPLICANT WHO HAS BEEN CONVICTED OF POSSESSION OR SALE OF A CONTROLLED DANGEROUS SUBSTANCE MAY NOT SERVE AS A PRIMARY CAREGIVER, UNLESS THE CONVICTION OCCURRED ON OR AFTER OCTOBER 1, 2011, AND WAS FOR A VIOLATION OF FEDERAL LAW RELATING TO POSSESSION OR SALE OF MARIJUANA FOR CONDUCT THAT IS LEGAL UNDER THIS SUBTITLE.~~

~~(II) AN INDIVIDUAL WHO HAS BEEN CONVICTED OF A FELONY MAY NOT BE ISSUED A REGISTRY IDENTIFICATION CARD TO SERVE AS A PRIMARY CAREGIVER.~~

~~(7) ON RECEIPT OF THE CRIMINAL HISTORY RECORDS CHECK FROM THE CENTRAL REPOSITORY, THE SECRETARY SHALL NOTIFY THE APPLICANT IN WRITING OF THE APPLICANT'S QUALIFICATION OR DISQUALIFICATION FOR SERVING AS A PRIMARY CAREGIVER.~~

~~(F) (1) A REGISTRY IDENTIFICATION CARD SHALL CONTAIN THE FOLLOWING INFORMATION:~~

~~(I) THE NAME, ADDRESS, AND DATE OF BIRTH OF THE QUALIFYING PATIENT;~~

~~(II) THE NAME, ADDRESS, AND DATE OF BIRTH OF THE QUALIFYING PATIENT'S PRIMARY CAREGIVER, IF ANY;~~

~~(III) THE DATE OF ISSUANCE AND EXPIRATION DATE OF THE REGISTRY IDENTIFICATION CARD;~~

~~(IV) PHOTO IDENTIFICATION OF THE CARDHOLDER;~~

~~(V) THE IDENTIFICATION CODE OF THE AUTHORIZED DISPENSING CENTER OR PHARMACY; AND~~

~~(VI) ANY OTHER INFORMATION PROVIDED FOR BY THE DEPARTMENT IN REGULATIONS.~~

~~(2) (I) A PATIENT WHO HAS BEEN ISSUED A REGISTRY IDENTIFICATION CARD SHALL NOTIFY THE DEPARTMENT OF ANY CHANGE IN THE PATIENT'S NAME, ADDRESS, PHYSICIAN OR PRIMARY CAREGIVER, OR CHANGE IN STATUS OF THE PATIENT'S DEBILITATING MEDICAL CONDITION WITHIN 10 DAYS OF THE CHANGE OR THE REGISTRY IDENTIFICATION CARD SHALL BE CONSIDERED VOID.~~

~~(II) A PRIMARY CAREGIVER WHO HAS BEEN ISSUED A REGISTRY IDENTIFICATION CARD SHALL NOTIFY THE DEPARTMENT OF ANY CHANGE IN THE PRIMARY CAREGIVER'S NAME OR ADDRESS WITHIN 10 DAYS OF THE CHANGE OR THE REGISTRY IDENTIFICATION CARD SHALL BE CONSIDERED VOID.~~

~~(III) 1. IF THERE IS A CHANGE IN THE STATUS OF A PATIENT'S DEBILITATING MEDICAL CONDITION THAT REQUIRES A PHYSICIAN TO WITHDRAW THE PATIENT'S WRITTEN CERTIFICATION, THE PHYSICIAN SHALL PROVIDE WRITTEN NOTICE TO THE PATIENT AND THE DEPARTMENT WITHIN 10 DAYS OF THE CHANGE.~~

~~2. ON RECEIPT OF A PHYSICIAN'S NOTICE OF WITHDRAWAL OF A PATIENT'S WRITTEN CERTIFICATION, THE DEPARTMENT SHALL:~~

~~A. REVOKE THE PATIENT'S AND, IF APPLICABLE, THE PATIENT'S PRIMARY CAREGIVER'S REGISTRY IDENTIFICATION CARD; AND~~

~~B. SEND THE PATIENT AND, IF APPLICABLE, THE PATIENT'S PRIMARY CAREGIVER A REVOCATION NOTICE REQUIRING THE IMMEDIATE RETURN OF ALL REGISTRY IDENTIFICATION CARDS.~~

~~3. ON RECEIPT OF A REVOCATION NOTICE UNDER SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, A PATIENT AND, IF APPLICABLE, A PATIENT'S PRIMARY CAREGIVER SHALL:~~

~~A. IMMEDIATELY SEND THE DEPARTMENT THE REGISTRY IDENTIFICATION CARD OF THE PATIENT AND, IF APPLICABLE, THE PATIENT'S PRIMARY CAREGIVER; AND~~

~~B. HAVE 15 DAYS TO DISPOSE OF ANY MARIJUANA IN THE PATIENT'S POSSESSION.~~

~~(G) (1) THE DEPARTMENT SHALL MAINTAIN A CONFIDENTIAL LIST OF THE INDIVIDUALS TO WHOM THE DEPARTMENT HAS ISSUED REGISTRY IDENTIFICATION CARDS AND THE AUTHORIZED DISPENSING CENTER OR PHARMACY OF EACH REGISTERED QUALIFYING PATIENT.~~

~~(2) THE NAMES OF INDIVIDUALS AND OTHER IDENTIFYING INFORMATION OF THE LIST:~~

~~(I) ARE CONFIDENTIAL;~~

~~(II) MAY NOT BE CONSIDERED A PUBLIC RECORD; AND~~

~~(III) MAY NOT BE DISCLOSED EXCEPT TO:~~

~~1. AUTHORIZED EMPLOYEES OF THE DEPARTMENT AS NECESSARY TO PERFORM OFFICIAL DUTIES OF THE DEPARTMENT; OR~~

~~2. AUTHORIZED EMPLOYEES OF STATE OR LOCAL LAW ENFORCEMENT, TO VERIFY THAT AN INDIVIDUAL WHO IS ENGAGED IN THE SUSPECTED OR ALLEGED MEDICAL USE OF MARIJUANA IS LAWFULLY IN POSSESSION OF A REGISTRY IDENTIFICATION CARD.~~

~~(H) A REGISTRY IDENTIFICATION CARD IS VALID FOR 1 YEAR.~~

~~13–3005.~~

~~(A) ANY OF THE FOLLOWING PERSONS ACTING IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE MAY NOT BE SUBJECT TO ARREST, PROSECUTION, OR ANY CIVIL OR ADMINISTRATIVE PENALTY, INCLUDING CIVIL PENALTY OR DISCIPLINARY ACTION BY A PROFESSIONAL LICENSING BOARD, NOR BE DENIED ANY RIGHT OR PRIVILEGE, FOR THE MEDICAL USE OF MARIJUANA:~~

~~(1) A QUALIFYING PATIENT OR A PATIENT'S PRIMARY CAREGIVER WHO:~~

~~(I) HOLDS A VALID REGISTRY IDENTIFICATION CARD; OR~~

~~(II) HOLDS A VALID REGISTRY IDENTIFICATION CARD AND IS IN POSSESSION OF AN AUTHORIZED AMOUNT OF USABLE MARIJUANA PURCHASED IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE;~~

~~(2) AN AUTHORIZED GROWER OR AN AUTHORIZED GROWER'S EMPLOYEE;~~

~~(3) A PHARMACY THAT HOLDS A REGISTRATION PERMIT UNDER THIS SUBTITLE OR A DISPENSING CENTER OR AN EMPLOYEE OF A PHARMACY OR DISPENSING CENTER;~~

~~(4) A PHYSICIAN; OR~~

~~(5) ANY OTHER PERSON.~~

~~(B) THE POSSESSION OF, OR THE APPLICATION FOR, A REGISTRY IDENTIFICATION CARD DOES NOT ALONE CONSTITUTE PROBABLE CAUSE TO SEARCH AN INDIVIDUAL OR THE PROPERTY OF AN INDIVIDUAL POSSESSING OR APPLYING FOR THE REGISTRY IDENTIFICATION CARD, OR OTHERWISE SUBJECT THE INDIVIDUAL OR THE PROPERTY OF THE INDIVIDUAL TO INSPECTION BY A GOVERNMENTAL UNIT.~~

~~(C) AN INDIVIDUAL MAY NOT BE SUBJECT TO ARREST OR PROSECUTION FOR CONSTRUCTIVE POSSESSION, CONSPIRACY, OR ANY OTHER OFFENSE FOR BEING IN THE PRESENCE OR VICINITY OF THE MEDICAL USE OF MARIJUANA AS ALLOWED UNDER THIS SUBTITLE.~~

~~13–3006.~~

~~(A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, AN AGENT OF A PHARMACY THAT HOLDS A REGISTRATION PERMIT UNDER THIS SUBTITLE OR A DISPENSING CENTER MAY DISPENSE AN AMOUNT OF USABLE MARIJUANA THAT DOES NOT EXCEED 6 OUNCES FOR A 30–DAY PERIOD TO A REGISTERED QUALIFYING PATIENT OR THE QUALIFYING PATIENT'S PRIMARY CAREGIVER IF THE INDIVIDUAL:~~

~~(I) PRESENTS A VALID REGISTRY IDENTIFICATION CARD WITH THE IDENTIFICATION CODE OF THE PHARMACY OR DISPENSING CENTER; AND~~

~~(II) IS REGISTERED WITH THAT PHARMACY OR DISPENSING CENTER WITH THE DEPARTMENT AS THE PATIENT'S AUTHORIZED PHARMACY OR DISPENSING CENTER.~~

~~(2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, AN APPROVED PHARMACY OR DISPENSING CENTER MAY NOT DISPENSE MORE THAN 6 OUNCES OF USABLE MARIJUANA TO A REGISTERED QUALIFYING PATIENT OR THE PATIENT'S REGISTERED PRIMARY CAREGIVER IN A SINGLE 30–DAY PERIOD.~~

~~(3) AN APPROVED PHARMACY OR DISPENSING CENTER MAY DISPENSE MORE THAN 6 OUNCES OF USABLE MARIJUANA TO A REGISTERED QUALIFYING PATIENT OR A PATIENT'S PRIMARY CAREGIVER IF THE PATIENT OR THE PATIENT'S PRIMARY CAREGIVER PRESENTS THE AGENT OF THE PATIENT'S DESIGNATED APPROVED PHARMACY OR DISPENSING CENTER A SIGNED, WRITTEN CERTIFICATION STATING THAT THE PATIENT NEEDS A SPECIFIED AMOUNT OF MARIJUANA THAT IS GREATER THAN 6 OUNCES FOR A SINGLE 30–DAY PERIOD.~~

~~(B) ON RECEIPT OF THE INFORMATION REQUIRED UNDER SUBSECTION (A) OF THIS SECTION, THE APPROVED PHARMACY OR DISPENSING CENTER SHALL VERIFY AND LOG THE INFORMATION PRESENTED.~~

~~(C) (1) EACH APPROVED PHARMACY AND DISPENSING CENTER SHALL MAINTAIN INTERNAL RECORDS OF EACH MARIJUANA DISPENSING TRANSACTION.~~

~~(2) THE RECORDS REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE:~~

~~(I) THE AMOUNT OF MARIJUANA DISPENSED;~~

~~(II) THE REGISTRY IDENTIFICATION NUMBER OF THE INDIVIDUAL TO WHOM THE MARIJUANA WAS DISPENSED AND WHETHER THAT INDIVIDUAL WAS A QUALIFYING PATIENT OR THE QUALIFYING PATIENT'S PRIMARY CAREGIVER; AND~~

~~(III) THE DATE AND TIME OF THE TRANSACTION.~~

~~(3) A RECORD MAINTAINED UNDER THIS SUBSECTION:~~

~~(I) IS CONFIDENTIAL; AND~~

~~(II) MAY NOT INCLUDE NAMES OR OTHER PERSONAL IDENTIFYING INFORMATION.~~

~~(D) (1) A PATIENT MAY BE REGISTERED AT ONLY ONE PHARMACY OR DISPENSING CENTER AT ANY TIME.~~

~~(2) (I) IF A REGISTERED QUALIFYING PATIENT NEEDS TO CHANGE TO A DIFFERENT AUTHORIZED PHARMACY OR DISPENSING CENTER, THE PATIENT SHALL:~~

~~1. REGISTER THE CHANGE WITH THE DEPARTMENT; AND~~

~~2. PAY A $15 FEE TO THE DEPARTMENT.~~

~~(II) WITHIN 5 BUSINESS DAYS AFTER RECEIVING A REQUEST TO CHANGE A PATIENT'S DESIGNATED PHARMACY OR DISPENSING CENTER UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE DEPARTMENT SHALL:~~

~~1. UPDATE THE REGISTERED QUALIFYING PATIENT'S RECORD AND THE PATIENT'S PRIMARY CAREGIVER RECORD, IF ANY; AND~~

~~2. NOTIFY THE PATIENT THAT THE DESIGNATION CHANGE REQUEST HAS BEEN PROCESSED.~~

~~(III) ON RECEIPT OF A PATIENT'S OLD REGISTRY IDENTIFICATION CARD, THE DEPARTMENT SHALL ISSUE A NEW REGISTRY IDENTIFICATION CARD TO A PATIENT WHO REGISTERS WITH A DIFFERENT AUTHORIZED PHARMACY OR DISPENSING CENTER UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.~~

~~(IV) THE DEPARTMENT MAY LIMIT THE NUMBER OF TIMES A PATIENT MAY CHANGE A DESIGNATION OF A PHARMACY OR DISPENSING CENTER TO ONE TIME EVERY 30 DAYS.~~

~~13–3007.~~

~~THE SECRETARY SHALL ESTABLISH A SYSTEM TO MONITOR THE DISPENSATION OF MARIJUANA IN THE STATE FOR MEDICAL USE AS AUTHORIZED UNDER THIS SUBTITLE.~~

~~13–3008.~~

~~A PERSON WHO KNOWINGLY GIVES FALSE INFORMATION OR MAKES A MATERIAL MISSTATEMENT IN AN APPLICATION FOR REGISTRATION OR A PERMIT OR IN AN APPLICATION FOR A RENEWAL OF A REGISTRATION OR PERMIT UNDER THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING $1,000 OR BOTH.~~

~~13–3009.~~

~~(A) THIS SUBTITLE MAY NOT BE CONSTRUED TO AUTHORIZE ANY INDIVIDUAL TO:~~

~~(1) OPERATE, NAVIGATE, OR BE IN ACTUAL PHYSICAL CONTROL OF ANY MOTOR VEHICLE, AIRCRAFT, OR BOAT WHILE UNDER THE INFLUENCE OF MARIJUANA;~~

~~(2) SMOKE MARIJUANA IN ANY PUBLIC PLACE;~~

~~(3) SMOKE MARIJUANA IN A MOTOR VEHICLE; OR~~

~~(4) SMOKE MARIJUANA ON PRIVATE PROPERTY THAT:~~

~~(I) 1. IS RENTED FROM A LANDLORD; AND~~

~~2. IS SUBJECT TO A POLICY THAT PROHIBITS THE SMOKING OF MARIJUANA ON THE PROPERTY; OR~~

~~(II) IS SUBJECT TO A POLICY THAT PROHIBITS THE SMOKING OF MARIJUANA ON THE PROPERTY OF AN ATTACHED DWELLING ADOPTED BY ONE OF THE FOLLOWING ENTITIES:~~

~~1. THE BOARD OF DIRECTORS OF THE COUNCIL OF UNIT OWNERS OF A CONDOMINIUM REGIME; OR~~

~~2. THE GOVERNING BODY OF A HOMEOWNERS ASSOCIATION.~~

~~(B) THIS SUBTITLE MAY NOT BE CONSTRUED TO PROVIDE IMMUNITY TO A PERSON WHO VIOLATES THE PROVISIONS OF THIS SUBTITLE FROM CRIMINAL PROSECUTION FOR A VIOLATION OF ANY LAW PROHIBITING OR REGULATING THE USE, POSSESSION, DISPENSING, DISTRIBUTION, OR PROMOTION OF~~

~~CONTROLLED DANGEROUS SUBSTANCES, DANGEROUS DRUGS, DETRIMENTAL DRUGS, OR HARMFUL DRUGS OR ANY CONSPIRACY OR ATTEMPT TO COMMIT ANY OF THOSE OFFENSES.~~

~~13–3010.~~

~~NOTHING IN THIS SUBTITLE SHALL BE CONSTRUED TO REQUIRE A PUBLIC OR PRIVATE HEALTH INSURER TO REIMBURSE AN INDIVIDUAL FOR THE COSTS ASSOCIATED WITH THE MEDICAL USE OF MARIJUANA.~~

~~13–3011.~~

~~(A) BEGINNING OCTOBER 1, 2012, AND EACH OCTOBER 1 THEREAFTER, THE DEPARTMENT SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON:~~

~~(1) THE NUMBER OF APPLICATIONS FOR REGISTRY IDENTIFICATION CARDS;~~

~~(2) THE NUMBER OF QUALIFYING PATIENTS AND PRIMARY CAREGIVERS REGISTERED;~~

~~(3) THE NATURE OF THE DEBILITATING MEDICAL CONDITIONS OF THE QUALIFYING PATIENTS;~~

~~(4) THE ENTITIES SELECTED TO GROW MARIJUANA;~~

~~(5) THE ENTITIES RECEIVING PERMITS TO DISPENSE MARIJUANA;~~

~~(6) THE NUMBER OF REGISTRY IDENTIFICATION CARDS REVOKED;~~

~~(7) THE NUMBER OF PERMITS TO ENTITIES TO GROW OR DISPENSE MARIJUANA REVOKED; AND~~

~~(8) THE NUMBER OF PHYSICIANS PROVIDING WRITTEN CERTIFICATIONS FOR PATIENTS.~~

~~(B) THE REPORT REQUIRED UNDER SUBSECTION (A) OF THIS SECTION MAY NOT CONTAIN ANY IDENTIFYING INFORMATION OF PATIENTS, PRIMARY CAREGIVERS, ENTITIES SELECTED TO GROW OR DISPENSE MARIJUANA, OR PHYSICIANS.~~

~~(C) ON OR BEFORE OCTOBER 1, 2013, AND EVERY 2 YEARS THEREAFTER, THE SECRETARY SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON:~~

~~(1) WHETHER THERE ARE SUFFICIENT NUMBERS OF APPROVED PHARMACIES AND DISPENSING CENTERS TO MEET THE NEEDS OF REGISTERED QUALIFYING PATIENTS THROUGHOUT THE STATE;~~

~~(2) WHETHER THE MAXIMUM AMOUNT OF MEDICAL MARIJUANA ALLOWED UNDER THIS SUBTITLE IS SUFFICIENT TO MEET THE MEDICAL NEEDS OF QUALIFYING PATIENTS; AND~~

~~(3) WHETHER ANY APPROVED PHARMACY OR DISPENSING CENTER HAS CHARGED EXCESSIVE PRICES FOR MARIJUANA THAT THE PHARMACY OR CENTER DISPENSED.~~

~~13–3012.~~

~~ON OR BEFORE JANUARY 1, 2012, THE DEPARTMENT SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SUBTITLE.~~

~~13–3013.~~

~~(A) THE DEPARTMENT MAY ACCEPT FROM ANY SOURCE GRANTS OR CONTRIBUTIONS TO BE USED IN CARRYING OUT THIS SUBTITLE.~~

~~(B) ANY FEES COLLECTED UNDER THIS SUBTITLE SHALL BE USED TO OFFSET THE COST OF THE DEPARTMENT'S ADMINISTRATION OF THIS SUBTITLE.~~

~~(C) ANY FUNDS RECEIVED BY THE DEPARTMENT IN EXCESS OF THE AMOUNT REQUIRED TO FULFILL THIS SUBTITLE SHALL BE DISTRIBUTED TO DRUG REHABILITATION PROGRAMS THROUGHOUT THE STATE.~~

~~SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.~~

5–601.

(a) Except as otherwise provided in this title, a person may not:

(1) possess or administer to another a controlled dangerous substance, unless obtained directly or by prescription or order from an authorized provider acting in the course of professional practice; or

(2) obtain or attempt to obtain a controlled dangerous substance, or procure or attempt to procure the administration of a controlled dangerous substance by:

(i) fraud, deceit, misrepresentation, or subterfuge;

(ii) the counterfeiting or alteration of a prescription or a written order;

(iii) the concealment of a material fact;

(iv) the use of a false name or address;

(v) falsely assuming the title of or representing to be a manufacturer, distributor, or authorized provider; or

(vi) making, issuing, or presenting a false or counterfeit prescription or written order.

(b) Information that is communicated to a physician in an effort to obtain a controlled dangerous substance in violation of this section is not a privileged communication.

(c) (1) Except as provided in paragraphs (2) and (3) of this subsection, a person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 4 years or a fine not exceeding $25,000 or both.

(2) A person whose violation of this section involves the use or possession of marijuana is subject to imprisonment not exceeding 1 year or a fine not exceeding $1,000 or both.

(3) (i) ~~In a prosecution for the use or possession of marijuana, the defendant may introduce and the court shall consider as [a mitigating factor] AN AFFIRMATIVE DEFENSE any evidence of medical necessity.~~

~~(ii) Notwithstanding paragraph (2) of this subsection, if the court finds that the person used or possessed marijuana because of medical necessity, [on conviction of a violation of this section, the maximum penalty that the court may impose on the person is a fine not exceeding $100] THE COURT SHALL ENTER A FINDING OF NOT GUILTY.~~

~~(III) 1. THE COURT SHALL FIND THAT MARIJUANA WAS USED OR POSSESSED BECAUSE OF MEDICAL NECESSITY IF THE DEFENDANT ESTABLISHES BY CLEAR AND CONVINCING EVIDENCE THAT THE DEFENDANT IS SUFFERING FROM AN ILLNESS OR AILMENT, OR SYMPTOMS CREATED BY~~

~~TREATMENT OF AN ILLNESS OR AILMENT, FOR WHICH THE DEFENDANT IS LIKELY TO RECEIVE THERAPEUTIC OR PALLIATIVE RELIEF FROM MARIJUANA.~~

~~2. EVIDENCE OF MEDICAL NECESSITY MAY INCLUDE:~~

~~A. A WRITTEN STATEMENT FROM A LICENSED PHYSICIAN STATING THAT, IN THE PHYSICIAN'S PROFESSIONAL OPINION, THE DEFENDANT IS LIKELY TO RECEIVE THERAPEUTIC OR PALLIATIVE RELIEF FROM MARIJUANA;~~

~~B. MEDICAL RECORDS DEMONSTRATING ILLNESS OR AILMENT, OR SYMPTOMS CREATED BY TREATMENT OF AN ILLNESS OR AILMENT, FOR WHICH THE DEFENDANT IS LIKELY TO RECEIVE THERAPEUTIC OR PALLIATIVE RELIEF FROM MARIJUANA; OR~~

~~C. TESTIMONY BY THE DEFENDANT'S LICENSED PHYSICIAN THAT, IN THE PHYSICIAN'S PROFESSIONAL OPINION, THE DEFENDANT IS LIKELY TO RECEIVE THERAPEUTIC OR PALLIATIVE RELIEF FROM MARIJUANA.~~

1. IN THIS PARAGRAPH THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

2. "BONA FIDE PHYSICIAN–PATIENT RELATIONSHIP" MEANS A RELATIONSHIP IN WHICH THE PHYSICIAN HAS ONGOING RESPONSIBILITY FOR THE ASSESSMENT, CARE, AND TREATMENT OF A PATIENT'S MEDICAL CONDITION.

3. "DEBILITATING MEDICAL CONDITION" MEANS A CHRONIC OR DEBILITATING DISEASE OR MEDICAL CONDITION OR THE TREATMENT OF A CHRONIC OR DEBILITATING DISEASE OR MEDICAL CONDITION THAT PRODUCES ONE OR MORE OF THE FOLLOWING, AS DOCUMENTED BY A PHYSICIAN WITH WHOM THE PATIENT HAS A BONA FIDE PHYSICIAN–PATIENT RELATIONSHIP:

A. CACHEXIA OR WASTING SYNDROME;

B. SEVERE OR CHRONIC PAIN;

C. SEVERE NAUSEA;

D. SEIZURES;

E. SEVERE AND PERSISTENT MUSCLE SPASMS; OR

F. ANY OTHER CONDITION THAT IS SEVERE AND RESISTANT TO CONVENTIONAL MEDICINE.

(II) 1. *In a prosecution for the use or possession of marijuana, the defendant may introduce and the court shall consider as a mitigating factor any evidence of medical necessity.*

[*(ii)****]*** ***2.*** *Notwithstanding paragraph (2) of this subsection, if the court finds that the person used or possessed marijuana because of medical necessity, on conviction of a violation of this section, the maximum penalty that the court may impose on the person is a fine not exceeding $100.*

(III) 1. IN A PROSECUTION FOR THE USE OR POSSESSION OF MARIJUANA UNDER THIS SECTION, IT IS AN AFFIRMATIVE DEFENSE THAT THE DEFENDANT USED OR POSSESSED MARIJUANA BECAUSE:

A. THE DEFENDANT HAS A DEBILITATING MEDICAL CONDITION THAT HAS BEEN DIAGNOSED BY A PHYSICIAN WITH WHOM THE DEFENDANT HAS A BONA FIDE PHYSICIAN–PATIENT RELATIONSHIP;

B. THE DEBILITATING MEDICAL CONDITION IS SEVERE AND RESISTANT TO CONVENTIONAL MEDICINE; AND

C. MARIJUANA IS LIKELY TO PROVIDE THE DEFENDANT WITH THERAPEUTIC OR PALLIATIVE RELIEF FROM THE DEBILITATING MEDICAL CONDITION.

2. THE AFFIRMATIVE DEFENSE MAY NOT BE USED IF THE DEFENDANT WAS:

A. USING MARIJUANA IN A PUBLIC PLACE; OR

B. IN POSSESSION OF MORE THAN 1 OUNCE OF MARIJUANA.

5–619.

(a) To determine whether an object is drug paraphernalia, a court shall consider, among other logically relevant factors:

(1) any statement by an owner or a person in control of the object concerning its use;

(2) any prior conviction of an owner or a person in control of the object under a State or federal law relating to a controlled dangerous substance;

(3) the proximity of the object, in time and space, to a direct violation of this section or to a controlled dangerous substance;

(4) a residue of a controlled dangerous substance on the object;

(5) direct or circumstantial evidence of the intent of an owner or a person in control of the object to deliver it to another who, the owner or the person knows or should reasonably know, intends to use the object to facilitate a violation of this section;

(6) any instructions, oral or written, provided with the object concerning its use;

(7) any descriptive materials accompanying the object that explain or depict its use;

(8) national and local advertising concerning use of the object;

(9) the manner in which the object is displayed for sale;

(10) whether the owner or a person in control of the object is a licensed distributor or dealer of tobacco products or other legitimate supplier of related items to the community;

(11) direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise;

(12) the existence and scope of legitimate uses for the object in the community; and

(13) expert testimony concerning use of the object.

(b) The innocence of an owner or a person in control of the object as to a direct violation of this section does not prevent a finding that the object is intended for use or designed for use as drug paraphernalia.

(c) (1) Unless authorized under this title, a person may not use or possess with intent to use drug paraphernalia to:

(i) plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, or conceal a controlled dangerous substance; or

(ii) inject, ingest, inhale, or otherwise introduce into the human body a controlled dangerous substance.

(2) A person who violates this subsection is guilty of a misdemeanor and on conviction is subject to:

(i) for a first violation, a fine not exceeding $500; and

(ii) for each subsequent violation, imprisonment not exceeding 2 years or a fine not exceeding $2,000 or both.

(3) A person who is convicted of violating this subsection for the first time and who previously has been convicted of violating subsection (d)(4) of this section is subject to the penalty specified under paragraph (2)(ii) of this subsection.

~~(4) (i) In a prosecution under this subsection involving drug paraphernalia related to marijuana, the defendant may introduce and the court shall consider as [a mitigating factor] AN AFFIRMATIVE DEFENSE any evidence of medical necessity.~~

~~(ii) Notwithstanding paragraph (2) of this subsection, if the court finds that the person used or possessed drug paraphernalia related to marijuana because of medical necessity, [on conviction of a violation of this subsection, the maximum penalty that the court may impose on the person is a fine not exceeding $100] THE COURT SHALL ENTER A FINDING OF NOT GUILTY.~~

~~(III) 1. THE COURT SHALL FIND THAT THE DRUG PARAPHERNALIA RELATED TO MARIJUANA WAS USED OR POSSESSED BECAUSE OF MEDICAL NECESSITY IF THE DEFENDANT ESTABLISHES BY CLEAR AND CONVINCING EVIDENCE THAT THE DEFENDANT IS SUFFERING FROM AN ILLNESS OR AILMENT, OR SYMPTOMS CREATED BY TREATMENT OF AN ILLNESS OR AILMENT, FOR WHICH THE DEFENDANT IS LIKELY TO RECEIVE THERAPEUTIC OR PALLIATIVE RELIEF FROM MARIJUANA.~~

~~2. EVIDENCE OF MEDICAL NECESSITY MAY INCLUDE:~~

~~A. A WRITTEN STATEMENT FROM A LICENSED PHYSICIAN STATING THAT, IN THE PHYSICIAN'S PROFESSIONAL OPINION, THE DEFENDANT IS LIKELY TO RECEIVE THERAPEUTIC OR PALLIATIVE RELIEF FROM MARIJUANA;~~

~~B. MEDICAL RECORDS DEMONSTRATING ILLNESS OR AILMENT, OR SYMPTOMS CREATED BY TREATMENT OF AN ILLNESS OR AILMENT, FOR WHICH THE DEFENDANT IS LIKELY TO RECEIVE THERAPEUTIC OR PALLIATIVE RELIEF FROM MARIJUANA; OR~~

~~C. TESTIMONY BY THE DEFENDANT'S LICENSED PHYSICIAN THAT, IN THE PHYSICIAN'S PROFESSIONAL OPINION, THE~~

~~DEFENDANT IS LIKELY TO RECEIVE THERAPEUTIC OR PALLIATIVE RELIEF FROM MARIJUANA.~~

(4) (i) ***1. IN THIS PARAGRAPH THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.***

2. "BONA FIDE PHYSICIAN–PATIENT RELATIONSHIP" MEANS A RELATIONSHIP IN WHICH THE PHYSICIAN HAS ONGOING RESPONSIBILITY FOR THE ASSESSMENT, CARE, AND TREATMENT OF A PATIENT'S MEDICAL CONDITION.

3. "DEBILITATING MEDICAL CONDITION" MEANS A CHRONIC OR DEBILITATING DISEASE OR MEDICAL CONDITION OR THE TREATMENT OF A CHRONIC OR DEBILITATING DISEASE OR MEDICAL CONDITION THAT PRODUCES ONE OR MORE OF THE FOLLOWING, AS DOCUMENTED BY A PHYSICIAN WITH WHOM THE PATIENT HAS A BONA FIDE PHYSICIAN–PATIENT RELATIONSHIP:

A. CACHEXIA OR WASTING SYNDROME;

B. SEVERE OR CHRONIC PAIN;

C. SEVERE NAUSEA;

D. SEIZURES;

E. SEVERE AND PERSISTENT MUSCLE SPASMS; OR

F. ANY OTHER CONDITION THAT IS SEVERE AND RESISTANT TO CONVENTIONAL MEDICINE.

(II) 1. *In a prosecution under this subsection involving drug paraphernalia related to marijuana, the defendant may introduce and the court shall consider as a mitigating factor any evidence of medical necessity.*

[(ii)***]*** ***2.*** *Notwithstanding paragraph (2) of this subsection, if the court finds that the person used or possessed drug paraphernalia related to marijuana because of medical necessity, on conviction of a violation of this subsection, the maximum penalty that the court may impose on the person is a fine not exceeding $100.*

(III) 1. IN A PROSECUTION UNDER THIS SUBSECTION INVOLVING DRUG PARAPHERNALIA RELATED TO MARIJUANA, IT IS AN AFFIRMATIVE DEFENSE THAT THE DEFENDANT USED OR POSSESSED DRUG PARAPHERNALIA RELATED TO MARIJUANA BECAUSE:

A. THE DEFENDANT HAS A DEBILITATING MEDICAL CONDITION THAT HAS BEEN DIAGNOSED BY A PHYSICIAN WITH WHOM THE DEFENDANT HAS A BONA FIDE PHYSICIAN–PATIENT RELATIONSHIP;

B. THE DEBILITATING MEDICAL CONDITION IS SEVERE AND RESISTANT TO CONVENTIONAL MEDICINE; AND

C. MARIJUANA IS LIKELY TO PROVIDE THE DEFENDANT WITH THERAPEUTIC OR PALLIATIVE RELIEF FROM THE DEBILITATING MEDICAL CONDITION.

2. THE AFFIRMATIVE DEFENSE MAY NOT BE USED IF THE DEFENDANT WAS:

A. USING MARIJUANA IN A PUBLIC PLACE; OR

B. IN POSSESSION OF MORE THAN 1 OUNCE OF MARIJUANA.

(d) (1) Unless authorized under this title, a person may not deliver or sell, or manufacture or possess with intent to deliver or sell, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that the drug paraphernalia will be used to:

(i) plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, or conceal a controlled dangerous substance; or

(ii) inject, ingest, inhale, or otherwise introduce into the human body a controlled dangerous substance.

(2) A person who violates this subsection is guilty of a misdemeanor and on conviction is subject to:

(i) for a first violation, a fine not exceeding $500; and

(ii) for each subsequent violation, imprisonment not exceeding 2 years or a fine not exceeding $2,000 or both.

(3) A person who is convicted of violating this subsection for the first time and who previously has been convicted of violating paragraph (4) of this subsection is subject to imprisonment not exceeding 2 years or a fine not exceeding $2,000 or both.

(4) If a person who is at least 18 years old violates paragraph (1) of this subsection by delivering drug paraphernalia to a minor who is at least 3 years younger than the person, the person is guilty of a separate misdemeanor and on conviction is subject to imprisonment not exceeding 8 years or a fine not exceeding $15,000 or both.

(e) (1) A person may not advertise in a newspaper, magazine, handbill, poster, sign, mailing, or other writing or publication, or by sound truck, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, wholly or partly, is to promote the sale or delivery of drug paraphernalia.

(2) A person who violates this subsection is guilty of a misdemeanor and on conviction is subject to:

(i) for a first violation, a fine not exceeding $500; and

(ii) for each subsequent violation, imprisonment not exceeding 2 years or a fine not exceeding $2,000 or both.

Article – Health Occupations

14–404.

(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE BOARD MAY NOT REPRIMAND, PLACE ON PROBATION, OR SUSPEND OR REVOKE A LICENSE OF A LICENSEE FOR PROVIDING A PATIENT WITH A WRITTEN STATEMENT, MEDICAL RECORDS, OR TESTIMONY THAT, IN THE LICENSEE'S PROFESSIONAL OPINION, THE PATIENT IS LIKELY TO RECEIVE THERAPEUTIC OR PALLIATIVE RELIEF FROM MARIJUANA.

(2) NOTHING IN THIS SUBSECTION SHALL BE DEEMED TO RELEASE A LICENSEE FROM THE DUTY TO EXERCISE A PROFESSIONAL STANDARD OF CARE WHEN EVALUATING A PATIENT'S MEDICAL CONDITION.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The Secretary of Health and Mental Hygiene shall convene a Work Group to develop a model program to facilitate patient access to marijuana for medical purposes.

(b) The Work Group shall include 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 Health and Mental Hygiene, or the Secretary's designee; and

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

(i) one member of the public who supports the use of marijuana for medical purposes;

(ii) one member of the public designated by the *Maryland Chapter of the* National ~~Coalition on Alcohol and Other Drug Dependencies~~ *Council on Alcoholism and Drug Dependence*;

(iii) three physicians licensed in the State, who specialize in addiction, pain, oncology, neurology, or clinical research;

(iv) one nurse licensed in the State, with experience in hospice care, nominated by a State research institution or trade association;

(v) one pharmacist licensed in the State, nominated by a State research institution or trade association;

(vi) one scientist with experience in the science of marijuana, nominated by a State research institution;

(vii) one representative of the Maryland State's Attorneys' Association;

(viii) one representative of the Maryland Chiefs of Police;

(ix) one representative of the Maryland Sheriffs' Association;

(x) one representative of the Maryland Fraternal Order of Police; and

(xi) an attorney who is knowledgeable about medical marijuana laws in the United States.

(c) The Governor shall designate the chair of the Work Group.

(d) The Department of Health and Mental Hygiene and the Governor's Office of Crime Control and Prevention shall provide staff for the Work Group.

(e) A member of the Work Group:

(1) may not receive compensation as a member of the Work Group; but

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

(f) (1) (i) The Work Group shall assess the feasibility of and develop a State–specific proposal, including draft legislation, for providing access to marijuana to patients in the State for medical purposes.

(ii) The proposal required under subparagraph (i) of this paragraph shall strongly consider a program model that is analogous to a compassionate use protocol for unapproved drugs.

(2) The draft legislation required under paragraph (1) of this subsection shall:

(i) outline the key elements of the program model; and

(ii) include provisions that:

1. provide for oversight and responsibility by programs located in academic medical research institutions in the State;

2. provide for the licensing of a program by the State;

3. establish a program application and review process that includes consideration of best practices and procedures for obtaining review input that is external to the Department of Health and Mental Hygiene;

4. expand the base of information on the use of marijuana for medical purposes on a scientific and policy implementation basis; and

5. implement a program as soon as feasible and incorporate the goals of:

A. regulations adopted and applications received by September 1, 2012; and

B. program operation beginning in January 2013.

(3) The Work Group shall provide guidance on the criteria for assessing program applications, including an applying program's plans for:

(i) determining the medical conditions to be treated and the duration of therapy proposed;

(ii) identifying sources of marijuana;

(iii) determining patient eligibility and informed consent;

(iv) conducting any associated research projects;

(v) reporting data and outcomes;

(vi) instituting strict controls against illegal diversion; and

(vii) securing grants or other sources of funding to facilitate the affordability of the program.

(g) The Work Group may consult with experts and stakeholders in conducting its duties.

(h) On or before December 1, 2011, the Secretary shall report, in accordance with § 2–1246 of the State Government Article, to the Senate Judicial Proceedings Committee, the House Health and Government Operations Committee, and the House Judiciary Committee on the findings of the Work Group, including draft legislation that establishes a program to provide access to marijuana to patients in the State for medical purposes under a model analogous to a compassionate use protocol for unapproved drugs.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2011. Section 2 of this Act shall remain effective for a period of 1 year and, at the end of May 31, 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 10, 2011.

Chapter 216

(Senate Bill 309)

AN ACT concerning

Consumer Protection – Transparency in Consumer Arbitrations Act

FOR the purpose of requiring certain arbitration organizations to collect, publish, and make available to the public certain information relating to certain binding arbitrations to which a consumer is a party; requiring the information to be reported beginning on a certain day and to be updated at certain intervals thereafter; requiring the information to be made available to the public in a certain manner; providing that the information may be considered in making a certain determination; providing that an arbitration organization is not liable

for collecting, publishing, or distributing certain information; providing that failure to comply with certain provisions of this Act may not be the sole reason to refuse to enforce a certain award and may be considered as a factor in making a certain determination about a consumer arbitration agreement; authorizing a consumer or the Attorney General to seek an injunction to prohibit an arbitration organization from taking certain actions; providing that an arbitration organization is liable to a certain person for certain attorney's fees and costs under certain circumstances; defining certain terms; and generally relating to consumer arbitrations.

BY adding to
Article – Commercial Law
Section 14–3901 through 14–3905 to be under the new subtitle "Subtitle 39. Transparency in Consumer Arbitrations Act"
Annotated Code of Maryland
(2005 Replacement Volume and 2010 Supplement)

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

Article – Commercial Law

SUBTITLE 39. TRANSPARENCY IN CONSUMER ARBITRATIONS ACT.

14–3901.

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

(B) "ARBITRATION ACTIVITY" MEANS THE INITIATION, CONDUCT, SPONSORSHIP, OR ADMINISTRATION OF, OR THE APPOINTMENT OF AN ARBITRATOR IN, A CONSUMER ARBITRATION.

(C) "ARBITRATION ORGANIZATION" MEANS A NONGOVERNMENTAL ASSOCIATION, AGENCY, BOARD, COMMISSION, CORPORATION, OR OTHER ENTITY THAT PERFORMS ARBITRATION ACTIVITIES.

(D) "CONSUMER" MEANS AN INDIVIDUAL WHO IS:

(1) A RESIDENT OF THE STATE; AND

(2) AN ACTUAL OR PROSPECTIVE PURCHASER OR LESSEE OF ANY GOODS, SERVICES, REAL PROPERTY, OR CREDIT PRIMARILY FOR PERSONAL, FAMILY, OR HOUSEHOLD PURPOSES.

(E) (1) "CONSUMER ARBITRATION" MEANS A BINDING ARBITRATION CONDUCTED IN ACCORDANCE WITH A CONSUMER ARBITRATION AGREEMENT.

(2) "CONSUMER ARBITRATION" DOES NOT INCLUDE:

(I) ~~A~~ A BINDING ARBITRATION CONDUCTED IN ACCORDANCE WITH THE PROVISIONS OF A POLICY OF PROPERTY INSURANCE, CASUALTY INSURANCE, OR SURETY INSURANCE, AS THOSE TERMS ARE DEFINED IN § 1–101 OF THE INSURANCE ARTICLE;

(II) AN ARBITRATION GOVERNED BY RULES ADOPTED BY A SECURITIES SELF–REGULATORY ORGANIZATION AND APPROVED BY THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION UNDER FEDERAL LAW; OR

(III) AN ARBITRATION BETWEEN A CONSUMER AND A RELATED INSTITUTION THAT IS LICENSED BY THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, IF THE CONSUMER ARBITRATION AGREEMENT BETWEEN THE CONSUMER AND THE RELATED INSTITUTION IS NOT MANDATED AS A CONDITION OF ADMISSION OF THE CONSUMER TO THE RELATED INSTITUTION.

(F) (1) "CONSUMER ARBITRATION AGREEMENT" MEANS A STANDARDIZED CONTRACT THAT:

(I) IS BETWEEN A CONSUMER AND ANOTHER PERSON WHO IS NOT A CONSUMER;

(II) PROVIDES FOR THE SALE OR LEASE OF ANY GOODS, SERVICES, REAL PROPERTY, OR CREDIT PRIMARILY FOR PERSONAL, FAMILY, OR HOUSEHOLD PURPOSES; AND

(III) REQUIRES THAT DISPUTES ARISING UNDER THE CONTRACT BE SUBMITTED TO BINDING ARBITRATION.

(2) "CONSUMER ARBITRATION AGREEMENT" DOES NOT INCLUDE A PUBLIC OR PRIVATE SECTOR COLLECTIVE BARGAINING AGREEMENT.

(G) "RELATED INSTITUTION" HAS THE MEANING STATED IN § 19–301 OF THE HEALTH – GENERAL ARTICLE.

14–3902.

THIS SUBTITLE APPLIES TO AN ARBITRATION ORGANIZATION THAT PERFORMS AN ARBITRATION ACTIVITY RELATED TO 50 OR MORE CONSUMER ARBITRATIONS DURING A 5–YEAR PERIOD.

14–3903.

(A) AN ARBITRATION ORGANIZATION SUBJECT TO THIS SUBTITLE SHALL COLLECT, PUBLISH, AND MAKE AVAILABLE TO THE PUBLIC THE FOLLOWING INFORMATION REGARDING EACH CONSUMER ARBITRATION FOR WHICH IT PERFORMED AN ARBITRATION ACTIVITY DURING THE PRECEDING 5–YEAR PERIOD:

(1) IF THE NONCONSUMER PARTY IS A CORPORATION OR OTHER BUSINESS ENTITY, THE NAME OF THAT PARTY;

(2) WHETHER THE DISPUTE INVOLVED GOODS, SERVICES, REAL PROPERTY, OR CREDIT;

(3) THE TYPE OF CLAIM OR CAUSE OF ACTION ALLEGED;

(4) WHETHER THE CONSUMER OR NONCONSUMER PARTY WAS THE PREVAILING PARTY;

(5) THE NUMBER OF TIMES DURING THE REPORTING PERIOD THAT THE NONCONSUMER PARTY HAS BEEN A PARTY IN A CONSUMER ARBITRATION FOR WHICH THE ARBITRATION ORGANIZATION PERFORMED AN ARBITRATION ACTIVITY;

(6) WHETHER THE CONSUMER PARTY WAS REPRESENTED BY AN ATTORNEY AND, IF SO, THE NAME OF THE ATTORNEY;

(7) THE DATE THE ARBITRATION ORGANIZATION RECEIVED THE DEMAND FOR THE CONSUMER ARBITRATION, THE DATE THE ARBITRATOR WAS APPOINTED, AND THE DATE OF DISPOSITION BY THE ARBITRATOR OR ARBITRATION ORGANIZATION;

(8) IF KNOWN, THE TYPE OF DISPOSITION OF THE DISPUTE, INCLUDING WITHDRAWAL, ABANDONMENT, SETTLEMENT, AWARD AFTER HEARING, AWARD WITHOUT HEARING, DEFAULT, OR DISMISSAL WITHOUT HEARING;

(9) THE AMOUNT OF THE CLAIM, THE AMOUNT OF THE AWARD, AND ANY OTHER RELIEF GRANTED;

(10) THE NAME OF THE ARBITRATOR, THE ARBITRATOR'S TOTAL FEE FOR CONDUCTING THE CONSUMER ARBITRATION, AND THE PERCENTAGE OF THE ARBITRATOR'S FEE ALLOCATED TO EACH PARTY; AND

(11) THE ADDRESS OF THE PREMISES WHERE THE CONSUMER ARBITRATION WAS CONDUCTED.

(B) (1) THE INFORMATION REQUIRED UNDER SUBSECTION (A) OF THIS SECTION:

(I) SHALL BE REPORTED BEGINNING ON THE FIRST DAY OF THE MONTH IMMEDIATELY FOLLOWING THE MONTH AN ARBITRATION ORGANIZATION BECOMES SUBJECT TO THIS SUBTITLE; AND

(II) SHALL BE UPDATED AT LEAST QUARTERLY THEREAFTER.

(2) AN ARBITRATION ORGANIZATION THAT BECOMES SUBJECT TO THIS SUBTITLE BEFORE JULY 1, 2016, SHALL REPORT THE INFORMATION REQUIRED UNDER SUBSECTION (A) OF THIS SECTION TO THE EXTENT IT IS AVAILABLE.

(C) THE INFORMATION REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL BE MADE AVAILABLE TO THE PUBLIC:

(1) IN A COMPUTER–SEARCHABLE FORMAT THAT:

(I) IS ACCESSIBLE AT THE INTERNET WEB SITE OF THE ARBITRATION ORGANIZATION; AND

(II) MAY BE DOWNLOADED WITHOUT A FEE; AND

(2) IN WRITING:

(I) ON REQUEST; AND

(II) AT A FEE THAT DOES NOT EXCEED THE ACTUAL COST TO THE ARBITRATION ORGANIZATION OF COPYING THE INFORMATION.

14–3904.

THE INFORMATION PROVIDED BY AN ARBITRATION ORGANIZATION UNDER § 14–3903 OF THIS SUBTITLE MAY BE CONSIDERED IN DETERMINING

WHETHER A CONSUMER ARBITRATION AGREEMENT IS UNCONSCIONABLE OR OTHERWISE UNENFORCEABLE UNDER LAW.

14–3905.

(A) AN ARBITRATION ORGANIZATION IS NOT LIABLE FOR COLLECTING, PUBLISHING, OR DISTRIBUTING THE INFORMATION REQUIRED UNDER § 14–3903 OF THIS SUBTITLE.

(B) FAILURE TO COMPLY WITH § 14–3903 OF THIS SUBTITLE:

(1) MAY NOT BE THE SOLE REASON TO REFUSE TO ENFORCE AN AWARD MADE IN A CONSUMER ARBITRATION; AND

(2) MAY BE CONSIDERED AS A FACTOR IN DETERMINING WHETHER A CONSUMER ARBITRATION AGREEMENT IS UNCONSCIONABLE OR OTHERWISE UNENFORCEABLE UNDER LAW.

(C) (1) A CONSUMER OR THE ATTORNEY GENERAL MAY SEEK AN INJUNCTION TO PROHIBIT AN ARBITRATION ORGANIZATION THAT HAS ENGAGED IN OR IS ENGAGING IN A VIOLATION OF § 14–3903 OF THIS SUBTITLE FROM CONTINUING OR ENGAGING IN THE VIOLATION.

(2) THE ARBITRATION ORGANIZATION IS LIABLE TO THE PERSON BRINGING THE ACTION FOR AN INJUNCTION FOR THE PERSON'S REASONABLE ATTORNEY'S FEES AND COSTS IF:

(I) THE COURT ISSUES THE INJUNCTION; OR

(II) THE ARBITRATION ORGANIZATION VOLUNTARILY COMPLIES WITH § 14–3903 OF THIS SUBTITLE AFTER THE ACTION IS FILED.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 217

(House Bill 442)

AN ACT concerning

Consumer Protection – Transparency in Consumer Arbitrations Act

FOR the purpose of requiring certain arbitration organizations to collect, publish, and make available to the public certain information relating to certain binding arbitrations to which a consumer is a party; requiring the information to be reported beginning on a certain day and to be updated at certain intervals thereafter; requiring the information to be made available to the public in a certain manner; providing that the information may be considered in making a certain determination; providing that an arbitration organization is not liable for collecting, publishing, or distributing certain information; providing that failure to comply with certain provisions of this Act may not be the sole reason to refuse to enforce a certain award and may be considered as a factor in making a certain determination about a consumer arbitration agreement; authorizing a consumer or the Attorney General to seek an injunction to prohibit an arbitration organization from taking certain actions; providing that an arbitration organization is liable to a certain person for certain attorney's fees and costs under certain circumstances; defining certain terms; and generally relating to consumer arbitrations.

BY adding to
Article – Commercial Law
Section 14–3901 through 14–3905 to be under the new subtitle "Subtitle 39. Transparency in Consumer Arbitrations Act"
Annotated Code of Maryland
(2005 Replacement Volume and 2010 Supplement)

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

Article – Commercial Law

SUBTITLE 39. TRANSPARENCY IN CONSUMER ARBITRATIONS ACT.

14–3901.

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

(B) "ARBITRATION ACTIVITY" MEANS THE INITIATION, CONDUCT, SPONSORSHIP, OR ADMINISTRATION OF, OR THE APPOINTMENT OF AN ARBITRATOR IN, A CONSUMER ARBITRATION.

(C) "ARBITRATION ORGANIZATION" MEANS A NONGOVERNMENTAL ASSOCIATION, AGENCY, BOARD, COMMISSION, CORPORATION, OR OTHER ENTITY THAT PERFORMS ARBITRATION ACTIVITIES.

(D) "CONSUMER" MEANS AN INDIVIDUAL WHO IS:

(1) A RESIDENT OF THE STATE; AND

(2) AN ACTUAL OR PROSPECTIVE PURCHASER OR LESSEE OF ANY GOODS, SERVICES, REAL PROPERTY, OR CREDIT PRIMARILY FOR PERSONAL, FAMILY, OR HOUSEHOLD PURPOSES.

(E) (1) "CONSUMER ARBITRATION" MEANS A BINDING ARBITRATION CONDUCTED IN ACCORDANCE WITH A CONSUMER ARBITRATION AGREEMENT.

(2) "CONSUMER ARBITRATION" DOES NOT INCLUDE:

(I) A ~~A~~ BINDING ARBITRATION CONDUCTED IN ACCORDANCE WITH THE PROVISIONS OF A POLICY OF PROPERTY INSURANCE, CASUALTY INSURANCE, OR SURETY INSURANCE, AS THOSE TERMS ARE DEFINED IN § 1–101 OF THE INSURANCE ARTICLE;

(II) AN ARBITRATION GOVERNED BY RULES ADOPTED BY A SECURITIES SELF–REGULATORY ORGANIZATION AND APPROVED BY THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION UNDER FEDERAL LAW; OR

(III) AN ARBITRATION BETWEEN A CONSUMER AND A RELATED INSTITUTION THAT IS LICENSED BY THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, IF THE CONSUMER ARBITRATION AGREEMENT BETWEEN THE CONSUMER AND THE RELATED INSTITUTION IS NOT MANDATED AS A CONDITION OF ADMISSION OF THE CONSUMER TO THE RELATED INSTITUTION.

(F) (1) "CONSUMER ARBITRATION AGREEMENT" MEANS A STANDARDIZED CONTRACT THAT:

(I) IS BETWEEN A CONSUMER AND ANOTHER PERSON WHO IS NOT A CONSUMER;

(II) PROVIDES FOR THE SALE OR LEASE OF ANY GOODS, SERVICES, REAL PROPERTY, OR CREDIT PRIMARILY FOR PERSONAL, FAMILY, OR HOUSEHOLD PURPOSES; AND

(III) REQUIRES THAT DISPUTES ARISING UNDER THE CONTRACT BE SUBMITTED TO BINDING ARBITRATION.

(2) "CONSUMER ARBITRATION AGREEMENT" DOES NOT INCLUDE A PUBLIC OR PRIVATE SECTOR COLLECTIVE BARGAINING AGREEMENT.

(G) "RELATED INSTITUTION" HAS THE MEANING STATED IN § 19–301 OF THE HEALTH – GENERAL ARTICLE.

14–3902.

THIS SUBTITLE APPLIES TO AN ARBITRATION ORGANIZATION THAT PERFORMS AN ARBITRATION ACTIVITY RELATED TO 50 OR MORE CONSUMER ARBITRATIONS DURING A 5–YEAR PERIOD.

14–3903.

(A) AN ARBITRATION ORGANIZATION SUBJECT TO THIS SUBTITLE SHALL COLLECT, PUBLISH, AND MAKE AVAILABLE TO THE PUBLIC THE FOLLOWING INFORMATION REGARDING EACH CONSUMER ARBITRATION FOR WHICH IT PERFORMED AN ARBITRATION ACTIVITY DURING THE PRECEDING 5–YEAR PERIOD:

(1) IF THE NONCONSUMER PARTY IS A CORPORATION OR OTHER BUSINESS ENTITY, THE NAME OF THAT PARTY;

(2) WHETHER THE DISPUTE INVOLVED GOODS, SERVICES, REAL PROPERTY, OR CREDIT;

(3) THE TYPE OF CLAIM OR CAUSE OF ACTION ALLEGED;

(4) WHETHER THE CONSUMER OR NONCONSUMER PARTY WAS THE PREVAILING PARTY;

(5) THE NUMBER OF TIMES DURING THE REPORTING PERIOD THAT THE NONCONSUMER PARTY HAS BEEN A PARTY IN A CONSUMER ARBITRATION FOR WHICH THE ARBITRATION ORGANIZATION PERFORMED AN ARBITRATION ACTIVITY;

(6) WHETHER THE CONSUMER PARTY WAS REPRESENTED BY AN ATTORNEY AND, IF SO, THE NAME OF THE ATTORNEY;

(7) THE DATE THE ARBITRATION ORGANIZATION RECEIVED THE DEMAND FOR THE CONSUMER ARBITRATION, THE DATE THE ARBITRATOR WAS APPOINTED, AND THE DATE OF DISPOSITION BY THE ARBITRATOR OR ARBITRATION ORGANIZATION;

(8) IF KNOWN, THE TYPE OF DISPOSITION OF THE DISPUTE, INCLUDING WITHDRAWAL, ABANDONMENT, SETTLEMENT, AWARD AFTER HEARING, AWARD WITHOUT HEARING, DEFAULT, OR DISMISSAL WITHOUT HEARING;

(9) THE AMOUNT OF THE CLAIM, THE AMOUNT OF THE AWARD, AND ANY OTHER RELIEF GRANTED;

(10) THE NAME OF THE ARBITRATOR, THE ARBITRATOR'S TOTAL FEE FOR CONDUCTING THE CONSUMER ARBITRATION, AND THE PERCENTAGE OF THE ARBITRATOR'S FEE ALLOCATED TO EACH PARTY; AND

(11) THE ADDRESS OF THE PREMISES WHERE THE CONSUMER ARBITRATION WAS CONDUCTED.

(B) (1) THE INFORMATION REQUIRED UNDER SUBSECTION (A) OF THIS SECTION:

(I) SHALL BE REPORTED BEGINNING ON THE FIRST DAY OF THE MONTH IMMEDIATELY FOLLOWING THE MONTH AN ARBITRATION ORGANIZATION BECOMES SUBJECT TO THIS SUBTITLE; AND

(II) SHALL BE UPDATED AT LEAST QUARTERLY THEREAFTER.

(2) AN ARBITRATION ORGANIZATION THAT BECOMES SUBJECT TO THIS SUBTITLE BEFORE JULY 1, 2016, SHALL REPORT THE INFORMATION REQUIRED UNDER SUBSECTION (A) OF THIS SECTION TO THE EXTENT IT IS AVAILABLE.

(C) THE INFORMATION REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL BE MADE AVAILABLE TO THE PUBLIC:

(1) IN A COMPUTER–SEARCHABLE FORMAT THAT:

(I) IS ACCESSIBLE AT THE INTERNET WEB SITE OF THE ARBITRATION ORGANIZATION; AND

(II) MAY BE DOWNLOADED WITHOUT A FEE; AND

(2) IN WRITING:

(I) ON REQUEST; AND

(II) AT A FEE THAT DOES NOT EXCEED THE ACTUAL COST TO THE ARBITRATION ORGANIZATION OF COPYING THE INFORMATION.

14–3904.

THE INFORMATION PROVIDED BY AN ARBITRATION ORGANIZATION UNDER § 14–3903 OF THIS SUBTITLE MAY BE CONSIDERED IN DETERMINING WHETHER A CONSUMER ARBITRATION AGREEMENT IS UNCONSCIONABLE OR OTHERWISE UNENFORCEABLE UNDER LAW.

14–3905.

(A) AN ARBITRATION ORGANIZATION IS NOT LIABLE FOR COLLECTING, PUBLISHING, OR DISTRIBUTING THE INFORMATION REQUIRED UNDER § 14–3903 OF THIS SUBTITLE.

(B) FAILURE TO COMPLY WITH § 14–3903 OF THIS SUBTITLE:

(1) MAY NOT BE THE SOLE REASON TO REFUSE TO ENFORCE AN AWARD MADE IN A CONSUMER ARBITRATION; AND

(2) MAY BE CONSIDERED AS A FACTOR IN DETERMINING WHETHER A CONSUMER ARBITRATION AGREEMENT IS UNCONSCIONABLE OR OTHERWISE UNENFORCEABLE UNDER LAW.

(C) (1) A CONSUMER OR THE ATTORNEY GENERAL MAY SEEK AN INJUNCTION TO PROHIBIT AN ARBITRATION ORGANIZATION THAT HAS ENGAGED IN OR IS ENGAGING IN A VIOLATION OF § 14–3903 OF THIS SUBTITLE FROM CONTINUING OR ENGAGING IN THE VIOLATION.

(2) THE ARBITRATION ORGANIZATION IS LIABLE TO THE PERSON BRINGING THE ACTION FOR AN INJUNCTION FOR THE PERSON'S REASONABLE ATTORNEY'S FEES AND COSTS IF:

(I) THE COURT ISSUES THE INJUNCTION; OR

(II) THE ARBITRATION ORGANIZATION VOLUNTARILY COMPLIES WITH § 14–3903 OF THIS SUBTITLE AFTER THE ACTION IS FILED.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 218

(Senate Bill 327)

AN ACT concerning

Human Trafficking Victim Protection Act

FOR the purpose of ~~authorizing a court to order a person who has been convicted of human trafficking to pay restitution to the victim for certain expenses incurred by the victim; providing for the verification of certain expenses alleged to be incurred by the victim; establishing that certain absences of the victim may not be a basis for denial of restitution; establishing that this Act may not be constructed construed to limit a person's right to certain restitution; clarifying that certain provisions of law related to restitution apply to an order of restitution under this Act; authorizing a person convicted of prostitution to file a petition to vacate the judgment if the person's involvement in prostitution was the result of the person having been a victim of human trafficking; establishing the requirements for a petition filed under this Act; requiring a person filing a petition under this Act to provide a certain notice to the State; authorizing the State to file a certain response in a certain period of time; requiring the court to hold a hearing on the petition under certain circumstances, with a certain exception; authorizing the court to take certain actions in ruling on the petition; requiring the court to state on the record the reasons for its ruling on the petition; establishing that a petitioner in a proceeding under this Act has the burden of proof authorizing the expungement of certain records by certain persons convicted of prostitution under certain circumstances;~~ *authorizing a person convicted of prostitution to file a motion to vacate the judgment under certain circumstances; establishing the requirements for a motion filed under this Act; requiring the court to hold a hearing on the motion under certain circumstances, with a certain exception; authorizing the court to take certain actions in ruling on the motion; requiring the court to state on the record the reasons for its ruling on the motion; establishing that a defendant in a proceeding under this Act has the burden of proof;* and generally relating to victims of human trafficking.

BY repealing and reenacting, ~~with~~ *without* amendments,
Article – Criminal Law
Section 11–303
Annotated Code of Maryland
(2002 Volume and 2010 Supplement)

~~BY adding to~~
~~Article – Criminal Procedure~~
~~Section 8–302~~
~~Annotated Code of Maryland~~

~~(2008 Replacement Volume and 2010 Supplement)~~

~~BY repealing and reenacting, with amendments,~~
~~Article – Criminal Procedure~~
~~Section 10–105~~
~~Annotated Code of Maryland~~
~~(2008 Replacement Volume and 2010 Supplement)~~

BY adding to
Article – Criminal Procedure
Section 8–302
Annotated Code of Maryland
(2008 Replacement Volume and 2010 Supplement)

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

Article – Criminal Law

11–303.

(a) (1) A person may not knowingly:

(i) take or cause another to be taken to any place for prostitution;

(ii) place, cause to be placed, or harbor another in any place for prostitution;

(iii) persuade, induce, entice, or encourage another to be taken to or placed in any place for prostitution;

(iv) receive consideration to procure for or place in a house of prostitution or elsewhere another with the intent of causing the other to engage in prostitution or assignation;

(v) engage in a device, scheme, or continuing course of conduct intended to cause another to believe that if the other did not take part in a sexually explicit performance, the other or a third person would suffer physical restraint or serious physical harm; or

(vi) destroy, conceal, remove, confiscate, or possess an actual or purported passport, immigration document, or government identification document of another while otherwise violating or attempting to violate this subsection.

(2) A parent, guardian, or person who has permanent or temporary care or custody or responsibility for supervision of another may not consent to the taking or detention of the other for prostitution.

(b) (1) A person may not violate subsection (a) of this section involving a victim who is a minor.

(2) A person may not knowingly take or detain another with the intent to use force, threat, coercion, or fraud to compel the other to marry the person or a third person or perform a sexual act, sexual contact, or vaginal intercourse.

(c) (1) (i) Except as provided in paragraph (2) of this subsection, a person who violates subsection (a) of this section is guilty of the misdemeanor of human trafficking and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding $5,000 or both.

(ii) A person who violates subsection (a) of this section is subject to § 5–106(b) of the Courts Article.

(2) A person who violates subsection (b) of this section is guilty of the felony of human trafficking and on conviction is subject to imprisonment not exceeding 25 years or a fine not exceeding $15,000 or both.

~~(3) (I) IN ADDITION TO THE PENALTIES PROVIDED IN THIS SUBSECTION, THE COURT MAY ORDER A PERSON CONVICTED UNDER THIS SECTION TO PAY RESTITUTION TO THE VICTIM FOR EXPENSES INCURRED BY THE VICTIM:~~

~~1. THAT ARE A DIRECT RESULT OF THE PERSON'S CRIMINAL ACTIONS;~~

~~2. IN RELOCATING THE VICTIM AND THE VICTIM'S FAMILY AWAY FROM THE PERSON OR THE PERSON'S ASSOCIATES; OR~~

~~3. IN THE REPATRIATION OF THE VICTIM OR THE VICTIM'S FAMILY TO THE VICTIM'S COUNTRY OF CITIZENSHIP IF THE PREPONDERANCE OF THE EVIDENCE SHOWS THAT THE VICTIM WAS BROUGHT TO THE UNITED STATES BY FRAUD OR DECEPTION.~~

~~(II) ANY EXPENSES ALLEGED TO BE INCURRED UNDER THIS PARAGRAPH MAY BE VERIFIED BY:~~

~~1. A LAW ENFORCEMENT OFFICER, AS TO EXPENSES ALLEGEDLY INCURRED IN RELATION TO THE SAFETY OF THE VICTIM OR THE VICTIM'S FAMILY; OR~~

~~2. A PROVIDER OF MENTAL HEALTH SERVICES, AS TO EXPENSES ALLEGEDLY INCURRED IN RELATION TO THE EMOTIONAL WELL-BEING OF THE VICTIM.~~

~~(III) THE RETURN OF THE VICTIM TO THE VICTIM'S COUNTRY OF CITIZENSHIP OR ANY OTHER ABSENCE OF THE VICTIM FROM THE VICTIM'S COUNTRY OF RESIDENCE MAY NOT BE A BASIS FOR A DENIAL OF RESTITUTION.~~

~~(IV) THIS PARAGRAPH MAY NOT BE CONSTRUED TO LIMIT THE RIGHT OF A PERSON TO RESTITUTION UNDER TITLE 11, SUBTITLE 6 OF THE CRIMINAL PROCEDURE ARTICLE.~~

~~(V) EXCEPT AS OTHERWISE PROVIDED IN THIS PARAGRAPH, THE PROVISIONS OF TITLE 11, SUBTITLE 6 OF THE CRIMINAL PROCEDURE ARTICLE APPLY TO AN ORDER OF RESTITUTION UNDER THIS PARAGRAPH.~~

(d) A person who violates this section may be charged, tried, and sentenced in any county in or through which the person transported or attempted to transport the other.

(e) (1) A person who knowingly benefits financially or by receiving anything of value from participation in a venture that includes an act described in subsection (a) or (b) of this section is subject to the same penalties that would apply if the person had violated that subsection.

(2) A person who knowingly aids, abets, or conspires with one or more other persons to violate any subsection of this section is subject to the same penalties that apply for a violation of that subsection.

Article – Criminal Procedure

~~8–302.~~

~~(A) A PERSON CONVICTED OF PROSTITUTION UNDER § 11–306 OF THE CRIMINAL LAW ARTICLE MAY FILE A PETITION TO VACATE THE JUDGMENT IF THE PERSON'S INVOLVEMENT IN PROSTITUTION WAS THE RESULT OF THE PERSON HAVING BEEN A VICTIM OF HUMAN TRAFFICKING UNDER § 11–303 OF THE CRIMINAL LAW ARTICLE OR UNDER FEDERAL LAW.~~

~~(B) A PETITION FILED UNDER THIS SECTION SHALL:~~

~~(1) BE IN WRITING;~~

~~(2) BE MADE WITHIN A REASONABLE PERIOD OF TIME AFTER THE PETITIONER IS NO LONGER THE VICTIM OF HUMAN TRAFFICKING OR HAS SOUGHT SERVICES FOR VICTIMS OF HUMAN TRAFFICKING, IN LIGHT OF CONCERNS FOR THE SAFETY OF THE PETITIONER, THE PETITIONER'S FAMILY, OR OTHER VICTIMS OF HUMAN TRAFFICKING;~~

~~(3) DESCRIBE THE EVIDENCE AND PROVIDE COPIES OF ANY OFFICIAL DOCUMENTS SHOWING THAT THE PETITIONER WAS THE VICTIM OF HUMAN TRAFFICKING AND THAT THE PETITIONER'S INVOLVEMENT IN PROSTITUTION WAS THE RESULT OF THE PETITIONER HAVING BEEN THE VICTIM OF HUMAN TRAFFICKING; AND~~

~~(4) IF THE PETITIONER WANTS A HEARING, INCLUDE A REQUEST FOR A HEARING.~~

~~(C) (1) A PETITIONER SHALL NOTIFY THE STATE IN WRITING OF THE FILING OF A PETITION UNDER THIS SECTION.~~

~~(2) THE STATE MAY FILE A RESPONSE TO THE PETITION WITHIN 90 DAYS AFTER RECEIPT OF THE NOTICE REQUIRED UNDER THIS SUBSECTION OR WITHIN THE PERIOD OF TIME THAT THE COURT ORDERS.~~

~~(D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE COURT SHALL HOLD A HEARING ON A PETITION FILED UNDER THIS SECTION IF THE PETITION SATISFIES THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION AND A HEARING WAS REQUESTED.~~

~~(2) THE COURT MAY DISMISS A PETITION WITHOUT A HEARING IF THE COURT FINDS THAT THE PETITION FAILS TO ASSERT GROUNDS ON WHICH RELIEF MAY BE GRANTED.~~

~~(E) (1) IN RULING ON A PETITION FILED UNDER THIS SECTION, THE COURT MAY VACATE THE CONVICTION, MODIFY THE SENTENCE, OR GRANT A NEW TRIAL, AS THE COURT CONSIDERS APPROPRIATE.~~

~~(2) THE COURT SHALL STATE THE REASONS FOR ITS RULING ON THE RECORD.~~

~~(F) A PETITIONER IN A PROCEEDING UNDER THIS SECTION HAS THE BURDEN OF PROOF.~~

8–302.

(A) A PERSON CONVICTED OF PROSTITUTION UNDER § 11–306 OF THE CRIMINAL LAW ARTICLE MAY FILE A MOTION TO VACATE THE JUDGMENT IF, WHEN THE PERSON COMMITTED THE ACT OR ACTS OF PROSTITUTION, THE PERSON WAS ACTING UNDER DURESS CAUSED BY AN ACT OF ANOTHER COMMITTED IN VIOLATION OF THE PROHIBITION AGAINST HUMAN TRAFFICKING UNDER § 11–303 OF THE CRIMINAL LAW ARTICLE OR UNDER FEDERAL LAW.

(B) A MOTION FILED UNDER THIS SECTION SHALL:

(1) BE IN WRITING;

(2) BE SIGNED AND CONSENTED TO BY THE STATE'S ATTORNEY;

(3) BE MADE WITHIN A REASONABLE PERIOD OF TIME AFTER THE CONVICTION; AND

(4) DESCRIBE THE EVIDENCE AND PROVIDE COPIES OF ANY DOCUMENTS SHOWING THAT THE DEFENDANT IS ENTITLED TO RELIEF UNDER THIS SECTION.

(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE COURT SHALL HOLD A HEARING ON A MOTION FILED UNDER THIS SECTION IF THE MOTION SATISFIES THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION.

(2) THE COURT MAY DISMISS A MOTION WITHOUT A HEARING IF THE COURT FINDS THAT THE MOTION FAILS TO ASSERT GROUNDS ON WHICH RELIEF MAY BE GRANTED.

(D) (1) IN RULING ON A MOTION FILED UNDER THIS SECTION, THE COURT MAY VACATE THE CONVICTION, MODIFY THE SENTENCE, OR GRANT A NEW TRIAL.

(2) THE COURT SHALL STATE THE REASONS FOR ITS RULING ON THE RECORD.

(E) A DEFENDANT IN A PROCEEDING UNDER THIS SECTION HAS THE BURDEN OF PROOF.

~~10–105.~~

~~(a) A person who has been charged with the commission of a crime, including a violation of the Transportation Article for which a term of imprisonment may be imposed, or who has been charged with a civil offense or infraction, except a juvenile offense, as a substitute for a criminal charge may file a petition listing relevant facts~~

~~for expungement of a police record, court record, or other record maintained by the State or a political subdivision of the State if:~~

~~(1) the person is acquitted;~~

~~(2) the charge is otherwise dismissed;~~

~~(3) a probation before judgment is entered, unless the person is charged with a violation of § 21–902 of the Transportation Article or Title 2, Subtitle 5 or § 3–211 of the Criminal Law Article;~~

~~(4) a nolle prosequi or nolle prosequi with the requirement of drug or alcohol treatment is entered;~~

~~(5) the court indefinitely postpones trial of a criminal charge by marking the criminal charge "stet" or stet with the requirement of drug or alcohol abuse treatment on the docket;~~

~~(6) the case is compromised under § 3–207 of the Criminal Law Article;~~

~~(7) the charge was transferred to the juvenile court under § 4–202 of this article;~~

~~(8) the person:~~

~~(i) is convicted of only one criminal act, and that act is not a crime of violence; and~~

~~(ii) is granted a full and unconditional pardon by the Governor;~~ ~~[or]~~

~~(9) the person was convicted of a crime under any State or local law that prohibits:~~

~~(i) urination or defecation in a public place;~~

~~(ii) panhandling or soliciting money;~~

~~(iii) drinking an alcoholic beverage in a public place;~~

~~(iv) obstructing the free passage of another in a public place or a public conveyance;~~

~~(v) sleeping on or in park structures, such as benches or doorways;~~

~~(vi) loitering;~~

~~(vii) vagrancy;~~

~~(viii) riding a transit vehicle without paying the applicable fare or exhibiting proof of payment; or~~

~~(ix) except for carrying or possessing an explosive, acid, concealed weapon, or other dangerous article as provided in § 7–705(b)(6) of the Transportation Article, any of the acts specified in § 7–705 of the Transportation Article**; OR**~~

~~**(10) (I) THE PERSON WAS CONVICTED OF PROSTITUTION UNDER § 11–306 OF THE CRIMINAL LAW ARTICLE; AND**~~

~~**(II) THE PERSON'S INVOLVEMENT IN PROSTITUTION WAS THE RESULT OF THE PERSON HAVING BEEN A VICTIM OF HUMAN TRAFFICKING UNDER § 11–303 OF THE CRIMINAL LAW ARTICLE OR UNDER FEDERAL LAW.**~~

~~(b) (1) Except as provided in paragraphs (2) and (3) of this subsection, a person shall file a petition in the court in which the proceeding began.~~

~~(2) If the proceeding began in one court and was transferred to another court, the person shall file the petition in the court to which the proceeding was transferred.~~

~~(3) (i) If the proceeding in a court of original jurisdiction was appealed to a court exercising appellate jurisdiction, the person shall file the petition in the appellate court.~~

~~(ii) The appellate court may remand the matter to the court of original jurisdiction.~~

~~(c) (1) Except as provided in paragraph (2) of this subsection, a petition for expungement based on an acquittal, a nolle prosequi, or a dismissal may not be filed within 3 years after the disposition, unless the petitioner files with the petition a written general waiver and release of all the petitioner's tort claims arising from the charge.~~

~~(2) A petition for expungement based on a probation before judgment or a stet with the requirement of drug or alcohol abuse treatment may not be filed earlier than the later of:~~

~~(i) the date the petitioner was discharged from probation or the requirements of obtaining drug or alcohol abuse treatment were completed; or~~

~~(ii) 3 years after the probation was granted or stet with the requirement of drug or alcohol abuse treatment was entered on the docket.~~

~~(3) A petition for expungement based on a nolle prosequi with the requirement of drug or alcohol treatment may not be filed until the completion of the required treatment.~~

~~(4) A petition for expungement based on a full and unconditional pardon by the Governor may not be filed later than 10 years after the pardon was signed by the Governor.~~

~~(5) Except as provided in paragraph (2) of this subsection, a petition for expungement based on a stet or a compromise under § 3–207 of the Criminal Law Article may not be filed within 3 years after the stet or compromise.~~

~~(6) A petition for expungement based on the conviction of a crime under subsection (a)(9) of this section may not be filed within 3 years after the conviction or satisfactory completion of the sentence, including probation, that was imposed for the conviction, whichever is later.~~

~~(7) A court may grant a petition for expungement at any time on a showing of good cause.~~

~~(d) (1) The court shall have a copy of a petition for expungement served on the State's Attorney.~~

~~(2) Unless the State's Attorney files an objection to the petition for expungement within 30 days after the petition is served, the court shall pass an order requiring the expungement of all police records and court records about the charge.~~

~~(e) (1) If the State's Attorney files a timely objection to the petition, the court shall hold a hearing.~~

~~(2) If the court at the hearing finds that the person is entitled to expungement, the court shall order the expungement of all police records and court records about the charge.~~

~~(3) If the court finds that the person is not entitled to expungement, the court shall deny the petition.~~

~~(4) The person is not entitled to expungement if:~~

~~(i) the petition is based on the entry of probation before judgment, a nolle prosequi, a stet, including a nolle prosequi with the requirement of drug or alcohol treatment or a stet with the requirement of drug or alcohol abuse treatment, a conviction for a crime specified in subsection (a)(9) of this section, or the grant of a pardon by the Governor; and~~

~~(ii) the person:~~

~~1. since the full and unconditional pardon, entry, or conviction has been convicted of a crime other than a minor traffic violation; or~~

~~2. is a defendant in a pending criminal proceeding.~~

~~(f) Unless an order is stayed pending an appeal, within 60 days after entry of the order, every custodian of the police records and court records that are subject to the order of expungement shall advise in writing the court and the person who is seeking expungement of compliance with the order.~~

~~(g) (1) The State's Attorney is a party to the proceeding.~~

~~(2) A party aggrieved by the decision of the court is entitled to appellate review as provided in the Courts Article.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 219

(Senate Bill 344)

AN ACT concerning

Residential Child and Youth Care Practitioners – ~~Definition~~ Certification – ~~Change in Date and~~ Implementation Plan

FOR the purpose of ~~altering the definition of "residential child and youth care practitioner" as it relates to the certification of certain residential child care program professionals so as to exclude individuals performing certain duties in certain private therapeutic group homes; defining a certain term date by which an individual must receive a certificate from the State Board for Certification of Residential Child Care Program Professionals before the individual may be a residential child and youth care practitioner in the State;~~ requiring the Governor's Office for Children to establish a workgroup composed of certain representatives to develop a plan for implementation of the certification; requiring the workgroup to take certain items into consideration in developing the plan; requiring the plan to specify a certain rate adjustment and certain recommendations; requiring the Office to report on the workgroup's implementation plan to the Governor and certain legislative committees on or

before a certain date; and generally relating to certification of residential child and youth care practitioners.

BY repealing and reenacting, ~~with~~ without amendments,
Article – Health Occupations
Section ~~20–101~~ 20–301(b)
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

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

Article – Health Occupations

~~20–101.~~

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

~~(b) (1) "Agency" means:~~

~~(i) The Developmental Disabilities Administration in the Department;~~

~~(ii) The Department;~~

~~(iii) The Department of Human Resources;~~

~~(iv) The Department of Juvenile Services; and~~

~~(v) The Mental Hygiene Administration in the Department.~~

~~(2) "Agency" includes the State Superintendent of Schools.~~

~~(c) "Board" means the State Board for Certification of Residential Child Care Program Professionals.~~

~~(d) "Certificate" means, unless the context requires otherwise, a certificate issued by the Board to practice as a program administrator or as a residential child and youth care practitioner.~~

~~(e) "Certified program administrator" means, unless the context requires otherwise, an individual who is certified by the Board to practice as a program administrator.~~

~~(f) "Certified residential child and youth care practitioner" means, unless the context requires otherwise, an individual who is certified by the Board to practice as a residential child and youth care practitioner.~~

~~(G) "PRIVATE THERAPEUTIC GROUP HOME" HAS THE MEANING STATED IN § 10–920 OF THE HEALTH – GENERAL ARTICLE.~~

~~[(g)] (H) "Program administrator" means the individual responsible for the day–to–day management and operation of a residential child care program and for assuring the care, treatment, safety, and protection of the children in the residential child care program.~~

~~[(h)] (I) (1) "Residential child and youth care practitioner" means an individual assigned to perform direct responsibilities related to activities of daily living, self–help, and socialization skills in a residential child care program under the direction of a certified program administrator.~~

~~(2) "Residential child and youth care practitioner" does not include [an]:~~

~~(I) AN individual assigned to perform direct responsibilities related to activities of daily living, self–help, and socialization skills in a residential child care program licensed by the Developmental Disabilities Administration; OR~~

~~(II) AN INDIVIDUAL ASSIGNED TO PERFORM DIRECT RESPONSIBILITIES RELATED TO ACTIVITIES OF DAILY LIVING, SELF–HELP, AND SOCIALIZATION SKILLS IN A PRIVATE THERAPEUTIC GROUP HOME LICENSED BY THE DEPARTMENT.~~

~~[(i)] (J) (1) "Residential child care program" means an entity that provides for children 24–hour per day care within a structured set of services and activities that are designed to achieve specific objectives relative to the needs of the children served and that include the provision of food, clothing, shelter, education, social services, health, mental health, recreation, or any combination of these services and activities.~~

~~(2) "Residential child care program" includes a program:~~

~~(i) Licensed by:~~

~~1. The Department of Health and Mental Hygiene;~~

~~2. The Department of Human Resources; or~~

~~3. The Department of Juvenile Services; and~~

~~(ii) That is subject to the licensing regulations of the Governor's Office for Children governing the operations of residential child care programs.~~

20–301.

(b) On or before October 1, ~~[~~2015~~]~~ ~~**2016**~~, 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:

(a) The Governor's Office for Children shall establish a workgroup composed of representatives of the State Board for Certification of Residential Child Care Program Professionals, the Department of Human Resources, the Department of Health and Mental Hygiene, the Department of Juvenile Services, the Interagency Rates Committee, residential child care programs, the Community Behavioral Health Association of Maryland, Maryland Association of Resources for Families and Youth, and other interested persons to:

(1) determine whether it is feasible to implement the certification of residential child and youth care practitioners in 2015; and

(2) develop a plan for implementation of the certification of residential child and youth care practitioners ~~in 2016~~.

(b) In determining the feasibility of implementing certification in 2015 and in developing the implementation plan, the workgroup shall take into consideration:

(1) the costs of implementing certification, including:

(i) the costs to residential child care programs of hiring and retaining residential child and youth care practitioners who meet the certification requirements;

(ii) other costs incurred by residential child care programs to meet the certification requirements; *and*

(iii) any additional costs to the State Board for Certification of Residential Child Care Program Professionals to meet the ~~2016~~ implementation date;

(2) any savings, that residential child care programs might realize from certification to help offset their costs, such as potential savings from reduced staff turnover;

(3) efficient ways to reduce additional costs, such as "train the trainer" programs and common evaluation tools;

(4) the impact of additional costs, net of any savings and efficiencies, to residential care programs on rates established by the Interagency ~~Rate~~ *Rates* Committee; and

(5) any additional funding sources, separate from the rates established by the Interagency ~~Rate~~ *Rates* Committee, that may be available to support the additional costs.

(c) The implementation plan shall specify:

(1) the adjustment in rates needed to support the additional costs of certification; ~~and~~

(2) recommendations for addressing the needed rate increase in the State budget; and

(3) a recommendation for an alternate date for implementation of certification if the workgroup determines that it is not feasible to implement certification in 2015.

(d) On or before September 1, 2011, the Governor's Office for Children shall report on the workgroup's implementation plan to the Governor and, in accordance with § 2–1246 of the State Government Article, the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee.

SECTION 3. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the rates established for residential child care programs by the Interagency ~~Rate~~ *Rates* Committee reflect any adjustment, specified in the plan required under Section 2 of this Act, needed to support the additional costs of certification of residential child and youth care practitioners.

SECTION ~~2.~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 220

(House Bill 387)

AN ACT concerning

Residential Child and Youth Care Practitioners – ~~Definition~~ Certification – Implementation Plan

FOR the purpose of ~~altering the definition of "residential child and youth care practitioner" as it relates to the certification of certain residential child care~~

~~program professionals so as to exclude individuals performing certain duties in certain private therapeutic group homes; defining a certain term;~~ requiring the Governor's Office for Children to establish a workgroup composed of certain representatives to develop a plan for implementation of the certification; requiring the workgroup to take certain items into consideration in developing the plan; requiring the plan to specify a certain rate adjustment and certain recommendations; requiring the Office to report on the workgroup's implementation plan to the Governor and certain legislative committees on or before a certain date; and generally relating to certification of residential child and youth care practitioners.

BY repealing and reenacting, ~~with~~ without amendments,
Article – Health Occupations
Section ~~20–101~~ 20–301(b)
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

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

Article – Health Occupations

~~20–101.~~

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

~~(b) (1) "Agency" means:~~

~~(i) The Developmental Disabilities Administration in the Department;~~

~~(ii) The Department;~~

~~(iii) The Department of Human Resources;~~

~~(iv) The Department of Juvenile Services; and~~

~~(v) The Mental Hygiene Administration in the Department.~~

~~(2) "Agency" includes the State Superintendent of Schools.~~

~~(c) "Board" means the State Board for Certification of Residential Child Care Program Professionals.~~

~~(d) "Certificate" means, unless the context requires otherwise, a certificate issued by the Board to practice as a program administrator or as a residential child and youth care practitioner.~~

~~(e) "Certified program administrator" means, unless the context requires otherwise, an individual who is certified by the Board to practice as a program administrator.~~

~~(f) "Certified residential child and youth care practitioner" means, unless the context requires otherwise, an individual who is certified by the Board to practice as a residential child and youth care practitioner.~~

~~**(G) "PRIVATE THERAPEUTIC GROUP HOME" HAS THE MEANING STATED IN § 10–920 OF THE HEALTH – GENERAL ARTICLE.**~~

~~**[**(g)**] (H)** "Program administrator" means the individual responsible for the day–to–day management and operation of a residential child care program and for assuring the care, treatment, safety, and protection of the children in the residential child care program.~~

~~**[**(h)**] (I)** (1) "Residential child and youth care practitioner" means an individual assigned to perform direct responsibilities related to activities of daily living, self–help, and socialization skills in a residential child care program under the direction of a certified program administrator.~~

~~(2) "Residential child and youth care practitioner" does not include **[**an**]:**~~

~~**(I) AN** individual assigned to perform direct responsibilities related to activities of daily living, self–help, and socialization skills in a residential child care program licensed by the Developmental Disabilities Administration**; OR**~~

~~**(II) AN INDIVIDUAL ASSIGNED TO PERFORM DIRECT RESPONSIBILITIES RELATED TO ACTIVITIES OF DAILY LIVING, SELF–HELP, AND SOCIALIZATION SKILLS IN A PRIVATE THERAPEUTIC GROUP HOME LICENSED BY THE DEPARTMENT.**~~

~~**[**(i)**] (J)** (1) "Residential child care program" means an entity that provides for children 24–hour per day care within a structured set of services and activities that are designed to achieve specific objectives relative to the needs of the children served and that include the provision of food, clothing, shelter, education, social services, health, mental health, recreation, or any combination of these services and activities.~~

~~(2) "Residential child care program" includes a program:~~

~~(i) Licensed by:~~

~~1. The Department of Health and Mental Hygiene;~~

~~2. The Department of Human Resources; or~~

~~3. The Department of Juvenile Services; and~~

~~(ii) That is subject to the licensing regulations of the Governor's Office for Children governing the operations of residential child care programs.~~

20–301.

(b) On or before October 1, 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:

(a) The Governor's Office for Children shall establish a workgroup composed of representatives of the State Board for Certification of Residential Child Care Program Professionals, the Department of Human Resources, the Department of Health and Mental Hygiene, the Department of Juvenile Services, the Interagency Rates Committee, residential child care programs, the Community Behavioral Health Association of Maryland, Maryland Association of Resources for Families and Youth, and other interested persons to:

(1) determine whether it is feasible to implement the certification of residential child and youth care practitioners in 2015; and

(2) develop a plan for implementation of the certification of residential child and youth care practitioners.

(b) In determining the feasibility of implementing certification in 2015 and in developing the implementation plan, the workgroup shall take into consideration:

(1) the costs of implementing certification, including:

(i) the costs to residential child care programs of hiring and retaining residential child and youth care practitioners who meet the certification requirements;

(ii) other costs incurred by residential child care programs to meet the certification requirements; and

(iii) any additional costs to the State Board for Certification of Residential Child Care Program Professionals to meet the implementation date;

(2) any savings, that residential child care programs might realize from certification to offset their costs, such as potential savings from reduced staff turnover;

(3) efficient ways to reduce additional costs, such as "train the trainer" programs and common evaluation tools;

(4) the impact of additional costs, net of any savings and efficiencies, to residential care programs on rates established by the Interagency Rates Committee; and

(5) any additional funding sources, separate from the rates established by the Interagency Rates Committee, that may be available to support the additional costs.

(c) The implementation plan shall specify:

(1) the adjustment in rates needed to support the additional costs of certification;

(2) recommendations for addressing the needed rate increase in the State budget; and

(3) a recommendation for an alternate date for implementation of certification if the workgroup determines that it is not feasible to implement certification in 2015.

(d) On or before September 1, 2011, the Governor's Office for Children shall report on the workgroup's implementation plan to the Governor and, in accordance with § 2–1246 of the State Government Article, the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee.

SECTION 3. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the rates established for residential child care programs by the Interagency Rates Committee reflect any adjustment, specified in the plan required under Section 2 of this Act, needed to support the additional costs of certification of residential child and youth care practitioners.

SECTION ~~2.~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 221

(Senate Bill 346)

AN ACT concerning

Income Tax – Subtraction Modification – Maryland Defense Force

FOR the purpose of making certain members of the Maryland Defense Force eligible under certain circumstances for a certain subtraction modification under the Maryland income tax for qualifying volunteer fire, rescue, or emergency medical services members; providing that an individual may not qualify for the subtraction modification based on membership in the Maryland Defense Force unless the Maryland Defense Force maintains certain records and provides certain reports; providing for the application of this Act; and generally relating to a State income tax subtraction modification for certain qualifying members of the Maryland Defense Force.

BY repealing and reenacting, without amendments,
Article – Tax – General
Section 10–208(a)
Annotated Code of Maryland
(2010 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Tax – General
Section 10–208(i–1)
Annotated Code of Maryland
(2010 Replacement Volume)

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

Article – Tax – General

10–208.

(a) In addition to the modification under § 10–207 of this subtitle, the amounts under this section are subtracted from the federal adjusted gross income of a resident to determine Maryland adjusted gross income.

(i–1) (1) The subtraction under subsection (a) of this section includes an amount equal to $3,500 if an individual is a qualifying volunteer fire, rescue, or emergency medical services member for the taxable year, as determined under paragraph (2) of this subsection.

(2) An individual is a qualifying volunteer fire, rescue, or emergency medical services member for the taxable year eligible for the subtraction modification under this subsection if the individual:

(i) is an active member of:

1. a bona fide Maryland fire, rescue, or emergency medical services organization;

2. an auxiliary organization of a bona fide Maryland fire, rescue, or emergency medical services organization; **[**or**]**

3. the United States Coast Guard Auxiliary**; OR**

4. THE MARYLAND DEFENSE FORCE;

(ii) serves the organization in a volunteer capacity without compensation, except nominal expenses or meals;

(iii) 1. qualifies for active status during the taxable year under:

A. a volunteer fire, rescue, or emergency medical services personnel or auxiliary length of service award program operated by a county or municipal corporation of the State, if the length of service award program requires for active status qualification a minimum of 50 points per year and that points be earned in at least two different categories; or

B. a point system established by a county or municipal corporation that does not operate a volunteer fire, rescue, or emergency medical services personnel or auxiliary length of service award program or by the United States Coast Guard Auxiliary **OR THE MARYLAND DEFENSE FORCE**, to identify active members of a volunteer fire, rescue, or emergency medical services organization or auxiliary organization, if the point system requires for active status qualification a minimum of 50 points per year and that points be earned in at least two different categories;

2. has maintained active status for at least 25 years under a volunteer fire, rescue, or emergency medical services personnel or auxiliary length of service award program or a point system established in lieu of a length of service award program;

3. is a member of the National Guard or other reserve component of the United States armed forces who has been ordered into active military service and who serves on active duty in the armed forces of the United States during the taxable year; or

4. is a civilian or a member of the Merchant Marine on assignment in support of the armed forces of the United States during the taxable year in an area designated as a combat zone by executive order of the President; and

(iv) will have been an active member of a bona fide Maryland fire, rescue, or emergency medical services organization, an auxiliary organization of a bona fide Maryland fire, rescue, or emergency medical services organization, or the United States Coast Guard Auxiliary **OR THE MARYLAND DEFENSE FORCE** for at least 36 months during the last 10 calendar years by December 31 of the taxable year.

(3) (i) Each fire, rescue, or emergency medical services organization or auxiliary organization shall:

1. maintain a record of the points earned by each individual during each calendar year;

2. provide each member a report identifying the number of points earned in each category by February 15 of the following year; and

3. provide a report that includes the names, Social Security numbers, and points earned by those members qualifying for the subtraction modification under this subsection to the Maryland State Firemen's Association by May 1 of the following year.

(ii) An individual may not qualify for the subtraction under this subsection based on membership in the United States Coast Guard Auxiliary **OR THE MARYLAND DEFENSE FORCE** unless the United States Coast Guard Auxiliary **OR THE MARYLAND DEFENSE FORCE**:

1. maintains a record of the points earned by each individual during each calendar year;

2. provides each member a report identifying the number of points earned in each category by February 15 of the following year; and

3. provides a report that includes the names, Social Security numbers, and points earned by those members qualifying for the subtraction modification under this subsection to the Comptroller on or before October 1 of each year.

(4) To qualify for the subtraction modification under this subsection, an individual shall attach to the individual's income tax return a copy of the report provided by the organization under paragraph (3) of this subsection.

(5) On or before October 1 of each year, the Maryland State Firemen's Association shall submit to the Department of Public Safety and Correctional Services

and the Office of the Comptroller a report stating the participation in the point system by the various local subdivisions with the names and Social Security numbers of individuals who qualified for the subtraction modification under this subsection for the preceding taxable year.

(6) (i) A person may not knowingly make or cause any false statement or report to be made in any application or in any document required under this subsection.

(ii) Any person who violates or attempts to violate any provision of subparagraph (i) of this paragraph shall be subject to a fine of $1,000.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011, and shall be applicable to taxable years beginning after December 31, 2011.

Approved by the Governor, May 10, 2011.

Chapter 222

(House Bill 11)

AN ACT concerning

Income Tax – Subtraction Modification – Maryland Defense Force

FOR the purpose of making certain members of the Maryland Defense Force eligible under certain circumstances for a certain subtraction modification under the Maryland income tax for qualifying volunteer fire, rescue, or emergency medical services members; providing that an individual may not qualify for the subtraction modification based on membership in the Maryland Defense Force unless the Maryland Defense Force maintains certain records and provides certain reports; providing for the application of this Act; and generally relating to a State income tax subtraction modification for certain qualifying members of the Maryland Defense Force.

BY repealing and reenacting, without amendments,
Article – Tax – General
Section 10–208(a)
Annotated Code of Maryland
(2010 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Tax – General
Section 10–208(i–1)

Annotated Code of Maryland
(2010 Replacement Volume)

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

Article – Tax – General

10–208.

(a) In addition to the modification under § 10–207 of this subtitle, the amounts under this section are subtracted from the federal adjusted gross income of a resident to determine Maryland adjusted gross income.

(i–1) (1) The subtraction under subsection (a) of this section includes an amount equal to $3,500 if an individual is a qualifying volunteer fire, rescue, or emergency medical services member for the taxable year, as determined under paragraph (2) of this subsection.

(2) An individual is a qualifying volunteer fire, rescue, or emergency medical services member for the taxable year eligible for the subtraction modification under this subsection if the individual:

(i) is an active member of:

1. a bona fide Maryland fire, rescue, or emergency medical services organization;

2. an auxiliary organization of a bona fide Maryland fire, rescue, or emergency medical services organization; **[**or**]**

3. the United States Coast Guard Auxiliary**; OR**

4. THE MARYLAND DEFENSE FORCE;

(ii) serves the organization in a volunteer capacity without compensation, except nominal expenses or meals;

(iii) 1. qualifies for active status during the taxable year under:

A. a volunteer fire, rescue, or emergency medical services personnel or auxiliary length of service award program operated by a county or municipal corporation of the State, if the length of service award program requires for active status qualification a minimum of 50 points per year and that points be earned in at least two different categories; or

B. a point system established by a county or municipal corporation that does not operate a volunteer fire, rescue, or emergency medical services personnel or auxiliary length of service award program or by the United States Coast Guard Auxiliary **OR THE MARYLAND DEFENSE FORCE**, to identify active members of a volunteer fire, rescue, or emergency medical services organization or auxiliary organization, if the point system requires for active status qualification a minimum of 50 points per year and that points be earned in at least two different categories;

2. has maintained active status for at least 25 years under a volunteer fire, rescue, or emergency medical services personnel or auxiliary length of service award program or a point system established in lieu of a length of service award program;

3. is a member of the National Guard or other reserve component of the United States armed forces who has been ordered into active military service and who serves on active duty in the armed forces of the United States during the taxable year; or

4. is a civilian or a member of the Merchant Marine on assignment in support of the armed forces of the United States during the taxable year in an area designated as a combat zone by executive order of the President; and

(iv) will have been an active member of a bona fide Maryland fire, rescue, or emergency medical services organization, an auxiliary organization of a bona fide Maryland fire, rescue, or emergency medical services organization, or the United States Coast Guard Auxiliary **OR THE MARYLAND DEFENSE FORCE** for at least 36 months during the last 10 calendar years by December 31 of the taxable year.

(3) (i) Each fire, rescue, or emergency medical services organization or auxiliary organization shall:

1. maintain a record of the points earned by each individual during each calendar year;

2. provide each member a report identifying the number of points earned in each category by February 15 of the following year; and

3. provide a report that includes the names, Social Security numbers, and points earned by those members qualifying for the subtraction modification under this subsection to the Maryland State Firemen's Association by May 1 of the following year.

(ii) An individual may not qualify for the subtraction under this subsection based on membership in the United States Coast Guard Auxiliary **OR THE**

MARYLAND DEFENSE FORCE unless the United States Coast Guard Auxiliary **OR THE MARYLAND DEFENSE FORCE**:

1. maintains a record of the points earned by each individual during each calendar year;

2. provides each member a report identifying the number of points earned in each category by February 15 of the following year; and

3. provides a report that includes the names, Social Security numbers, and points earned by those members qualifying for the subtraction modification under this subsection to the Comptroller on or before October 1 of each year.

(4) To qualify for the subtraction modification under this subsection, an individual shall attach to the individual's income tax return a copy of the report provided by the organization under paragraph (3) of this subsection.

(5) On or before October 1 of each year, the Maryland State Firemen's Association shall submit to the Department of Public Safety and Correctional Services and the Office of the Comptroller a report stating the participation in the point system by the various local subdivisions with the names and Social Security numbers of individuals who qualified for the subtraction modification under this subsection for the preceding taxable year.

(6) (i) A person may not knowingly make or cause any false statement or report to be made in any application or in any document required under this subsection.

(ii) Any person who violates or attempts to violate any provision of subparagraph (i) of this paragraph shall be subject to a fine of $1,000.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011, and shall be applicable to taxable years beginning after December 31, 2011.

Approved by the Governor, May 10, 2011.

Chapter 223

(Senate Bill 347)

AN ACT concerning

Task Force to Study the Impact of Adjunct Faculty on Graduation Rates at Historically Black Institutions

FOR the purpose of creating the Task Force to Study the Impact of Adjunct Faculty on Graduation Rates at Historically Black Institutions in the State; providing for the membership, duties, compensation, and staffing of the Task Force; requiring the Task Force to make certain findings and recommendations by a certain date; requiring the Task Force to report to the Governor and certain committees by a certain date; providing for the termination of this Act; and generally relating to the Task Force to Study the Impact of Adjunct Faculty on Graduation Rates at Historically Black Institutions in the State.

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

(a) There is a Task Force to Study the Impact of Adjunct Faculty on Graduation Rates at Historically Black Institutions in the State.

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

(4) the Chancellor of the University System of Maryland, or the Chancellor's designee;

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

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

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

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

(9) a representative of students at historically black institutions in the State appointed by the Secretary of Higher Education;

(10) a representative of adjunct faculty at historically black institutions in the State appointed by the Secretary of Higher Education; and

(11) a representative of administrators at historically black institutions in the State who address retention issues.

(c) The Secretary of Higher Education shall designate the chair of the Task Force.

(d) The Maryland Higher Education Commission shall provide staff for the Task Force.

(e) A member of the Task Force:

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

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

(f) The Task Force shall:

(1) analyze the number and type of adjunct faculty and the number of tenured faculty at historically black institutions in the State and other institutions of higher education in the State;

(2) evaluate the ratio of adjunct to full–time faculty at historically black institutions in the State in comparison to other institutions of higher education in the State and assess the impact of the ratio on retention and graduation rates at historically black institutions in the State;

(3) evaluate the impact of different kinds of adjunct instruction, including full–time, nontenure–track instructors, graduate student instructors, part–time instructors, and postdoctoral fellows on retention and graduation rates; and

(4) make findings and recommendations regarding the relationship between the ratio of adjunct to full–time faculty at historically black institutions in the State and current disparities in retention and graduation rates in Maryland's institutions of higher education.

(g) On or before January 1, 2013, the Task Force shall report its findings and recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, the Senate Education, Health, and Environmental Affairs Committee and the House Appropriations Committee.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011. It shall remain effective for a period of 2 years and, at the end of

September 30, 2013, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 10, 2011.

Chapter 224

(Senate Bill 362)

AN ACT concerning

Correctional Services – Division of Parole and Probation – Supervision Fee

FOR the purpose of ~~repealing a certain provision of law that authorizes the Parole Commission to revoke parole or mandatory supervision of a certain person who does not comply with a certain fee requirement;~~ requiring the Department of Public Safety and Correctional Services and the appropriate local detention center, on the release of an individual supervised by the Division of Parole and Probation, to provide the individual with an oral and a written notice relating to the application for an exemption from a certain monthly supervision fee; and generally relating to providing information on exemption from fees paid by individuals supervised by the Division of Parole and Probation.

BY repealing and reenacting, with amendments,
Article – Correctional Services
Section 7–702
Annotated Code of Maryland
(2008 Replacement Volume and 2010 Supplement)

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

Article – Correctional Services

7–702.

(a) In this section, "supervisee" means an individual supervised by the Division of Parole and Probation for the Commission.

(b) Unless a supervisee is exempted by the Commission under subsection (d) of this section, the Commission shall assess a monthly fee of $40 as a condition of supervision for each supervisee.

(c) (1) The fee assessed under subsection (b) of this section shall be paid to the Division of Parole and Probation.

(2) The Division of Parole and Probation shall pay all money collected under this section into the General Fund of the State.

(d) The Commission may exempt a supervisee wholly or partly from the fee assessed under subsection (b) of this section if:

(1) the supervisee has diligently attempted but has been unable to obtain employment that provides sufficient income for the supervisee to pay the fee;

(2) (i) the supervisee is a student in a school, college, or university or is enrolled in a course of vocational or technical training designed to prepare the supervisee for gainful employment; and

(ii) the institution in which the supervisee is enrolled supplies certification of student status to the Commission;

(3) the supervisee has a disability that limits possible employment, as determined by a physical or psychological examination that the Commission accepts or orders;

(4) the supervisee is responsible for the support of dependents and the payment of the fee constitutes an undue hardship on the supervisee; or

(5) other extenuating circumstances exist.

(e) The fee assessed under subsection (b) of this section is in addition to court costs and fines.

~~(f) (1) If a supervisee does not comply with the fee requirement:~~

~~(i) the Division of Parole and Probation shall notify the Commission; and~~

~~(ii) the Commission may revoke parole or mandatory supervision.~~

(f) (1) If a supervisee does not comply with the fee requirement:

(i) the Division of Parole and Probation shall notify the Commission; and

(ii) the Commission may revoke parole or mandatory supervision.

(2) The Commission shall conduct a hearing to determine if there are sufficient grounds to find the supervisee in violation of the fee requirement.

(3) At a hearing under this subsection, the Commission may consider:

(i) any material change in the supervisee's financial status;

(ii) good faith efforts of the supervisee to pay the fee; and

(iii) alternative means to assure payment of the fee before the period of supervision ends.

(g) (1) In addition to the fee assessed under subsection (b) of this section, the Division of Parole and Probation may require a supervisee to pay for drug or alcohol abuse testing that the Commission orders.

(2) If a supervisee fails to pay for drug or alcohol abuse testing as required by the Division of Parole and Probation, the Commission may revoke parole or mandatory supervision.

(3) If the Division of Parole and Probation determines that any of the criteria specified in subsection (d) of this section are applicable, the Division may exempt a supervisee wholly or partly from a payment for drug or alcohol abuse testing.

(h) The Division of Parole and Probation shall:

(1) adopt guidelines for collecting the supervision fee;

(2) adopt guidelines for collecting the cost of drug and alcohol abuse testing; and

(3) investigate requests for an exemption from payment if the Commission requests an investigation.

(i) The Division of Parole and Probation shall:

(1) keep records of all payments by each supervisee; and

(2) report delinquencies to the Commission.

(J) ON RELEASE OF A SUPERVISEE, THE DEPARTMENT AND THE APPROPRIATE LOCAL DETENTION CENTER SHALL PROVIDE THE SUPERVISEE WITH AN ORAL AND A WRITTEN NOTICE THAT:

(1) STATES THE CRITERIA LISTED IN SUBSECTION (D) OF THIS SECTION THAT THE COMMISSION MAY USE IN DETERMINING WHETHER TO EXEMPT A SUPERVISEE FROM THE SUPERVISION FEE ASSESSED UNDER SUBSECTION (B) OF THIS SECTION; AND

(2) EXPLAINS THE PROCESS OF APPLYING FOR AN EXEMPTION FROM THE SUPERVISION FEE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 225

(House Bill 749)

AN ACT concerning

Correctional Services – Division of Parole and Probation – Supervision Fee

FOR the purpose of requiring the Department of Public Safety and Correctional Services and the appropriate local detention center, on the release of an individual supervised by the Division of Parole and Probation, to provide the individual with an oral and a written notice relating to the application for an exemption from a certain monthly supervision fee; and generally relating to providing information on exemption from fees paid by individuals supervised by the Division of Parole and Probation.

BY repealing and reenacting, with amendments,
Article – Correctional Services
Section 7–702
Annotated Code of Maryland
(2008 Replacement Volume and 2010 Supplement)

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

Article – Correctional Services

7–702.

(a) In this section, "supervisee" means an individual supervised by the Division of Parole and Probation for the Commission.

(b) Unless a supervisee is exempted by the Commission under subsection (d) of this section, the Commission shall assess a monthly fee of $40 as a condition of supervision for each supervisee.

(c) (1) The fee assessed under subsection (b) of this section shall be paid to the Division of Parole and Probation.

(2) The Division of Parole and Probation shall pay all money collected under this section into the General Fund of the State.

(d) The Commission may exempt a supervisee wholly or partly from the fee assessed under subsection (b) of this section if:

(1) the supervisee has diligently attempted but has been unable to obtain employment that provides sufficient income for the supervisee to pay the fee;

(2) (i) the supervisee is a student in a school, college, or university or is enrolled in a course of vocational or technical training designed to prepare the supervisee for gainful employment; and

(ii) the institution in which the supervisee is enrolled supplies certification of student status to the Commission;

(3) the supervisee has a disability that limits possible employment, as determined by a physical or psychological examination that the Commission accepts or orders;

(4) the supervisee is responsible for the support of dependents and the payment of the fee constitutes an undue hardship on the supervisee; or

(5) other extenuating circumstances exist.

(e) The fee assessed under subsection (b) of this section is in addition to court costs and fines.

(f) (1) If a supervisee does not comply with the fee requirement:

(i) the Division of Parole and Probation shall notify the Commission; and

(ii) the Commission may revoke parole or mandatory supervision.

(2) The Commission shall conduct a hearing to determine if there are sufficient grounds to find the supervisee in violation of the fee requirement.

(3) At a hearing under this subsection, the Commission may consider:

(i) any material change in the supervisee's financial status;

(ii) good faith efforts of the supervisee to pay the fee; and

(iii) alternative means to assure payment of the fee before the period of supervision ends.

(g) (1) In addition to the fee assessed under subsection (b) of this section, the Division of Parole and Probation may require a supervisee to pay for drug or alcohol abuse testing that the Commission orders.

(2) If a supervisee fails to pay for drug or alcohol abuse testing as required by the Division of Parole and Probation, the Commission may revoke parole or mandatory supervision.

(3) If the Division of Parole and Probation determines that any of the criteria specified in subsection (d) of this section are applicable, the Division may exempt a supervisee wholly or partly from a payment for drug or alcohol abuse testing.

(h) The Division of Parole and Probation shall:

(1) adopt guidelines for collecting the supervision fee;

(2) adopt guidelines for collecting the cost of drug and alcohol abuse testing; and

(3) investigate requests for an exemption from payment if the Commission requests an investigation.

(i) The Division of Parole and Probation shall:

(1) keep records of all payments by each supervisee; and

(2) report delinquencies to the Commission.

(J) ON RELEASE OF A SUPERVISEE, THE DEPARTMENT AND THE APPROPRIATE LOCAL DETENTION CENTER SHALL PROVIDE THE SUPERVISEE WITH AN ORAL AND A WRITTEN NOTICE THAT:

(1) STATES THE CRITERIA LISTED IN SUBSECTION (D) OF THIS SECTION THAT THE COMMISSION MAY USE IN DETERMINING WHETHER TO EXEMPT A SUPERVISEE FROM THE SUPERVISION FEE ASSESSED UNDER SUBSECTION (B) OF THIS SECTION; AND

(2) EXPLAINS THE PROCESS OF APPLYING FOR AN EXEMPTION FROM THE SUPERVISION FEE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 226

(Senate Bill 368)

AN ACT concerning

Hart–Miller–Pleasure Island Citizens Oversight Committee – Duties

FOR the purpose of altering the duties of the Hart–Miller–Pleasure Island Citizens Oversight Committee; requiring the Oversight Committee to monitor and provide oversight for certain development, use, and maintenance of the Hart–Miller–Pleasure Island chain; requiring the Oversight Committee to hear and dispose of complaints by certain individuals; and generally relating to the Hart–Miller–Pleasure Island Citizens Oversight Committee.

BY repealing and reenacting, without amendments,
Article – Environment
Section 5–1104(a)(1)
Annotated Code of Maryland
(2007 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,
Article – Environment
Section 5–1104(c)
Annotated Code of Maryland
(2007 Replacement Volume and 2010 Supplement)

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

Article – Environment

5–1104.

(a) (1) With the advice and consent of the Senate, the Governor shall appoint a Hart–Miller–Pleasure Island Citizens Oversight Committee.

(c) The Oversight Committee shall:

(1) **[**Monitor the redeposit of spoil and Baltimore County tributary spoil within 5 miles of the Hart–Miller–Pleasure Island chain**]** **MONITOR AND PROVIDE OVERSIGHT REGARDING:**

(I) THE FUTURE DEVELOPMENT, USE, AND MAINTENANCE OF THE HART–MILLER–PLEASURE ISLAND CHAIN; AND

(II) THE WATER QUALITY IMMEDIATELY SURROUNDING THE ISLANDS; and

(2) Hear and dispose of complaints lodged by individuals affected by **[**the redeposit of spoil and Baltimore County tributary spoil within 5 miles of the Hart–Miller–Pleasure Island chain**]** **THE FUTURE DEVELOPMENT AND THE WATER QUALITY IMMEDIATELY SURROUNDING THE HART–MILLER–PLEASURE ISLAND CHAIN**.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 227

(House Bill 292)

AN ACT concerning

Hart–Miller–Pleasure Island Citizens Oversight Committee – Duties

FOR the purpose of altering the duties of the Hart–Miller–Pleasure Island Citizens Oversight Committee; requiring the Oversight Committee to monitor and provide oversight for certain development, use, and maintenance of the Hart–Miller–Pleasure Island chain; requiring the Oversight Committee to hear and dispose of complaints by certain individuals; and generally relating to the Hart–Miller–Pleasure Island Citizens Oversight Committee.

BY repealing and reenacting, without amendments,
Article – Environment
Section 5–1104(a)(1)
Annotated Code of Maryland
(2007 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,
Article – Environment
Section 5–1104(c)
Annotated Code of Maryland
(2007 Replacement Volume and 2010 Supplement)

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

Article – Environment

5–1104.

(a) (1) With the advice and consent of the Senate, the Governor shall appoint a Hart–Miller–Pleasure Island Citizens Oversight Committee.

(c) The Oversight Committee shall:

(1) **[**Monitor the redeposit of spoil and Baltimore County tributary spoil within 5 miles of the Hart–Miller–Pleasure Island chain**]** **MONITOR AND PROVIDE OVERSIGHT REGARDING:**

(I) THE FUTURE DEVELOPMENT, USE, AND MAINTENANCE OF THE HART–MILLER–PLEASURE ISLAND CHAIN; AND

(II) THE WATER QUALITY IMMEDIATELY SURROUNDING THE ISLANDS; and

(2) Hear and dispose of complaints lodged by individuals affected by **[**the redeposit of spoil and Baltimore County tributary spoil within 5 miles of the Hart–Miller–Pleasure Island chain**]** **THE FUTURE DEVELOPMENT AND THE WATER QUALITY IMMEDIATELY SURROUNDING THE HART–MILLER–PLEASURE ISLAND CHAIN**.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 228

(Senate Bill 370)

AN ACT concerning

Accountants – Regulation – Preparation of a Compilation of Financial Statements

FOR the purpose of altering certain definitions related to the practice of certified public accountancy; including the preparation of certain compilations of financial statements in the list of services that are not prohibited, under certain circumstances, under certain provisions of law that regulate certified public accountants; altering a certain requirement that certain firms hold certain permits under certain circumstances; requiring the State Board of Public Accountancy to adopt certain regulations; making certain technical changes; defining a certain term; and generally relating to the regulation of accountants.

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 2–101, 2–102, 2–401, and 2–4A–01
Annotated Code of Maryland
(2010 Replacement Volume)

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

Article – Business Occupations and Professions

2–101.

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

(b) "AICPA" means the American Institute of Certified Public Accountants.

(c) "Attest" means to provide the following financial statement services:

(1) an audit or other engagement performed in accordance with the Statements on Auditing Standards issued by AICPA;

(2) a review of a financial statement performed in accordance with the Statements on Standards for Accounting and Review Services issued by AICPA;

(3) A COMPILATION ~~**OF A FINANCIAL STATEMENT IN ACCORDANCE WITH THE STATEMENTS ON STANDARDS FOR ACCOUNTING AND REVIEW SERVICES ISSUED BY AICPA;**~~

[(3)**] (4)** an examination of prospective financial information performed in accordance with the Statements on Standards for Attestation Engagements issued by **[**the**]** AICPA; and

[(4)**] (5)** any engagement performed in accordance with the Auditing Standards of the Public Company Accounting Oversight Board.

(d) "Board" means the State Board of Public Accountancy.

(E) "COMPILATION" MEANS A PRESENTATION OF INFORMATION IN THE FORM OF A FINANCIAL STATEMENT THAT IS PERFORMED IN ACCORDANCE WITH THE STATEMENTS ON STANDARDS FOR ACCOUNTING AND REVIEW SERVICES ISSUED BY AICPA.

[(e)**] (F)** "Home office" is the location specified by a client of a certified public accountant as the address to which a service described in § 2–401(a) of this title is directed.

[(f)**] (G)** "License" means, unless the context requires otherwise, a license issued by the Board to practice certified public accountancy.

[(g)**] (H)** "License fee" means the fee paid in connection with the issuance or renewal of a license.

[(h)**] (I)** "Licensed certified public accountant" means, unless the context requires otherwise, an individual licensed by the Board to practice certified public accountancy.

[(i)**] (J)** "Permit" means, unless the context requires otherwise, a permit issued by the Board to allow a partnership or corporation to operate a business through which an individual may practice certified public accountancy.

[(j)**] (K)** "Permit fee" means the fee paid in connection with the issuance or renewal of a permit.

[(k)**] (L)** "Practice certified public accountancy" means to perform any of the following accountancy services:

(1) conducting an audit**, REVIEW, OR COMPILATION** of financial statements; or

(2) providing a written certificate or opinion **OFFERING POSITIVE OR NEGATIVE ASSURANCE OR FULL OR LIMITED ASSURANCE** on the correctness of the information or on the fairness of the presentation of the information in:

(i) a financial statement;

(ii) a report;

(iii) a schedule; or

(iv) an exhibit.

[(l)**] (M)** "Practice privilege" means the right granted to an individual who is licensed by another state to practice certified public accountancy in this State without a license issued by this State.

[(m)**] (N)** "Principal place of business" means the office location designated by the licensee for purposes of substantial equivalency and reciprocity.

[(n)**] (O)** "NASBA" means the National Association of Boards of Accountancy.

2–102.

(a) If the person does not engage in any activity expressly included in the definition of practice certified public accountancy, this title does not prohibit:

(1) an individual from serving as an employee of or assistant to a licensee or permit holder;

(2) a public official or public employee from performing the duties of the position of that individual; or

(3) a person from providing or offering to the public bookkeeping and accounting services, including:

(i) development or installation of a bookkeeping system;

(ii) recordation or presentation of financial information;

(iii) preparation of:

1. a financial statement;

2. A COMPILATION OF A FINANCIAL STATEMENT THAT:

A. DOES NOT REFERENCE THE STATEMENTS ON STANDARDS FOR ACCOUNTING AND REVIEW SERVICES ISSUED BY AICPA; AND

B. EXPRESSLY STATES THAT THE PERSON HAS NOT UNDERGONE AND IS NOT REQUIRED TO UNDERGO PEER REVIEW;

[2.**] 3.** a report;

[3.**] 4.** a schedule; or

[4.**] 5.** an exhibit; or

(iv) any similar activity.

(b) This title does not prohibit a licensee or permit holder from:

(1) employing a certified public accountant licensed by another state or a foreign country; or

(2) listing that individual as a certified public accountant, if the individual qualifies for a practice privilege under § 2–321 of this title.

(C) THE BOARD SHALL ADOPT REGULATIONS THAT SPECIFY THE LANGUAGE OF THE DISCLOSURE STATEMENT RELATING TO EXEMPTION FROM PEER REVIEW THAT IS REQUIRED TO BE INCLUDED IN A COMPILATION OF A FINANCIAL STATEMENT PREPARED UNDER SUBSECTION (A)(3)(III)2 OF THIS SECTION.

2–401.

(a) **[**To operate a business through which certified public accountancy is practiced, a**]** **A** firm shall hold a permit issued by the Board if the firm:

(1) has an office in this State that performs attest services as defined in § 2–101(c) of this title;

(2) has an office in this State that uses the title "CPA" or "CPA firm"; or

(3) performs attest services described in § 2–101(c)(1), **[**(3), or**]** (4)**, OR (5)** of this title for a client with a home office in this State.

(b) A firm that does not have an office in this State may perform attest services as defined in § 2–101(c)(2) **[**or § 2–4A–01(b)**]** **AND (3)** of this title for a client with a home office in this State without a permit if the firm:

(1) meets the application and peer review requirements under §§ 2–402, 2–402.1, 2–403, and 2–4A–02 of this title; and

(2) performs services through an individual with a practice privilege under § 2–321 of this title.

(c) The Board shall grant or renew a permit to practice as a CPA firm to a partnership, limited liability company, or corporation that demonstrates its qualifications in accordance with this section.

(d) If a firm does not meet the requirements of this section, the firm may perform other professional services while using the title "CPA" or "CPA firm" in this State without a permit, if the firm:

(1) performs those services through an individual with a practice privilege provided under § 2–321 of this title; and

(2) performs those services in the state where the individual with a practice privilege retains a principal place of business.

2–4A–01.

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

(b) **[**"Compilation" means a presentation of information in the form of a financial statement that:

(1) is performed in accordance with the statements on standards for accounting and review services of the American Institute of Certified Public Accountants; and

(2) is the representation of management without an undertaking on the part of the preparer to express any assurance on the statements.

(c)**]** "Engagement review" means a peer review that evaluates whether there is a reasonable basis for expressing limited assurance that:

(1) financial statements with which the individual or firm is associated conform in all material respects with professional standards; and

(2) reports and internal documentation of the work performed by the individual or firm conforms with professional standards.

[(d)**] (C)** "Fail" means, in connection with a report of a peer reviewer, one or more significant deficiencies in performing or reporting in conformity with professional standards in the individual or the firm being reviewed.

[(e)**] (D)** "Peer review" means a study, appraisal, or review of one or more aspects of the professional work of an individual or firm performed by a person licensed as a certified public accountant.

[(f)**] (E)** "Report indicating pass with deficiencies" means a report of a peer reviewer that indicates one or more deficiencies in performing or reporting in conformity with professional standards in the individual or firm being reviewed.

[(g)**] (F)** "Review" means the analysis of a financial statement that:

(1) is performed in accordance with the **[**statements on standards for accounting and review services**]** **STATEMENTS ON STANDARDS FOR ACCOUNTING AND REVIEW SERVICES** of the American Institute of Certified Public Accountants; and

(2) provides a licensee with a reasonable basis for expressing limited assurance that there are no material modifications that should be made to the statement in order for it to be in accordance with generally accepted accounting principles, or, if applicable, with any other comprehensive basis of accounting.

[(h)**]** **(G)** "System review" means a peer review evaluating whether there is reasonable assurance that:

(1) the system of quality control of the individual or firm being reviewed is designed and operated in such a manner as to meet professional standards;

(2) financial statements with which the licensee or firm is associated conform in all material respects with professional standards; and

(3) reports and internal documentation of the work performed by the licensee or firm conforms with professional standards.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 229

(House Bill 328)

AN ACT concerning

Accountants – Regulation – Preparation of a Compilation of Financial Statements

FOR the purpose of altering certain definitions related to the practice of certified public accountancy; including the preparation of certain compilations of financial statements in the list of services that are not prohibited, under certain circumstances, under certain provisions of law that regulate certified public accountants; altering a certain requirement that certain firms hold certain permits under certain circumstances; requiring the State Board of Public

Accountancy to adopt certain regulations; making certain technical changes; defining a certain term; and generally relating to the regulation of accountants.

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 2–101, 2–102, 2–401, and 2–4A–01
Annotated Code of Maryland
(2010 Replacement Volume)

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

Article – Business Occupations and Professions

2–101.

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

(b) "AICPA" means the American Institute of Certified Public Accountants.

(c) "Attest" means to provide the following financial statement services:

(1) an audit or other engagement performed in accordance with the Statements on Auditing Standards issued by AICPA;

(2) a review of a financial statement performed in accordance with the Statements on Standards for Accounting and Review Services issued by AICPA;

(3) A COMPILATION ~~**OF A FINANCIAL STATEMENT IN ACCORDANCE WITH THE STATEMENTS ON STANDARDS FOR ACCOUNTING AND REVIEW SERVICES ISSUED BY AICPA;**~~

[(3)**] (4)** an examination of prospective financial information performed in accordance with the Statements on Standards for Attestation Engagements issued by **[**the**]** AICPA; and

[(4)**] (5)** any engagement performed in accordance with the Auditing Standards of the Public Company Accounting Oversight Board.

(d) "Board" means the State Board of Public Accountancy.

(E) "COMPILATION" MEANS A PRESENTATION OF INFORMATION IN THE FORM OF A FINANCIAL STATEMENT THAT IS PERFORMED IN ACCORDANCE WITH THE STATEMENTS ON STANDARDS FOR ACCOUNTING AND REVIEW SERVICES ISSUED BY AICPA.

[(e)**] (F)** "Home office" is the location specified by a client of a certified public accountant as the address to which a service described in § 2–401(a) of this title is directed.

[(f)**] (G)** "License" means, unless the context requires otherwise, a license issued by the Board to practice certified public accountancy.

[(g)**] (H)** "License fee" means the fee paid in connection with the issuance or renewal of a license.

[(h)**] (I)** "Licensed certified public accountant" means, unless the context requires otherwise, an individual licensed by the Board to practice certified public accountancy.

[(i)**] (J)** "Permit" means, unless the context requires otherwise, a permit issued by the Board to allow a partnership or corporation to operate a business through which an individual may practice certified public accountancy.

[(j)**] (K)** "Permit fee" means the fee paid in connection with the issuance or renewal of a permit.

[(k)**] (L)** "Practice certified public accountancy" means to perform any of the following accountancy services:

(1) conducting an audit**, REVIEW, OR COMPILATION** of financial statements; or

(2) providing a written certificate or opinion **OFFERING POSITIVE OR NEGATIVE ASSURANCE OR FULL OR LIMITED ASSURANCE** on the correctness of the information or on the fairness of the presentation of the information in:

(i) a financial statement;

(ii) a report;

(iii) a schedule; or

(iv) an exhibit.

[(l)**] (M)** "Practice privilege" means the right granted to an individual who is licensed by another state to practice certified public accountancy in this State without a license issued by this State.

[(m)**] (N)** "Principal place of business" means the office location designated by the licensee for purposes of substantial equivalency and reciprocity.

[(n)**] (O)** "NASBA" means the National Association of Boards of Accountancy.

2–102.

(a) If the person does not engage in any activity expressly included in the definition of practice certified public accountancy, this title does not prohibit:

(1) an individual from serving as an employee of or assistant to a licensee or permit holder;

(2) a public official or public employee from performing the duties of the position of that individual; or

(3) a person from providing or offering to the public bookkeeping and accounting services, including:

(i) development or installation of a bookkeeping system;

(ii) recordation or presentation of financial information;

(iii) preparation of:

1. a financial statement;

2. A COMPILATION OF A FINANCIAL STATEMENT THAT:

A. DOES NOT REFERENCE THE STATEMENTS ON STANDARDS FOR ACCOUNTING AND REVIEW SERVICES ISSUED BY AICPA; AND

B. EXPRESSLY STATES THAT THE PERSON HAS NOT UNDERGONE AND IS NOT REQUIRED TO UNDERGO PEER REVIEW;

[2.**] 3.** a report;

[3.**] 4.** a schedule; or

[4.**] 5.** an exhibit; or

(iv) any similar activity.

(b) This title does not prohibit a licensee or permit holder from:

(1) employing a certified public accountant licensed by another state or a foreign country; or

(2) listing that individual as a certified public accountant, if the individual qualifies for a practice privilege under § 2–321 of this title.

(C) THE BOARD SHALL ADOPT REGULATIONS THAT SPECIFY THE LANGUAGE OF THE DISCLOSURE STATEMENT RELATING TO EXEMPTION FROM PEER REVIEW THAT IS REQUIRED TO BE INCLUDED IN A COMPILATION OF A FINANCIAL STATEMENT PREPARED UNDER SUBSECTION (A)(3)(III)2 OF THIS SECTION.

2–401.

(a) **[**To operate a business through which certified public accountancy is practiced, a**]** **A** firm shall hold a permit issued by the Board if the firm:

(1) has an office in this State that performs attest services as defined in § 2–101(c) of this title;

(2) has an office in this State that uses the title "CPA" or "CPA firm"; or

(3) performs attest services described in § 2–101(c)(1), **[**(3), or**]** (4)**, OR (5)** of this title for a client with a home office in this State.

(b) A firm that does not have an office in this State may perform attest services as defined in § 2–101(c)(2) **[**or § 2–4A–01(b)**]** **AND (3)** of this title for a client with a home office in this State without a permit if the firm:

(1) meets the application and peer review requirements under §§ 2–402, 2–402.1, 2–403, and 2–4A–02 of this title; and

(2) performs services through an individual with a practice privilege under § 2–321 of this title.

(c) The Board shall grant or renew a permit to practice as a CPA firm to a partnership, limited liability company, or corporation that demonstrates its qualifications in accordance with this section.

(d) If a firm does not meet the requirements of this section, the firm may perform other professional services while using the title "CPA" or "CPA firm" in this State without a permit, if the firm:

(1) performs those services through an individual with a practice privilege provided under § 2–321 of this title; and

(2) performs those services in the state where the individual with a practice privilege retains a principal place of business.

2–4A–01.

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

(b) **[**"Compilation" means a presentation of information in the form of a financial statement that:

(1) is performed in accordance with the statements on standards for accounting and review services of the American Institute of Certified Public Accountants; and

(2) is the representation of management without an undertaking on the part of the preparer to express any assurance on the statements.

(c)**]** "Engagement review" means a peer review that evaluates whether there is a reasonable basis for expressing limited assurance that:

(1) financial statements with which the individual or firm is associated conform in all material respects with professional standards; and

(2) reports and internal documentation of the work performed by the individual or firm conforms with professional standards.

[(d)**] (C)** "Fail" means, in connection with a report of a peer reviewer, one or more significant deficiencies in performing or reporting in conformity with professional standards in the individual or the firm being reviewed.

[(e)**] (D)** "Peer review" means a study, appraisal, or review of one or more aspects of the professional work of an individual or firm performed by a person licensed as a certified public accountant.

[(f)**] (E)** "Report indicating pass with deficiencies" means a report of a peer reviewer that indicates one or more deficiencies in performing or reporting in conformity with professional standards in the individual or firm being reviewed.

[(g)**] (F)** "Review" means the analysis of a financial statement that:

(1) is performed in accordance with the **[**statements on standards for accounting and review services**] STATEMENTS ON STANDARDS FOR ACCOUNTING AND REVIEW SERVICES** of the American Institute of Certified Public Accountants; and

(2) provides a licensee with a reasonable basis for expressing limited assurance that there are no material modifications that should be made to the statement in order for it to be in accordance with generally accepted accounting principles, or, if applicable, with any other comprehensive basis of accounting.

[(h)**] (G)** "System review" means a peer review evaluating whether there is reasonable assurance that:

(1) the system of quality control of the individual or firm being reviewed is designed and operated in such a manner as to meet professional standards;

(2) financial statements with which the licensee or firm is associated conform in all material respects with professional standards; and

(3) reports and internal documentation of the work performed by the licensee or firm conforms with professional standards.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 230

(Senate Bill 371)

AN ACT concerning

Health Occupations Boards – Discipline of Health Care Practitioners – Failure to Comply with Governor's Order

FOR the purpose of authorizing certain health occupations boards to take certain actions against certain health care practitioners under certain circumstances and subject to certain hearing provisions; prohibiting certain health care practitioners from knowingly and willfully failing to comply with certain provisions of law; subjecting certain health care practitioners to certain discipline under certain circumstances; and generally relating to the discipline of health care practitioners for the failure to comply with the Governor's order relating to catastrophic health emergencies.

BY adding to
Article – Health Occupations
Section 1–219
Annotated Code of Maryland

(2009 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, without amendments,
Article – Public Safety
Section 14–3A–01(a) and (e) and 14–3A–03(c)
Annotated Code of Maryland
(2003 Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 14–3A–08
Annotated Code of Maryland
(2003 Volume and 2010 Supplement)

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

Article – Health Occupations

1–219.

(A) IN THIS SECTION, "HEALTH CARE PRACTITIONER" MEANS A PERSON WHO IS LICENSED, CERTIFIED, OR OTHERWISE AUTHORIZED TO PRACTICE A HEALTH OCCUPATION UNDER THIS ARTICLE.

(B) SUBJECT TO THE HEARING PROVISIONS THAT GOVERN THE DISCIPLINE OF A HEALTH CARE PRACTITIONER BY EACH RESPECTIVE HEALTH ~~OCCUPATION~~ OCCUPATIONS BOARD, A HEALTH ~~OCCUPATION~~ OCCUPATIONS BOARD MAY REPRIMAND, PLACE ON PROBATION, OR SUSPEND OR REVOKE A LICENSE OR CERTIFICATE OF ANY HEALTH CARE PRACTITIONER UNDER THE BOARD'S JURISDICTION WHO FAILS TO COMPLY WITH § 14–3A–03(C) OF THE PUBLIC SAFETY ARTICLE.

Article – Public Safety

14–3A–01.

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

(e) "Heath care provider" means:

(1) a health care facility as defined in § 19–114(d)(l) of the Health – General Article;

(2) a health care practitioner as defined in § 19–114(e) of the Health – General Article; and

(3) an individual licensed or certified as an emergency medical services provider under § 13–516 of the Education Article.

14–3A–03.

(c) The Governor may order any health care provider, who does not voluntarily participate, to participate in disease surveillance, treatment, and suppression efforts or otherwise comply with the directives of the Secretary or other designated official.

14–3A–08.

(a) **(1)** [A] **EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A** person may not knowingly and willfully fail to comply with an order, requirement, or directive issued under this subtitle.

[(b)] **(2)** A person who violates [subsection (a) of this section] **PARAGRAPH (1) OF THIS SUBSECTION** is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding $5,000 or both.

(B) (1) A HEALTH CARE PRACTITIONER, AS DEFINED IN § 19–114(E) OF THE HEALTH – GENERAL ARTICLE, MAY NOT KNOWINGLY AND WILLFULLY FAIL TO COMPLY WITH § 14–3A–03(C) OF THIS SUBTITLE.

(2) A HEALTH CARE PRACTITIONER WHO FAILS TO COMPLY WITH PARAGRAPH (1) OF THIS SUBSECTION SHALL BE SUBJECT TO DISCIPLINE UNDER § ~~1–214~~ 1–219 OF THE HEALTH OCCUPATIONS ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 231

(House Bill 503)

AN ACT concerning

Health Occupations Boards – Discipline of Health Care Practitioners – Failure to Comply with Governor's Order

FOR the purpose of authorizing certain health occupations boards to take certain actions against certain health care practitioners under certain circumstances and subject to certain hearing provisions; prohibiting certain health care practitioners from knowingly and willfully failing to comply with certain provisions of law; subjecting certain health care practitioners to certain discipline under certain circumstances; and generally relating to the discipline of health care practitioners for the failure to comply with the Governor's order relating to catastrophic health emergencies.

BY adding to
Article – Health Occupations
Section 1–219
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, without amendments,
Article – Public Safety
Section 14–3A–01(a) and (e) and 14–3A–03(c)
Annotated Code of Maryland
(2003 Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 14–3A–08
Annotated Code of Maryland
(2003 Volume and 2010 Supplement)

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

Article – Health Occupations

1–219.

(A) IN THIS SECTION, "HEALTH CARE PRACTITIONER" MEANS A PERSON WHO IS LICENSED, CERTIFIED, OR OTHERWISE AUTHORIZED TO PRACTICE A HEALTH OCCUPATION UNDER THIS ARTICLE.

(B) SUBJECT TO THE HEARING PROVISIONS THAT GOVERN THE DISCIPLINE OF A HEALTH CARE PRACTITIONER BY EACH RESPECTIVE HEALTH ~~OCCUPATION~~ OCCUPATIONS BOARD, A HEALTH ~~OCCUPATION~~ OCCUPATIONS BOARD MAY REPRIMAND, PLACE ON PROBATION, OR SUSPEND OR REVOKE A LICENSE OR CERTIFICATE OF ANY HEALTH CARE PRACTITIONER UNDER THE BOARD'S JURISDICTION WHO FAILS TO COMPLY WITH § 14–3A–03(C) OF THE PUBLIC SAFETY ARTICLE.

Article – Public Safety

14–3A–01.

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

(e) "Heath care provider" means:

(1) a health care facility as defined in § 19–114(d)(l) of the Health – General Article;

(2) a health care practitioner as defined in § 19–114(e) of the Health – General Article; and

(3) an individual licensed or certified as an emergency medical services provider under § 13–516 of the Education Article.

14–3A–03.

(c) The Governor may order any health care provider, who does not voluntarily participate, to participate in disease surveillance, treatment, and suppression efforts or otherwise comply with the directives of the Secretary or other designated official.

14–3A–08.

(a) **(1)** [A] **EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A** person may not knowingly and willfully fail to comply with an order, requirement, or directive issued under this subtitle.

[(b)**]** **(2)** A person who violates **[**subsection (a) of this section**]** **PARAGRAPH (1) OF THIS SUBSECTION** is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding $5,000 or both.

(B) (1) A HEALTH CARE PRACTITIONER, AS DEFINED IN § 19–114(E) OF THE HEALTH – GENERAL ARTICLE, MAY NOT KNOWINGLY AND WILLFULLY FAIL TO COMPLY WITH § 14–3A–03(C) OF THIS SUBTITLE.

(2) A HEALTH CARE PRACTITIONER WHO FAILS TO COMPLY WITH PARAGRAPH (1) OF THIS SUBSECTION SHALL BE SUBJECT TO DISCIPLINE UNDER ~~§ 1–214~~ § 1–219 OF THE HEALTH OCCUPATIONS ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 232

(Senate Bill 373)

AN ACT concerning

Video Lottery Operation Licensees – Noninterference

FOR the purpose of prohibiting a video lottery operation licensee from directly or indirectly interfering with, hindering, obstructing, impeding, or taking any action to delay the implementation or establishment of a video lottery facility by any other video lottery operation licensee or applicant; requiring the State Lottery Commission to adopt regulations to carry out the provisions of this Act; requiring that the regulations adopted by the State Lottery Commission include certain provisions*; providing for the application of this Act*; making this Act an emergency measure; and generally relating to video lottery facilities and video lottery operation licenses.

BY repealing and reenacting, without amendments,
Article – State Government
Section 9–1A–24(a)
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

BY adding to
Article – State Government
Section 9–1A–24(g)
Annotated Code of Maryland
(2009 Replacement Volume and 2010 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–24.

(a) Except as provided in subsection (b) of this section, the Commission shall ensure that a video lottery operation licensee complies with the requirements of this section as a condition of holding the video lottery operation license.

(G) (1) A VIDEO LOTTERY OPERATION LICENSEE MAY NOT, DIRECTLY OR INDIRECTLY, INTERFERE WITH, HINDER, OBSTRUCT, IMPEDE, OR TAKE ANY

ACTION TO DELAY THE IMPLEMENTATION OR ESTABLISHMENT OF A VIDEO LOTTERY FACILITY BY ANY OTHER LICENSEE OR APPLICANT FOR A VIDEO LOTTERY OPERATION LICENSE AWARDED OR ISSUED UNDER THIS SUBTITLE.

(2) (I) THE COMMISSION SHALL ADOPT REGULATIONS, TO THE FULLEST EXTENT ALLOWED BY THE FIRST AMENDMENT OF THE CONSTITUTION OF THE UNITED STATES, TO CARRY OUT THE PROVISIONS OF THIS SUBSECTION.

(II) THE REGULATIONS ADOPTED UNDER THIS SUBSECTION SHALL INCLUDE PROVISIONS:

1. THAT EXPRESSLY PROHIBIT:

A. TAKING ANY OF THE ACTIONS DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION RELATING TO THE ISSUANCE OF REQUIRED STATE OR LOCAL GOVERNMENTAL APPROVALS FOR THE ESTABLISHMENT OF A VIDEO LOTTERY FACILITY; OR

B. PROVIDING FUNDING OR OTHER MATERIAL SUPPORT TO ENGAGE IN ANY OF THE ACTIONS DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION; ~~AND~~

2. THAT PROHIBIT, AS UNLAWFUL INDIRECT CONDUCT, ACTIVITY:

A. BY AN ENTITY IN WHICH THE LICENSEE OWNS A BENEFICIAL OR PROPRIETARY INTEREST; OR

B. BY AN ENTITY IN WHICH AN AFFILIATE OF THE LICENSEE OWNS A BENEFICIAL OR PROPRIETARY INTEREST; AND

3. THAT ALLOW THE COMMISSION TO IMPOSE SANCTIONS AND PENALTIES IN ACCORDANCE WITH § 9–1A–25 OF THIS SUBTITLE IF A LICENSEE KNOWINGLY VIOLATES PARAGRAPH (1) OF THIS SUBSECTION.

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 apply to any action taken before the effective date of this Act.

SECTION ~~2.~~ *3.* AND BE IT FURTHER ENACTED, That this Act ~~shall take effect October 1, 2011~~ 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 10, 2011.

Chapter 233

(House Bill 868)

AN ACT concerning

Video Lottery Operation Licensees – Noninterference

FOR the purpose of prohibiting a video lottery operation licensee from directly or indirectly interfering with, hindering, obstructing, impeding, or taking any action to delay the implementation or establishment of a video lottery facility by any other video lottery operation licensee or applicant; requiring the State Lottery Commission to adopt regulations to carry out the provisions of this Act; requiring that the regulations adopted by the State Lottery Commission include certain provisions; providing for the application of this Act; making this Act an emergency measure; and generally relating to video lottery facilities and video lottery operation licenses.

BY repealing and reenacting, without amendments,
Article – State Government
Section 9–1A–24(a)
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

BY adding to
Article – State Government
Section 9–1A–24(g)
Annotated Code of Maryland
(2009 Replacement Volume and 2010 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–24.

(a) Except as provided in subsection (b) of this section, the Commission shall ensure that a video lottery operation licensee complies with the requirements of this section as a condition of holding the video lottery operation license.

(G) (1) A VIDEO LOTTERY OPERATION LICENSEE MAY NOT, DIRECTLY OR INDIRECTLY, INTERFERE WITH, HINDER, OBSTRUCT, IMPEDE, OR TAKE ANY ACTION TO DELAY THE IMPLEMENTATION OR ESTABLISHMENT OF A VIDEO LOTTERY FACILITY BY ANY OTHER LICENSEE OR APPLICANT FOR A VIDEO LOTTERY OPERATION LICENSE AWARDED OR ISSUED UNDER THIS SUBTITLE.

(2) (I) THE COMMISSION SHALL ADOPT REGULATIONS, TO THE FULLEST EXTENT ALLOWED BY THE FIRST AMENDMENT OF THE CONSTITUTION OF THE UNITED STATES, TO CARRY OUT THE PROVISIONS OF THIS SUBSECTION.

(II) THE REGULATIONS ADOPTED UNDER THIS SUBSECTION SHALL INCLUDE PROVISIONS:

1. THAT EXPRESSLY PROHIBIT:

A. TAKING ANY OF THE ACTIONS DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION RELATING TO THE ISSUANCE OF REQUIRED STATE OR LOCAL GOVERNMENTAL APPROVALS FOR THE ESTABLISHMENT OF A VIDEO LOTTERY FACILITY; OR

B. PROVIDING FUNDING OR OTHER MATERIAL SUPPORT TO ENGAGE IN ANY OF THE ACTIONS DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION; ~~AND~~

2. THAT PROHIBIT, AS UNLAWFUL INDIRECT CONDUCT, ACTIVITY:

A. BY AN ENTITY IN WHICH THE LICENSEE OWNS A BENEFICIAL OR PROPRIETARY INTEREST; OR

B. BY AN ENTITY IN WHICH AN AFFILIATE OF THE LICENSEE OWNS A BENEFICIAL OR PROPRIETARY INTEREST; AND

3. THAT ALLOW THE COMMISSION TO IMPOSE SANCTIONS AND PENALTIES IN ACCORDANCE WITH § 9–1A–25 OF THIS SUBTITLE IF A LICENSEE KNOWINGLY VIOLATES PARAGRAPH (1) OF THIS SUBSECTION.

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 apply to any action taken before the effective date of this Act.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act ~~shall take effect October 1, 2011~~ 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 of 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 10, 2011.

Chapter 234

(Senate Bill 374)

AN ACT concerning

Baltimore City – Circuit Court – Grand Jury Investigation

FOR the purpose of altering the law relating to grand jury investigations in Baltimore City by requiring a grand jury to carry out an investigation if directed to by a judge of the circuit court instead of as directed by a judge of the circuit court; providing for the application of this Act; and generally relating to a grand jury investigation in Baltimore City.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 8–417
Annotated Code of Maryland
(2006 Replacement Volume and 2010 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

8–417.

(a) This section applies only to a grand jury for Baltimore City.

(b) In addition to any other duty imposed by law, each grand jury shall carry out an investigation **[**as**]** **IF** a judge of the circuit court directs.

(c) At the end of the period for which a grand jury sits, the grand jury shall submit to the jury commissioner of the circuit court a report on each of its investigations and recommendations.

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 investigation begun by a grand jury in Baltimore City before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 235

(Senate Bill 416)

AN ACT concerning

Health Officers – Authority to Enter into Contracts or Agreements for Delivery of Health Care Services

FOR the purpose of authorizing a health officer, under certain circumstances, to enter into a contract or other written agreement to assist or participate in the delivery of health care services with a certain person; and generally relating to the powers of health officers.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 3–306
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

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

Article – Health – General

3–306.

(a) Except as provided by agreement between the Secretary and the local governing body, and in addition to the powers and duties set forth elsewhere, each health officer has the powers and duties set forth in this section.

(b) A health officer may obtain samples of food and drugs for analysis.

(c) (1) The health officer for a county is the executive officer and secretary of the county board of health.

(2) Except in Montgomery County, the health officer for a county shall appoint the staff of the county health department.

(3) The health officer for a county shall have an office at an accessible place in the county.

(4) (i) The health officer for a county shall enforce throughout the county:

1. Under the direction of the Secretary, the State health laws and the policies, rules, and regulations that the Secretary adopts; and

2. Except as provided in subparagraph (ii) of this paragraph, under the direction of the county board of health, the rules and regulations that the county board of health adopts.

(ii) The health officer for a county shall enforce in each municipality or special taxing district in the county the rules or regulations that the county board of health adopts unless the municipality or district has a charter provision or ordinance that:

1. Covers the same subject matter as the county rule or regulation;

2. Is at least as restrictive as the county rule or regulation; and

3. Includes provisions for enforcement.

(5) A health officer shall perform any investigation or other duty or function directed by the Secretary or the county board of health and submit appropriate reports to them.

(D) SUBJECT TO *THE CONSENT OF THE GOVERNING BODY OF THE COUNTY AND* THE WRITTEN APPROVAL OF THE SECRETARY, A HEALTH OFFICER *FOR A COUNTY* MAY ENTER INTO A CONTRACT OR ANY OTHER WRITTEN AGREEMENT TO ASSIST OR PARTICIPATE IN THE DELIVERY OF HEALTH CARE SERVICES WITH A PERSON THAT IS AUTHORIZED TO PROVIDE, FINANCE, COORDINATE, FACILITATE, OR OTHERWISE DELIVER HEALTH CARE SERVICES IN THE STATE.

[(d)**] (E)** The Secretary may delegate duties, powers, and functions as provided in this article to a health officer for a county or other county official authorized to administer and enforce health and environmental laws.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 236

(House Bill 709)

AN ACT concerning

Health Officers – Authority to Enter into Contracts or Agreements for Delivery of Health Care Services

FOR the purpose of authorizing a health officer, under certain circumstances, to enter into a contract or other written agreement to assist or participate in the delivery of health care services with a certain person; and generally relating to the powers of health officers.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 3–306
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

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

Article – Health – General

3–306.

(a) Except as provided by agreement between the Secretary and the local governing body, and in addition to the powers and duties set forth elsewhere, each health officer has the powers and duties set forth in this section.

(b) A health officer may obtain samples of food and drugs for analysis.

(c) (1) The health officer for a county is the executive officer and secretary of the county board of health.

(2) Except in Montgomery County, the health officer for a county shall appoint the staff of the county health department.

(3) The health officer for a county shall have an office at an accessible place in the county.

(4) (i) The health officer for a county shall enforce throughout the county:

1. Under the direction of the Secretary, the State health laws and the policies, rules, and regulations that the Secretary adopts; and

2. Except as provided in subparagraph (ii) of this paragraph, under the direction of the county board of health, the rules and regulations that the county board of health adopts.

(ii) The health officer for a county shall enforce in each municipality or special taxing district in the county the rules or regulations that the county board of health adopts unless the municipality or district has a charter provision or ordinance that:

1. Covers the same subject matter as the county rule or regulation;

2. Is at least as restrictive as the county rule or regulation; and

3. Includes provisions for enforcement.

(5) A health officer shall perform any investigation or other duty or function directed by the Secretary or the county board of health and submit appropriate reports to them.

(D) SUBJECT TO THE CONSENT OF THE GOVERNING BODY OF THE COUNTY AND THE WRITTEN APPROVAL OF THE SECRETARY, A HEALTH OFFICER FOR A COUNTY MAY ENTER INTO A CONTRACT OR ANY OTHER WRITTEN AGREEMENT TO ASSIST OR PARTICIPATE IN THE DELIVERY OF HEALTH CARE SERVICES WITH A PERSON THAT IS AUTHORIZED TO PROVIDE, FINANCE, COORDINATE, FACILITATE, OR OTHERWISE DELIVER HEALTH CARE SERVICES IN THE STATE.

[(d)**] (E)** The Secretary may delegate duties, powers, and functions as provided in this article to a health officer for a county or other county official authorized to administer and enforce health and environmental laws.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 237

(Senate Bill 468)

AN ACT concerning

Carroll County – Deer Hunting on Private Property – Sundays

FOR the purpose of authorizing a person in Carroll County to hunt deer on certain Sundays on private property with a bow and arrow during certain months; removing Carroll County from the list of counties in which deer hunting on private property on certain Sundays is prohibited; and generally relating to deer hunting on private property in Carroll County on Sunday.

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 10–410(a)
Annotated Code of Maryland
(2007 Replacement Volume and 2010 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), (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;

(iv) Subject to the provisions of § 10–411 of this subtitle, in Allegany, Calvert, **CARROLL,** Charles, Dorchester, Frederick, Garrett, St. Mary's, Somerset, Talbot, 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; and

(v) Except on Easter Sunday, in Allegany County and Garrett County, a person hunting turkey on the last Sunday in April and the first Sunday in May.

(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 (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.

(5) The Sunday deer hunting provisions under paragraph (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 July 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 238

(Senate Bill 496)

AN ACT concerning

Alcoholic Beverages – Brewery License – Samples and Sales

FOR the purpose of altering the number of beer samples that a holder of a brewery license may provide to a person of legal drinking age who participates in a tour, promotional event, or other organized activity at the licensed premises; altering the limit on certain purchases of beer per person; establishing a certain limitation on selling beer under certain circumstances; altering the sample size that a holder may provide at a promotional event; altering the limit on the number of special brewery promotional event permits that a holder may be issued in a calendar year; and generally relating to brewery licenses.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 2–206
Annotated Code of Maryland
(2005 Replacement Volume and 2010 Supplement)

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

Article 2B – Alcoholic Beverages

2–206.

(a) A Class 5 manufacturer's license:

(1) Is a brewery license; and

(2) Authorizes the holder to:

(i) Establish and operate in this State a plant for brewing and bottling malt beverages at the location described in the license;

(ii) Import beer from holders of nonresident dealer's permits; and

(iii) Sell and deliver beer to any wholesale licensee in this State, or person outside of this State, authorized to acquire it.

(b) ~~(1)~~ A licensee may:

[(1)**]** ~~(I)~~ Serve **[**up to 6 ounces for a sample of beer brewed at the licensed premises to anyone who has taken a tour of the brewery, if that person is of legal drinking age; and**]** **TO A PERSON OF LEGAL DRINKING AGE WHO PARTICIPATES IN A GUIDED TOUR OF THE FACILITY OR ATTENDS A SCHEDULED PROMOTIONAL EVENT OR OTHER ORGANIZED ACTIVITY AT THE LICENSED PREMISES, NOT MORE THAN SIX SAMPLES OF BEER BREWED AT THE LICENSED PREMISES, WITH EACH SAMPLE CONSISTING OF NOT MORE THAN ~~6~~ 3 OUNCES FROM A SINGLE STYLE OF BEER; *AND***

[(2)**]** ~~(II)~~ Sell beer brewed at the brewery for off–premises consumption to anyone who participates in a guided tour of the brewery **OR ATTENDS A SCHEDULED PROMOTIONAL EVENT OR OTHER ORGANIZED ACTIVITY AT THE LICENSED PREMISES**, subject to the following restrictions:

~~(i)~~ ~~1.~~ *(I)* The purchase is limited to **[**144**]** **288** ounces of beer per person **[**each year, based upon records kept by the brewery and forwarded to the Office of the Comptroller at intervals specified by that Office**]**; and

~~(ii)~~ ~~2.~~ *(II)* The person has attained the legal drinking age.

(c) (1) The Office of the Comptroller may issue a special brewery promotional event permit to a holder of a Class 5 manufacturer's license.

(2) The permit authorizes the holder to conduct on the premises of the brewery a promotional event at which the holder may:

(i) Provide samples of not more than **[**2**]** ~~6~~ 3 fluid ounces per brand to consumers; and

(ii) Sell beer produced by the holder to persons who participate in the event.

(3) The beer at the event shall be sold by the glass and for consumption on the premises only.

(4) A holder of a Class 5 manufacturer's license may not be issued more than **[**four**] 12** permits in a calendar year.

(5) A single promotional event may not exceed 3 consecutive days.

(6) The permit fee is $25 per event.

(7) To obtain a permit, a person, at least 15 days before the event, shall file with the Office of the Comptroller an application that the Office provides.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 239

(House Bill 1202)

AN ACT concerning

Alcoholic Beverages – Brewery License – Samples and Sales

FOR the purpose of altering the number of beer samples that a holder of a brewery license may provide to a person of legal drinking age who participates in a tour, promotional event, or other organized activity at the licensed premises; altering the limit on certain purchases of beer per person; establishing a certain limitation on selling beer under certain circumstances; altering the sample size that a holder may provide at a promotional event; altering the limit on the number of special brewery promotional event permits that a holder may be issued in a calendar year; and generally relating to brewery licenses.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 2–206
Annotated Code of Maryland
(2005 Replacement Volume and 2010 Supplement)

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

Article 2B – Alcoholic Beverages

2–206.

(a) A Class 5 manufacturer's license:

(1) Is a brewery license; and

(2) Authorizes the holder to:

(i) Establish and operate in this State a plant for brewing and bottling malt beverages at the location described in the license;

(ii) Import beer from holders of nonresident dealer's permits; and

(iii) Sell and deliver beer to any wholesale licensee in this State, or person outside of this State, authorized to acquire it.

(b) ~~(1)~~ A licensee may:

~~[~~(1)~~]~~ ~~(I)~~ Serve **[**up to 6 ounces for a sample of beer brewed at the licensed premises to anyone who has taken a tour of the brewery, if that person is of legal drinking age; and**]** **TO A PERSON OF LEGAL DRINKING AGE WHO PARTICIPATES IN A GUIDED TOUR OF THE FACILITY OR ATTENDS A SCHEDULED PROMOTIONAL EVENT OR OTHER ORGANIZED ACTIVITY AT THE LICENSED PREMISES, NOT MORE THAN SIX SAMPLES OF BEER BREWED AT THE LICENSED PREMISES, WITH EACH SAMPLE CONSISTING OF NOT MORE THAN ~~6~~ 3 OUNCES FROM A SINGLE STYLE OF BEER; AND**

~~[~~(2)~~]~~ ~~(II)~~ Sell beer brewed at the brewery for off–premises consumption to anyone who participates in a guided tour of the brewery **OR ATTENDS A SCHEDULED PROMOTIONAL EVENT OR OTHER ORGANIZED ACTIVITY AT THE LICENSED PREMISES**, subject to the following restrictions:

~~[~~(i)~~]~~ ~~1.~~ The purchase is limited to **[**144**]** **288** ounces of beer per person **[**each year, based upon records kept by the brewery and forwarded to the Office of the Comptroller at intervals specified by that Office**]**; and

~~[~~(ii)~~]~~ ~~2.~~ The person has attained the legal drinking age.

(c) (1) The Office of the Comptroller may issue a special brewery promotional event permit to a holder of a Class 5 manufacturer's license.

(2) The permit authorizes the holder to conduct on the premises of the brewery a promotional event at which the holder may:

(i) Provide samples of not more than **[**2**]** ~~**6**~~ **3** fluid ounces per brand to consumers; and

(ii) Sell beer produced by the holder to persons who participate in the event.

(3) The beer at the event shall be sold by the glass and for consumption on the premises only.

(4) A holder of a Class 5 manufacturer's license may not be issued more than **[**four**]** **12** permits in a calendar year.

(5) A single promotional event may not exceed 3 consecutive days.

(6) The permit fee is $25 per event.

(7) To obtain a permit, a person, at least 15 days before the event, shall file with the Office of the Comptroller an application that the Office provides.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 240

(Senate Bill 512)

AN ACT concerning

Gaming – Video Lottery Terminals

FOR the purpose of prohibiting the Video Lottery Facility Location Commission from awarding a video lottery operation license for a location in Allegany County unless an applicant agrees to purchase the Rocky Gap Lodge and Resort; *limiting the number of video lottery terminals for operation at a video lottery facility in Allegany County;* ~~authorizing an individual or business entity that has been awarded or issued a video lottery operation license to own an interest in a video lottery facility in Allegany County, subject to certain approvals;~~ restricting access to a video lottery facility in Allegany County from the Rocky Gap Lodge and Resort if video lottery terminals are permanently located in the Rocky Gap Lodge and Resort; requiring the holder of a video lottery operation license in Allegany County to provide for meeting space in the Rocky Gap Lodge and Resort under certain circumstances; *altering the hours of operation of video lottery facilities on certain days;* altering the distributions of video lottery

terminal proceeds from a video lottery facility in Allegany County; repealing certain provisions relating to a distribution of video lottery terminal proceeds to a video lottery operation licensee in Allegany County; *authorizing certain fund managers to use certain grant money from the Small, Minority, and Women–Owned Businesses Account to pay for certain expenses; requiring the Board of Public Works to set the maximum amount of grant money that each fund manager may use for a certain purpose;* waiving the initial license fee for an application submitted for a video lottery operation license in Allegany County for up to a certain number of video lottery terminals; providing that the calculation of the direct investment requirement for an application submitted for a video lottery operation *and use of proceeds* license in Allegany County shall include the purchase price of the Rocky Gap Lodge and Resort, subject to a determination by the Video Lottery Facility Location Commission; exempting certain video lottery terminals and certain associated equipment and software from the property tax; defining certain terms; repealing certain obsolete provisions; *providing for the application of this Act;* making this Act an emergency measure; 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–05(a) and (d), 9–1A–11(d), 9–1A–27(a) and (b), and 9–1A–36(h)(1)~~
Section 9–1A–05(a), 9–1A–11(d), 9–1A–23(a), 9–1A–27(a) and (b), 9–1A–35, and 9–1A–36(h)(1), (i)(1) and (j)
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, without amendments,
Article – State Government
Section ~~9–1A–11(b) and (c)~~ *9–1A–05(d), 9–1A–11(b) and (c), and 9–1A–36(i)(2)*
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 6–102(e)
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

BY adding to
Article – Tax – Property
Section ~~7–211(i)~~ *7–244*
Annotated Code of Maryland
(2007 Replacement Volume and 2010 Supplement)

Preamble

WHEREAS, The Rocky Gap Lodge and Resort in the Rocky Gap State Park was originally constructed as a family–friendly tourist destination and as an economic development and employment opportunity for the residents of Allegany County and neighboring counties; and

WHEREAS, The State of Maryland and Allegany County have invested significant resources in developing and maintaining the Rocky Gap Lodge and Resort as a destination location for both Maryland residents and out–of–state visitors; and

WHEREAS, Recognizing the unique challenges facing the continued viability of the Rocky Gap Lodge and Resort, the General Assembly selected a location within the Rocky Gap State Park in Allegany County as one of the five locations for video lottery terminals in the State, which was subsequently approved by the voters of the State; and

WHEREAS, While the addition of video lottery terminals at the Rocky Gap Lodge and Resort will provide much needed revenues to the State and Allegany County, it is still desired that Rocky Gap remain a family–friendly resort and area; and

WHEREAS, It is in the best interests of the State of Maryland and Allegany County to have a successful video lottery facility, hotel, and resort at Rocky Gap; now, therefore,

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

Article – State Government

9–1A–05.

(a) The Video Lottery Facility Location Commission established under § 9–1A–36 of this subtitle may not:

(1) 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**; AND**

(4) FOR A LOCATION IN ALLEGANY ~~COUNTY,~~ *COUNTY:*

(I) **AWARD A VIDEO LOTTERY OPERATION LICENSE TO AN APPLICANT THAT DOES NOT AGREE TO PURCHASE THE ROCKY GAP LODGE AND ~~RESORT~~ *RESORT; AND***

(II) NOTWITHSTANDING § 9–1A–36(I)(2) OF THIS SUBTITLE, AWARD MORE THAN 1,000 VIDEO LOTTERY TERMINALS FOR OPERATION AT A VIDEO LOTTERY FACILITY IN ALLEGANY COUNTY.

(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**]** ~~**EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, 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 ~~**THAT HAS BEEN AWARDED OR ISSUED A VIDEO LOTTERY OPERATION LICENSE UNDER THIS SUBTITLE**~~ may ~~**OWN AN INTEREST IN OR**~~ 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–11.

(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 awarded within 18 months after the license is awarded.

(2) (i) On a determination by the Commission that extenuating circumstances exist that are beyond the control of an awardee and have prevented the awardee from complying with the requirements of paragraph (1) of this subsection, the Commission may allow the awardee an extension of 6 months to comply with the requirements.

(ii) The Commission may not grant more than two extensions to an awardee under this paragraph.

(3) If a video lottery operation awardee fails to comply with the requirements of this subsection, the license awarded to the 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 issued a license 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 shall be operational in a permanent facility no later than 30 months after the award of the video lottery operation license.

(d) **(1)** For a location in Allegany County, **[**video lottery terminals may be temporarily**]** **IF VIDEO LOTTERY TERMINALS ARE PERMANENTLY** located in the Rocky Gap Lodge and Resort **[**until a permanent facility is constructed, subject to the requirements of subsection (b) of this section**]**, **THE LICENSEE SHALL RESTRICT PUBLIC ACCESS TO THE VIDEO LOTTERY FACILITY FROM THE ROCKY GAP LODGE AND RESORT**.

(2) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, FOR A LOCATION IN ALLEGANY COUNTY, IF VIDEO LOTTERY TERMINALS ARE PERMANENTLY LOCATED IN THE ROCKY GAP LODGE AND RESORT AND EXISTING MEETING SPACE IS ELIMINATED AS A RESULT OF THE VIDEO LOTTERY TERMINALS, THE LICENSEE SHALL PROVIDE FOR MEETING SPACE THAT IS ACCESSIBLE FROM THE ROCKY GAP LODGE AND RESORT WITHIN 36 MONTHS AFTER ISSUANCE OF THE VIDEO LOTTERY OPERATION LICENSE, SUBJECT TO THE APPROVAL OF THE VIDEO LOTTERY FACILITY LOCATION COMMISSION AND THE STATE LOTTERY COMMISSION.

(II) THE LICENSEE SHALL RESTRICT PUBLIC ACCESS TO THE VIDEO LOTTERY FACILITY FROM ANY MEETING SPACE PROVIDED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

9–1A–23.

(a) ***(1)*** *[A]* ***EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,*** *A video lottery facility may operate daily from 8 a.m. to 2 a.m.*

(2) A VIDEO LOTTERY FACILITY MAY EXTEND OPERATIONS UNTIL 4 A.M. ON SATURDAY AND 4 A.M. ON SUNDAY.

9–1A–27.

(a) ~~On~~ **EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, 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) ~~except as provided in subsection (b) of this section,~~ to the video lottery operation licensee, the percentage stated in the accepted 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]~~ **IN ALLEGANY COUNTY;**

(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) **(1)** For the first ~~5~~ **10** years of operations at a video lottery facility in Allegany County, ~~the Comptroller shall pay to the video lottery operation licensee IN ALLEGANY COUNTY, on a properly approved transmittal prepared by the Commission, the percentages authorized in subsection (a)(2) and (5)(ii) of this section as stated in the accepted application for the location[, if the applicant that is awarded the video lottery operation license agrees to purchase the Rocky Gap Lodge and Resort]~~ **ON A PROPERLY APPROVED TRANSMITTAL PREPARED BY THE COMMISSION, THE COMPTROLLER SHALL PAY THE FOLLOWING AMOUNTS FROM THE PROCEEDS OF VIDEO LOTTERY TERMINALS AT A VIDEO LOTTERY FACILITY IN ALLEGANY COUNTY:**

(I) 2% TO THE STATE LOTTERY AGENCY FOR COSTS AS DEFINED IN § 9–1A–01 OF THIS SUBTITLE;

(II) TO THE VIDEO LOTTERY OPERATION LICENSEE, THE PERCENTAGE STATED IN THE ACCEPTED APPLICATION FOR THE LOCATION, NOT TO EXCEED 50%;

(III) 2.75% IN LOCAL IMPACT GRANTS, IN ACCORDANCE WITH § 9–1A–31 OF THIS SUBTITLE;

(IV) 2.5% TO THE PURSE DEDICATION ACCOUNT ESTABLISHED UNDER § 9–1A–28 OF THIS SUBTITLE;

(V) 0.75% TO THE SMALL, MINORITY, AND WOMEN–OWNED BUSINESSES ACCOUNT ESTABLISHED UNDER § 9–1A–35 OF THIS SUBTITLE; AND

(VI) THE REMAINDER TO THE EDUCATION TRUST FUND ESTABLISHED UNDER § 9–1A–30 OF THIS SUBTITLE.

(2) AFTER THE FIRST 10 YEARS OF OPERATIONS AT A VIDEO LOTTERY FACILITY IN ALLEGANY COUNTY, THE PROCEEDS GENERATED AT THE FACILITY IN ALLEGANY COUNTY SHALL BE ALLOCATED AS PROVIDED IN SUBSECTION (A) OF THIS SECTION.

9–1A–35.

(a) There is a Small, Minority, and Women–Owned Businesses Account under the authority of the Board of Public Works.

(b) (1) The Account shall receive money as required under § 9–1A–27 of this subtitle.

(2) Money in the Account shall be invested and reinvested by the Treasurer and interest and earnings shall accrue to the Account.

(3) The Comptroller shall:

(i) account for the Account; and

(ii) on a properly approved transmittal prepared by the Board of Public Works, issue a warrant to pay out money from the Account in the manner provided under this section.

(4) The Account is a special, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(5) Expenditures from the Account shall only be made on a properly approved transmittal prepared by the Board of Public Works as provided under subsection (c) of this section.

(c) (1) In this subsection, "eligible fund manager" means an entity that has significant financial or investment experience, under criteria developed by the Board of Public Works.

(2) Subject to the provisions of paragraph (3) of this subsection, the Board of Public Works shall make grants to eligible fund managers to provide investment capital and loans to small, minority, and women–owned businesses in the State.

(3) The Board of Public Works shall ensure that eligible fund managers allocate at least 50% of the funds from this Account to small, minority, and women–owned businesses in the jurisdictions and communities surrounding a video lottery facility.

(d) Fund managers receiving grants under this section shall:

(1) keep proper records of funds and accounts;

(2) provide an annual report to the Governor and, in accordance with § 2–1246 of this article, the General Assembly on investment capital and loans made pursuant to subsection (c) of this section; and

(3) be subject to audit by the Office of Legislative Audits of the Department of Legislative Services.

(E) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AN ELIGIBLE FUND MANAGER MAY USE MONEY FROM GRANTS RECEIVED UNDER THIS SECTION TO PAY EXPENSES FOR ADMINISTRATIVE, ACTUARIAL, LEGAL, AND TECHNICAL SERVICES.

(2) THE BOARD OF PUBLIC WORKS SHALL SET THE MAXIMUM AMOUNT OF GRANT MONEY THAT EACH ELIGIBLE FUND MANAGER MAY USE UNDER PARAGRAPH (1) OF THIS SUBSECTION.

[*(e)****](F)*** *Each fiscal year the Legislative Auditor shall audit and evaluate the utilization of the funds that are allocated to small, minority, and women–owned businesses by eligible fund managers under subsection (c)(3) of this section.*

9–1A–36.

(h) (1) In order to qualify for a video lottery operation license 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 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.

(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] ***1,000*** *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.

(j) (1) **(I)** [An] **EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, AN** application submitted for a video lottery operation license under this section shall include an initial license fee in the application of at least $3,000,000 for each 500 video lottery terminals included in the application.

(II) FOR AN APPLICATION SUBMITTED FOR A VIDEO LOTTERY OPERATION LICENSE IN ALLEGANY COUNTY, THE INITIAL LICENSE FEE FOR UP TO 500 VIDEO LOTTERY TERMINALS SHALL BE WAIVED.

(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) **(I)** 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 application that shall be prorated based on the exact number of video lottery terminals contained in the application.

(II) FOR AN APPLICATION SUBMITTED FOR A VIDEO LOTTERY OPERATION LICENSE IN ALLEGANY COUNTY, THE PURCHASE PRICE FOR THE ROCKY GAP LODGE AND RESORT SHALL BE COUNTED IN THE CALCULATION OF THE APPLICANT'S DIRECT INVESTMENT UNDER THIS PARAGRAPH, AS DETERMINED BY THE VIDEO LOTTERY FACILITY LOCATION COMMISSION.

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

Article – Tax – Property

6–102.

*(e) Unless exempted under § 7–211, § 7–211.1, **§ 7–244,** or § 7–501 of this article, the interest or privilege of a person in property that is owned by the federal government, the State, a county, a municipal corporation, or an agency or instrumentality of the federal government, the State, a county, or a municipal corporation is subject to property tax as though the lessee or the user of the property were the owner of the property, if the property is leased or otherwise made available to that person:*

(1) by the federal government, the State, a county, a municipal corporation, or an agency or instrumentality of the federal government, the State, a county, or a municipal corporation; and

(2) with the privilege to use the property in connection with a business that is conducted for profit.

~~7–211.~~ ***7–244.***

~~(I)~~ ~~(1)~~ ~~(I)~~ *(A) (1)* **IN THIS ~~SUBSECTION~~ *SECTION* THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

~~(II)~~ *(2)* **"ASSOCIATED EQUIPMENT" HAS THE MEANING STATED IN § 9–1A–01 OF THE STATE GOVERNMENT ARTICLE.**

~~(III)~~ *(3)* **"VIDEO LOTTERY TERMINAL" HAS THE MEANING STATED IN § 9–1A–01 OF THE STATE GOVERNMENT ARTICLE.**

~~(2)~~ *(B)* **VIDEO LOTTERY TERMINALS AND ANY ASSOCIATED EQUIPMENT OR SOFTWARE ~~OWNED OR~~ LEASED BY THE STATE LOTTERY COMMISSION AS PROVIDED IN § 9–1A–21 OF THE STATE GOVERNMENT ARTICLE ARE NOT SUBJECT TO PROPERTY TAX.**

(C) AN INTEREST OF A PERSON IN VIDEO LOTTERY TERMINALS AND ANY ASSOCIATED EQUIPMENT OR SOFTWARE OWNED BY THE STATE LOTTERY COMMISSION AS PROVIDED IN § 9–1A–21 OF THE STATE GOVERNMENT ARTICLE IS NOT SUBJECT TO PROPERTY TAX.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall apply to all taxable years beginning after June 30, 2011.

SECTION ~~2.~~ *4.* 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 10, 2011.

Chapter 241

(Senate Bill 513)

AN ACT concerning

Maryland Estate Tax – Payment Deferral for Qualified Agricultural Property – ~~Waiver~~ Extension of Payment ~~Requirement~~ Deferral

FOR the purpose of authorizing the Comptroller to grant an extension to a certain deferred tax payment period if a qualified recipient has a pending application to place certain land under a permanent land conservation easement with the Maryland Agricultural Land Preservation Foundation or the Rural Legacy Board; requiring the Comptroller to adopt certain regulations; providing for the application of this Act; and generally relating to estate taxes on agricultural property.

BY repealing and reenacting, with amendments,
Article – Tax – General
Section 7–307(e)
Annotated Code of Maryland
(2010 Replacement Volume)

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 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) 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:

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

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.

(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.

(8) THE COMPTROLLER MAY GRANT AN EXTENSION OF THE DEFERRED PAYMENT PERIOD ALLOWED UNDER PARAGRAPH (6) OF THIS

SUBSECTION IF THE QUALIFIED RECIPIENT HAS A PENDING APPLICATION TO PUT THE LAND ON WHICH THE DEFERRED ESTATE TAX IS DUE UNDER A PERMANENT LAND CONSERVATION EASEMENT WITH:

(I) THE MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION;

(II) THE RURAL LEGACY BOARD; OR

(III) AN EASEMENT PURCHASE PROGRAM THAT IS SIMILAR TO THE PROGRAMS LISTED UNDER ITEMS (I) AND (II) OF THIS PARAGRAPH.

(9) THE COMPTROLLER SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SUBSECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011, and shall be applicable to decedents dying after December 31, 2010.

Approved by the Governor, May 10, 2011.

Chapter 242

(Senate Bill 514)

AN ACT concerning

Maryland Community Health Resources Commission – Health Care Reform – ~~Safety Net Providers~~ Implementation

FOR the purpose of authorizing the Maryland Community Health Resources Commission to provide certain assistance to ~~safety net providers~~ community health resources in preparing to implement certain health care reform; authorizing the Commission to examine certain issues and potential challenges for ~~safety net providers~~ community health resources in preparing to implement certain health care reform; requiring the Commission to develop a certain business plan for the provision by the State of certain assistance to ~~safety net providers~~ community health resources; requiring the Commission to make certain recommendations to the Governor and certain committees of the General Assembly on or before a certain date; altering a certain definition; defining certain terms; and generally relating to the Maryland Community Health Resources Commission and the implementation of health care reform ~~by safety net providers~~.

BY repealing and reenacting, with amendments,

Article – Health – General
Section 19–2101 and 19–2107(a)
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

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

Article – Health – General

19–2101.

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

(B) "AFFORDABLE CARE ACT" MEANS THE FEDERAL PATIENT PROTECTION AND AFFORDABLE CARE ACT, AS AMENDED BY THE FEDERAL HEALTH CARE AND EDUCATION RECONCILIATION ACT OF 2010, AND ANY REGULATIONS ADOPTED OR GUIDANCE ISSUED UNDER THE ACTS.

[(b)**] (C)** "Commission" means the Maryland Community Health Resources Commission.

[(c)**] (D)** (1) "Community health resource" means a nonprofit or for profit health care center or program that offers the primary health care services required by the Commission under § 19–2109(a)(2) of this subtitle to an individual on a sliding scale fee schedule and without regard to an individual's ability to pay.

(2) "Community health resource" includes:

(i) A federally qualified health center;

(ii) A federally qualified health center "look–alike";

(iii) A community health center;

(iv) A migrant health center;

(v) A health care program for the homeless;

(vi) A primary care program for a public housing project;

(vii) A local nonprofit and community–owned health care program;

(viii) A school–based health center;

(ix) A teaching clinic;

(x) A wellmobile;

(xi) A health center controlled operating network;

(xii) A historic Maryland primary care provider;

(xiii) An outpatient **[**mental health clinic**]** **BEHAVIORAL HEALTH PROGRAM**; and

(xiv) Any other center or program identified by the Commission as a community health resource.

~~**(E) "SAFETY NET PROVIDER" MEANS A PROVIDER THAT DELIVERS A SIGNIFICANT LEVEL OF HEALTH CARE TO THE UNINSURED, ENROLLEES IN THE MEDICAL ASSISTANCE PROGRAM, OR OTHER VULNERABLE PATIENTS.**~~

19–2107.

(a) In addition to the powers set forth elsewhere in this subtitle, the Commission may:

(1) Adopt regulations to carry out the provisions of this subtitle;

(2) Create committees from among its members;

(3) Appoint advisory committees, which may include individuals and representatives of interested public or private organizations;

(4) Apply for and accept any funds, property, or services from any person or government agency;

(5) Make agreements with a grantor or payor of funds, property, or services, including an agreement to make any study, plan, demonstration, or project;

(6) Publish and give out any information that relates to expanding access to health care through community health resources that is considered desirable in the public interest; **[**and**]**

(7) Subject to the limitations of this subtitle, exercise any other power that is reasonably necessary to carry out the purposes of this subtitle**; AND**

(8) ASSIST ~~**SAFETY NET PROVIDERS**~~ **COMMUNITY HEALTH RESOURCES IN PREPARING TO IMPLEMENT THE AFFORDABLE CARE ACT**.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) In this section, "Affordable Care Act" and "~~safety net provider~~ community health resource" have the meanings stated in § 19–2101 of the Health – General Article, as enacted by Section 1 of this Act.

(b) The Maryland Community Health Resources Commission shall:

(1) examine issues and potential challenges for ~~safety net providers~~ community health resources in preparing to implement health care reform associated with the Affordable Care Act, including:

(i) the administrative infrastructure and information technology capacity of ~~safety net providers~~ community health resources and any barriers to ~~safety net providers~~ community health resources achieving meaningful use of the information technology;

(ii) whether common administrative and information technology systems and technical assistance would help ~~safety net providers~~ community health resources in contracting with managed care organizations and commercial insurers;

(iii) opportunities for ~~safety net providers~~ community health resources to partner to achieve efficient administrative economies of scale;

(iv) ~~methods to assist safety net providers to obtain reimbursement from third-party payors~~ barriers to community health resources contracting with and billing third–party payors;

(v) assistance in positioning ~~safety net providers~~ community health resources to obtain resources available under health care reform; and

(vi) barriers that may impede ~~safety net providers~~ community health resources from sustaining their service delivery; and

(2) develop a business plan for the State to provide ongoing assistance to ~~safety net providers~~ community health resources to assist the ~~providers~~ community health resources in~~:~~

~~(i) obtaining reimbursement from third–party payors; and~~

~~(ii) sustaining~~ sustaining and enhancing their service delivery.

(c) On or before January 1, 2012, the Maryland Community Health Resources Commission shall make recommendations for a plan to assist ~~safety net providers~~ community health resources in implementing health care reform associated with the Affordable Care Act to the Governor and, in accordance with § 2–1246 of the

State Government Article, the Senate Finance Committee and the House Health and Government Operations Committee.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 243

(House Bill 450)

AN ACT concerning

Maryland Community Health Resources Commission – Health Care Reform – ~~Safety Net Providers~~ *Implementation*

FOR the purpose of authorizing the Maryland Community Health Resources Commission to provide certain assistance to ~~safety net providers~~ *community health resources* in preparing to implement certain health care reform; authorizing the Commission to examine certain issues and potential challenges for ~~safety net providers~~ *community health resources* in preparing to implement certain health care reform; requiring the Commission to develop a certain business plan for the provision by the State of certain assistance to ~~safety net providers~~ *community health resources*; requiring the Commission to make certain recommendations to the Governor and certain committees of the General Assembly on or before a certain date; altering a certain definition; defining certain terms; and generally relating to the Maryland Community Health Resources Commission and the implementation of health care reform ~~by safety net providers~~.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 19–2101 and 19–2107(a)
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

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

Article – Health – General

19–2101.

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

(B) "AFFORDABLE CARE ACT" MEANS THE FEDERAL PATIENT PROTECTION AND AFFORDABLE CARE ACT, AS AMENDED BY THE FEDERAL HEALTH CARE AND EDUCATION RECONCILIATION ACT OF 2010, AND ANY REGULATIONS ADOPTED OR GUIDANCE ISSUED UNDER THE ACTS.

[(b)**] (C)** "Commission" means the Maryland Community Health Resources Commission.

[(c)**] (D)** (1) "Community health resource" means a nonprofit or for profit health care center or program that offers the primary health care services required by the Commission under § 19–2109(a)(2) of this subtitle to an individual on a sliding scale fee schedule and without regard to an individual's ability to pay.

(2) "Community health resource" includes:

(i) A federally qualified health center;

(ii) A federally qualified health center "look–alike";

(iii) A community health center;

(iv) A migrant health center;

(v) A health care program for the homeless;

(vi) A primary care program for a public housing project;

(vii) A local nonprofit and community–owned health care program;

(viii) A school–based health center;

(ix) A teaching clinic;

(x) A wellmobile;

(xi) A health center controlled operating network;

(xii) A historic Maryland primary care provider;

(xiii) An outpatient **[**mental health clinic**] BEHAVIORAL HEALTH PROGRAM**; and

(xiv) Any other center or program identified by the Commission as a community health resource.

~~**(E) "SAFETY NET PROVIDER" MEANS A PROVIDER THAT DELIVERS A SIGNIFICANT LEVEL OF HEALTH CARE TO THE UNINSURED, ENROLLEES IN THE MEDICAL ASSISTANCE PROGRAM, OR OTHER VULNERABLE PATIENTS.**~~

19–2107.

(a) In addition to the powers set forth elsewhere in this subtitle, the Commission may:

(1) Adopt regulations to carry out the provisions of this subtitle;

(2) Create committees from among its members;

(3) Appoint advisory committees, which may include individuals and representatives of interested public or private organizations;

(4) Apply for and accept any funds, property, or services from any person or government agency;

(5) Make agreements with a grantor or payor of funds, property, or services, including an agreement to make any study, plan, demonstration, or project;

(6) Publish and give out any information that relates to expanding access to health care through community health resources that is considered desirable in the public interest; **[**and**]**

(7) Subject to the limitations of this subtitle, exercise any other power that is reasonably necessary to carry out the purposes of this subtitle**; AND**

(8) ASSIST ~~**SAFETY NET PROVIDERS**~~ ***COMMUNITY HEALTH RESOURCES*** **IN PREPARING TO IMPLEMENT THE AFFORDABLE CARE ACT**.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) In this section, "Affordable Care Act" and "~~safety net provider~~ *community health resource*" have the meanings stated in § 19–2101 of the Health – General Article, as enacted by Section 1 of this Act.

(b) The Maryland Community Health Resources Commission shall:

(1) examine issues and potential challenges for ~~safety net providers~~ *community health resources* in preparing to implement health care reform associated with the Affordable Care Act, including:

(i) the administrative infrastructure and information technology capacity of ~~safety net providers~~ *community health resources* and any barriers to ~~safety net providers~~ *community health resources* achieving meaningful use of the information technology;

(ii) whether common administrative and information technology systems and technical assistance would help ~~safety net providers~~ *community health resources* in contracting with managed care organizations and commercial insurers;

(iii) opportunities for ~~safety net providers~~ *community health resources* to partner to achieve efficient administrative economies of scale;

(iv) ~~methods to assist safety net providers to obtain reimbursement from~~ barriers to ~~safety net providers~~ *community health resources* contracting with and billing third–party payors;

(v) assistance in positioning ~~safety net providers~~ *community health resources* to obtain resources available under health care reform; and

(vi) barriers that may impede ~~safety net providers~~ *community health resources* from sustaining their service delivery; and

(2) develop a business plan for the State to provide ongoing assistance to ~~safety net providers~~ *community health resources* to assist the ~~providers~~ *community health resources* in~~:~~

~~(i) obtaining reimbursement from third–party payors; and~~

~~(ii)~~ sustaining and enhancing their service delivery.

(c) On or before January 1, 2012, the Maryland Community Health Resources Commission shall make recommendations for a plan to assist ~~safety net providers~~ *community health resources* in implementing health care reform associated with the Affordable Care Act to the Governor and, in accordance with § 2–1246 of the State Government Article, the Senate Finance Committee and the House Health and Government Operations Committee.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 244

(Senate Bill 515)

AN ACT concerning

Public Defender – Representation – Income Eligibility and Appointment by a Court

FOR the purpose of establishing that certain individuals may be eligible for services from the Office of the Public Defender without an assessment regarding the need of the individual; establishing that the determination of eligibility for services from the Office of the Public Defender based on need applies for an individual whose assets and net annual income equal or exceed a certain amount; establishing that certain courts are prohibited from appointing an attorney through the Office of the Public Defender under certain circumstances; and generally relating to representation by the Office of the Public Defender.

BY repealing and reenacting, with amendments,
Article – Criminal Procedure
Section 16–210 and 16–213
Annotated Code of Maryland
(2008 Replacement Volume and 2010 Supplement)

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

Article – Criminal Procedure

16–210.

(a) An individual may apply for services of the Office as an indigent individual, if the individual states in writing under oath or affirmation that the individual, without undue financial hardship, cannot provide the full payment of an attorney and all other necessary expenses of representation in proceedings listed under § 16–204(b) of this subtitle.

(B) FOR AN INDIVIDUAL WHOSE ASSETS AND NET ANNUAL INCOME ARE LESS THAN 100 PERCENT OF THE FEDERAL POVERTY GUIDELINES, ELIGIBILITY FOR SERVICES OF THE OFFICE MAY BE DETERMINED WITHOUT AN ASSESSMENT REGARDING THE NEED OF THE APPLICANT.

[(b)**] (C)** (1) **[**Eligibility**] FOR AN INDIVIDUAL WHOSE ASSETS AND NET ANNUAL INCOME EQUAL OR EXCEED 100 PERCENT OF THE FEDERAL POVERTY GUIDELINES, ELIGIBILITY** for the services of the Office shall be determined by the need of the applicant.

(2) Need shall be measured according to the financial ability of the applicant to engage and compensate a competent private attorney and to provide all other necessary expenses of representation.

(3) Financial ability shall be determined by:

(i) the nature, extent, and liquidity of assets;

(ii) the disposable net income of the applicant;

(iii) the nature of the offense;

(iv) the length and complexity of the proceedings;

(v) the effort and skill required to gather pertinent information; and

(vi) any other foreseeable expense.

(4) If eligibility cannot be determined before the Office or a panel attorney begins representation, the Office may represent an applicant provisionally.

(5) If the Office subsequently determines that an applicant is ineligible:

(i) the Office shall inform the applicant; and

(ii) the applicant shall be required to engage the applicant's own attorney and reimburse the Office for the cost of the representation provided.

[(c)**] (D)** (1) The Office shall investigate the financial status of an applicant when the circumstances warrant.

(2) The Office may:

(i) require an applicant to execute and deliver written requests or authorizations that are necessary under law to provide the Office with access to confidential records of public or private sources that are needed to evaluate eligibility; and

(ii) on request, obtain information without charge from a public record office or other unit of the State, county, or municipal corporation.

(3) (i) The Office may submit requests to the Department of Labor, Licensing, and Regulation and the Comptroller for information regarding the employment status and income of applicants.

(ii) Each request shall be accompanied by an authorization for release of information that is:

1. in a form acceptable to the agency to which the request is submitted; and

2. signed by the applicant.

(iii) The Department of Labor, Licensing, and Regulation and the Comptroller shall comply with requests for information made by the Office under this paragraph.

(iv) Requests and responsive information may be exchanged by facsimile transmission.

16–213.

This subtitle does not prohibit the appointment of an attorney**, OTHER THAN THROUGH THE OFFICE,** to represent an indigent individual by the District Court, a circuit court, or the Court of Special Appeals if:

(1) there is a conflict in legal representation in a matter involving multiple defendants, and one of the defendants is represented by or through the Office; or

(2) the Office declines to provide representation to an indigent individual entitled to representation under this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 245

(Senate Bill 516)

AN ACT concerning

Foreclosed Residential Property – Tenants – Collection of Rent Payments – Prior Notice

FOR the purpose of prohibiting a foreclosure sale purchaser from exercising any right to collect rent payments from a bona fide tenant in possession of a residential property unless the purchaser conducts a certain reasonable inquiry concerning

the occupancy of the residential property and serves on each bona fide tenant a certain notice concerning rent payments; providing that a foreclosure sale purchaser waives any claim to rent payments from a bona fide tenant in possession of a residential property before satisfying certain notice requirements *subject to a certain exception*; defining certain terms; providing for the application of this Act; and generally relating to the collection of rent payments from tenants in possession of foreclosed residential property.

BY repealing and reenacting, without amendments,
Article – Real Property
Section 7–105.1(a)(9) and 7–105.6(b)(1)
Annotated Code of Maryland
(2010 Replacement Volume and 2010 Supplement)

BY adding to
Article – Real Property
Section 7–105.10
Annotated Code of Maryland
(2010 Replacement Volume and 2010 Supplement)

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

Article – Real Property

7–105.1.

(a) (9) "Residential property" means real property improved by four or fewer single family dwelling units that are designed principally and are intended for human habitation.

7–105.6.

(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.

7–105.10.

(A) (1) IN THIS SECTION 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) "FORECLOSURE SALE PURCHASER" MEANS ANY PURCHASER AT A FORECLOSURE SALE OF A MORTGAGE OR DEED OF TRUST ON RESIDENTIAL PROPERTY.

(4) "RESIDENTIAL PROPERTY" HAS THE MEANING STATED IN § 7–105.1(A)(9) OF THIS SUBTITLE.

(B) A FORECLOSURE SALE PURCHASER MAY NOT EXERCISE ANY RIGHT TO COLLECT RENT PAYMENTS FROM A BONA FIDE TENANT IN POSSESSION OF A RESIDENTIAL PROPERTY UNLESS THE PURCHASER:

(1) CONDUCTS A REASONABLE INQUIRY AS REQUIRED UNDER *MARYLAND* RULE 14–102 ~~OF THE MARYLAND RULES~~ INTO:

(I) THE OCCUPANCY STATUS OF THE RESIDENTIAL PROPERTY; AND

(II) WHETHER ANY INDIVIDUAL IN POSSESSION OF THE RESIDENTIAL PROPERTY IS A BONA FIDE TENANT; AND

(2) SERVES ON EACH BONA FIDE TENANT, BY FIRST CLASS MAIL WITH A CERTIFICATE OF MAILING ~~AND POSTING IN A CONSPICUOUS PLACE ON THE RESIDENTIAL PROPERTY~~, A NOTICE THAT:

(I) CONTAINS THE NAME, ADDRESS, AND PHONE NUMBER OF THE *PURCHASER OR THE* AGENT OF THE PURCHASER WHO IS RESPONSIBLE FOR MANAGING AND MAINTAINING THE RESIDENTIAL PROPERTY; AND

(II) STATES THAT RENT PAYMENTS MUST BE DIRECTED TO THE *PURCHASER OR THE* AGENT IDENTIFIED IN ITEM (I) OF THIS ITEM.

(C) *(1)* ~~A~~ *EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A* FORECLOSURE SALE PURCHASER WAIVES ANY CLAIM TO RENT PAYMENTS FROM A BONA FIDE TENANT IN POSSESSION OF A RESIDENTIAL PROPERTY FOR ANY PERIOD OF TIME BEFORE THE PURCHASER SATISFIES THE REQUIREMENTS UNDER SUBSECTION (B) OF THIS SECTION.

(2) A FORECLOSURE SALE PURCHASER DOES NOT WAIVE ANY CLAIM TO RENT DUE AND PAYABLE FOR USE OF THE RESIDENTIAL PROPERTY FOR THE 15 DAYS IMMEDIATELY PRIOR TO THE DATE THAT THE PURCHASER SATISFIED THE REQUIREMENTS UNDER SUBSECTION (B) OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any action to foreclose a mortgage or deed of trust on residential property docketed on or before June 30, 2011.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 246

(House Bill 842)

AN ACT concerning

Foreclosed Residential Property – Tenants – Collection of Rent Payments – Prior Notice

FOR the purpose of prohibiting a foreclosure sale purchaser from exercising any right to collect rent payments from a bona fide tenant in possession of a residential property unless the purchaser conducts a certain reasonable inquiry concerning the occupancy of the residential property and serves on each bona fide tenant a certain notice concerning rent payments; providing that a foreclosure sale purchaser waives any claim to rent payments from a bona fide tenant in possession of a residential property before satisfying certain notice requirements subject to a certain exception; defining certain terms; providing for the application of this Act; and generally relating to the collection of rent payments from tenants in possession of foreclosed residential property.

BY repealing and reenacting, without amendments,
Article – Real Property
Section 7–105.1(a)(9) and 7–105.6(b)(1)
Annotated Code of Maryland
(2010 Replacement Volume and 2010 Supplement)

BY adding to
Article – Real Property
Section 7–105.10
Annotated Code of Maryland

(2010 Replacement Volume and 2010 Supplement)

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

Article – Real Property

7–105.1.

(a) (9) "Residential property" means real property improved by four or fewer single family dwelling units that are designed principally and are intended for human habitation.

7–105.6.

(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.

7–105.10.

(A) (1) IN THIS SECTION 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) "FORECLOSURE SALE PURCHASER" MEANS ANY PURCHASER AT A FORECLOSURE SALE OF A MORTGAGE OR DEED OF TRUST ON RESIDENTIAL PROPERTY.

(4) "RESIDENTIAL PROPERTY" HAS THE MEANING STATED IN § 7–105.1(A)(9) OF THIS SUBTITLE.

(B) A FORECLOSURE SALE PURCHASER MAY NOT EXERCISE ANY RIGHT TO COLLECT RENT PAYMENTS FROM A BONA FIDE TENANT IN POSSESSION OF A RESIDENTIAL PROPERTY UNLESS THE PURCHASER:

(1) CONDUCTS A REASONABLE INQUIRY AS REQUIRED UNDER MARYLAND RULE 14–102 ~~OF THE MARYLAND RULES~~ INTO:

(I) THE OCCUPANCY STATUS OF THE RESIDENTIAL PROPERTY; AND

(II) WHETHER ANY INDIVIDUAL IN POSSESSION OF THE RESIDENTIAL PROPERTY IS A BONA FIDE TENANT; AND

(2) SERVES ON EACH BONA FIDE TENANT, BY FIRST CLASS MAIL WITH A CERTIFICATE OF MAILING ~~AND POSTING IN A CONSPICUOUS PLACE ON THE RESIDENTIAL PROPERTY,~~ A NOTICE THAT:

(I) CONTAINS THE NAME, ADDRESS, AND PHONE NUMBER OF THE PURCHASER OR THE AGENT OF THE PURCHASER WHO IS RESPONSIBLE FOR MANAGING AND MAINTAINING THE RESIDENTIAL PROPERTY; AND

(II) STATES THAT RENT PAYMENTS MUST BE DIRECTED TO THE PURCHASER OR THE AGENT IDENTIFIED IN ITEM (I) OF THIS ITEM.

(C) (1) ~~A~~ EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A FORECLOSURE SALE PURCHASER WAIVES ANY CLAIM TO RENT PAYMENTS FROM A BONA FIDE TENANT IN POSSESSION OF A RESIDENTIAL PROPERTY FOR ANY PERIOD OF TIME BEFORE THE PURCHASER SATISFIES THE REQUIREMENTS UNDER SUBSECTION (B) OF THIS SECTION.

(2) A FORECLOSURE SALE PURCHASER DOES NOT WAIVE ANY CLAIM TO RENT DUE AND PAYABLE FOR USE OF THE RESIDENTIAL PROPERTY FOR THE 15 DAYS IMMEDIATELY PRIOR TO THE DATE THAT THE PURCHASER SATISFIED THE REQUIREMENTS UNDER SUBSECTION (B) OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any action to foreclose a mortgage or deed of trust on residential property docketed on or before June 30, 2011.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 247

(Senate Bill 534)

AN ACT concerning

Washington County – Board of Elections – Membership and Compensation

FOR the purpose of altering which salaries the Washington County Salary Study Commission is required to study; altering the number of regular members of the Washington County Board of Elections; requiring the members of the local board to be of certain political parties; requiring a vacancy on the local board to be filled in a certain manner; repealing the requirement that members of the local board be paid a certain amount; requiring that the Washington County Board of County Commissioners set the salaries of members of the local board; repealing the requirement that substitute members of the local board be paid a certain amount; ~~providing that this Act does not apply to the salary or compensation of the local board during a certain term of office;~~ providing for the effective date of this Act; and generally relating to the membership and compensation of the Washington County Board of Elections.

BY repealing and reenacting, with amendments,
Article 24 – Political Subdivisions – Miscellaneous Provisions
Section 12–205(a)
Annotated Code of Maryland
(2005 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, without amendments,
Article – Election Law
Section 2–201(a) and (b)
Annotated Code of Maryland
(2010 Replacement Volume)
(As enacted by Chapter 344 of the Acts of the General Assembly of 2010)

BY repealing and reenacting, with amendments,
Article – Election Law
Section 2–201(l) and 2–204 (a)(22) and (b)
Annotated Code of Maryland
(2010 Replacement Volume)
(As enacted by Chapter 344 of the Acts of the General Assembly of 2010)

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

12–205.

(a) The Commission shall study the salaries of the Washington County:

(1) Board of County Commissioners;

(2) Board of Education;

(3) Orphans' Court judges;

(4) Sheriff;

(5) Treasurer; **AND**

(6) **[**Board of Supervisors of Elections; and

(7)**]** Board of Liquor License Commissioners.

Article – Election Law

2–201.

(a) (1) There is a county board of elections in each county of the State.

(2) Each local board and its staff is subject to the direction and authority of the State Board and is accountable to the State Board for its actions in all matters regarding the implementation of the requirements of this article and any applicable federal law.

(b) (1) Except as provided in subsections (j), (k), and (l) of this section, each local board consists of three regular members and two substitute members.

(2) Two regular members and one substitute member shall be of the majority party, and one regular member and one substitute member shall be of the principal minority party.

(3) Except as provided in subsection (l) of this section, in the event of the absence of a regular member or a vacancy in the office of a regular member, the substitute member of the same political party shall exercise the powers and duties of a regular member until the regular member returns or the vacancy is filled as prescribed in subsection (h) of this section.

(l) (1) In Wicomico County, Worcester County, **[**and**]** Somerset County, **AND WASHINGTON COUNTY,** the local board consists of five regular members.

(2) Three regular members shall be of the majority party, and two regular members shall be of the principal minority party.

(3) (i) If a vacancy occurs on the local board, the Governor shall appoint an eligible person from the same political party as the predecessor member to fill the vacancy in accordance with subsection (g) of this section for the remainder of the unexpired term and until a successor is appointed and qualifies.

(ii) An appointment made while the Senate of Maryland is not in session shall be considered temporary until the appointee is confirmed by the Senate.

2–204.

(a) Each regular member of a local board shall receive the salary and reimbursement of expenses provided in the county budget, but in no event may the annual compensation be less than the following amounts:

(22) in Washington County, **[**$5,000 for the president and $4,500 for other regular members**]** **THE AMOUNT SET BY THE COUNTY COMMISSIONERS**;

(b) (1) Consistent with paragraph (2) of this subsection, each substitute member shall be compensated for each day of service as provided in the county budget.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, a substitute member shall be compensated at a rate of at least $25 for each meeting of the local board that the substitute member attends.

(ii) 1. In Baltimore City, a substitute member shall be paid $200 for each meeting that the substitute member attends.

2. In Calvert County, a substitute member shall be paid at least $50 for each meeting that the substitute member attends.

3. In Frederick County, a substitute member shall be paid $4,500 annually.

4. In Garrett County, a substitute member shall be paid the amount set by the County Commissioners under Chapter 91 of the Public Local Laws of Garrett County.

5. In Kent County, a substitute member shall be paid at least $50 for each meeting that the substitute member attends.

[6. In Washington County, a substitute member shall be paid $75 for each meeting that the substitute member attends.**]**

~~SECTION 2. AND BE IT FURTHER ENACTED, That, pursuant to Article III, § 35 of the Maryland Constitution, this Act may not be construed to extend or apply to~~

~~the salary or compensation of the Washington County Board of Elections during a term of office beginning before the effective date of this Act, but the provisions of this Act concerning the salary or compensation of the Washington County Board of Elections shall take effect at the beginning of the next following term of office.~~

SECTION ~~3.~~ *2.* AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October 1~~ June 6, 2011.

Approved by the Governor, May 10, 2011.

Chapter 248

(Senate Bill 556)

AN ACT concerning

Mental Hygiene Administration – Facilities – Trauma–Informed Care

FOR the purpose of requiring certain facilities to provide certain staff with certain training and to conform with certain trauma–informed care principles under certain circumstances; requiring certain individuals to report certain abuse under certain circumstances; requiring certain facilities to report complaints of certain sexual abuse and sexual harassment to the State designated protection and advocacy system; requiring a law enforcement agency to submit certain findings to the State designated protection and advocacy system under certain circumstances; requiring the Mental Hygiene Administration to develop certain policies and to develop and oversee certain training and education related to trauma–informed care; ~~prohibiting State facilities from locating male and female bedrooms on the same hallway and requiring the facilities to provide for a certain barrier;~~ requiring the Administration to develop and implement a certain plan to secure the sleeping quarters of male and female patients at State facilities; requiring State facilities to use certain screening tools in a certain manner; requiring State facilities to make certain reassignments under certain circumstances; ~~requiring State facilities to establish a certain female–only unit;~~ requiring State facilities to provide certain patients with certain treatment and education related to sexual abuse; requiring State facilities to ensure that certain staff receive certain training related to trauma recovery; requiring the Administration to utilize a certain team to develop and conduct a certain survey; requiring the Administration to design and implement a certain pilot *program*; requiring the Administration to assess the current design of units at each State facility in a certain manner; requiring the Administration to request technical assistance from a certain group to implement certain provisions of this Act; requiring the Administration to convene a certain committee to provide certain advice and make certain recommendations; requiring the

Administration to make a certain report to the Governor and General Assembly on or before a certain date; making certain technical changes; defining certain terms; and generally relating to mental health facilities and trauma–informed care.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 10–701 and 10–705
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

Preamble

WHEREAS, The Mental Hygiene Administration has a duty to protect patients in State–operated or licensed facilities from abuse and sexual harassment; and

WHEREAS, There are high rates of trauma histories involving sexual abuse and exploitation among individuals receiving public mental health services, leaving these individuals vulnerable to further victimization and hindering their ability to recover; and

WHEREAS, It is the mission of the Mental Hygiene Administration to provide services in a safe and supportive environment; now, therefore,

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

Article – Health – General

10–701.

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

(2) (i) "Advocate" means a person who provides support and guidance to an individual in a facility.

(ii) "Advocate" includes a family member or friend.

(iii) "Advocate" does not include an attorney acting in the capacity of legal counsel to an individual in a facility during the treatment planning and discharge planning process.

(3) "Facility" does not include an acute general care hospital that does not have a separately identified inpatient psychiatric service.

(4) (i) "Mental abuse" means any persistent course of conduct resulting in or maliciously intended to produce emotional harm.

(ii) "Mental abuse" does not include the performance of an accepted clinical procedure.

(5) (i) "Prone restraint" means restricting the free movement of all or a portion of an individual's body through the use of physical force or mechanical devices while the individual is in a prone position.

(ii) "Prone restraint" does not include a technique for transitioning an individual to a restraint position that involves momentarily placing the individual face down.

(6) "STATE FACILITY" MEANS A FACILITY THAT IS MAINTAINED UNDER THE DIRECTION OF THE MENTAL HYGIENE ADMINISTRATION.

(7) "TRAUMA–INFORMED CARE" MEANS MENTAL HEALTH TREATMENT THAT INCLUDES:

(I) AN APPRECIATION FOR THE HIGH PREVALENCE OF TRAUMA EXPERIENCED BY INDIVIDUALS RECEIVING MENTAL HEALTH SERVICES;

(II) AN UNDERSTANDING OF THE NEUROLOGICAL, BIOLOGICAL, PSYCHOLOGICAL, AND SOCIAL EFFECTS OF TRAUMA AND VIOLENCE, INCLUDING SEXUAL ABUSE AND EXPLOITATION, ON AN INDIVIDUAL; AND

(III) AN UNDERSTANDING OF THE ENVIRONMENT, PRACTICES, AND TREATMENTS THAT MAY NEED TO BE MODIFIED TO ADDRESS TRAUMA ISSUES.

(b) It is the policy of this State that each individual with a mental disorder who receives any service in a facility has, in addition to any other rights, the rights provided in this subtitle.

(c) Each individual in a facility shall:

(1) Receive appropriate humane treatment and services in a manner that restricts the individual's personal liberty within a facility only to the extent necessary and consistent with the individual's treatment needs and applicable legal requirements;

(2) Receive treatment in accordance with the applicable individualized plan of rehabilitation or the individualized treatment plan provided for in § 10–706 of this subtitle;

(3) Be free from restraints or seclusions except for restraints or seclusions that are:

(i) Used only during an emergency in which the behavior of the individual places the individual or others at serious threat of violence or injury; and

(ii) 1. Ordered by a physician in writing; or

2. Directed by a registered nurse if a physician's order is obtained within 2 hours of the action;

(4) Be free from prone restraint;

(5) Be free from restraint that:

(i) Applies pressure to the individual's back;

(ii) Obstructs the airway of the individual or impairs the individual's ability to breathe;

(iii) Obstructs a staff member's view of the individual's face; or

(iv) Restricts the individual's ability to communicate distress;

(6) Be free from mental abuse;

(7) Be protected from harm or abuse as provided in this subtitle;

(8) Except as provided in subsection **[**(d)**]** **(E)** of this section, and subject to subsection **[**(j)**]** **(K)** of this section, have the right to an advocate of the individual's choice **TO** participate in the treatment planning and discharge planning process; and

(9) Subject to the provisions of § 10–708 of this subtitle, if the individual has an advance directive for mental health services provided for in § 5–602.1 of this article, receive treatment in accordance with the preferences in the advance directive.

(D) A <u>STATE</u> FACILITY SHALL ENSURE THAT:

(1) ALL <u>CLINICAL, DIRECT CARE, AND OTHER DESIGNATED</u> STAFF <u>WITH REGULAR PATIENT INTERACTION</u> RECEIVE TRAINING IN TRAUMA–INFORMED CARE AND DEMONSTRATE COMPETENCY IN PROVIDING TRAUMA–INFORMED CARE SERVICES WITHIN 3 MONTHS OF BEING HIRED AND ON AN ANNUAL BASIS;

(2) ANY POLICY OR PRACTICE FOLLOWED BY THE FACILITY IS REVIEWED AND REVISED TO CONFORM WITH TRAUMA–INFORMED CARE PRINCIPLES; AND

(3) THE PHYSICAL ENVIRONMENT OF THE FACILITY IS ASSESSED AT LEAST ANNUALLY AND MODIFIED IF THE MODIFICATIONS:

(I) ARE NECESSARY TO ENSURE CONFORMITY WITH TRAUMA–INFORMED CARE PRINCIPLES; AND

(II) CAN BE FUNDED THROUGH THE STATE'S OPERATING BUDGET OR CAPITAL BUDGET.

[(d)**] (E)** Notwithstanding the provisions of subsection (c)(8) of this section, a facility may prohibit an advocate from participating in the treatment planning or discharge planning process for an individual if:

(1) (i) The individual is a minor or an adult under guardianship in accordance with § 13–705 of the Estates and Trusts Article; and

(ii) The parent of the minor or the legal guardian of the individual has requested that the advocate not participate; or

(2) The advocate has engaged in behavior that:

(i) Is disruptive to the individual, other patients, or staff at the facility; or

(ii) Poses a threat to the safety of the individual, other patients, or staff at the facility.

[(e)**] (F)** A facility shall:

(1) Have a written policy specifying the method used to ensure that an individual whose primary language or method of communication is nonverbal is able to effectively communicate distress during a physical restraint or hold; and

(2) Ensure that all staff at the facility who are authorized to participate in a physical restraint or hold of individuals are trained in the method specified in the written policy required under item (1) of this subsection.

[(f)**] (G)** Subject to the provisions of §§ 4–301 through 4–309 of this article, the records of each individual in a facility are confidential.

[(g)**] (H)** (1) Notwithstanding any other provision of law, when the State designated protection and advocacy agency **[**for persons with developmental

disabilities**]** has received and documented a request for an investigation of a possible violation of the rights of an individual in a facility that is owned and operated by the Department or under contract to the Department to provide mental health services in the community under this subtitle, the executive director of the protection and advocacy agency or the executive director's designee:

(i) Before pursuing any investigation:

1. Shall interview the individual whose rights have been allegedly violated; and

2. Shall attempt to obtain written consent from the individual; and

(ii) If the individual is unable to give written consent but does not object to the investigation:

1. Shall document this fact; and

2. Shall request, in writing, access to the individual's records from the Director of the Mental Hygiene Administration.

(2) On receipt of the request for access to the individual's records, the Director of the Mental Hygiene Administration shall authorize access to the individual's records.

(3) After satisfying the provisions of paragraphs (1) and (2) of this subsection, the executive director of the protection and advocacy agency, or the executive director's designee, may pursue an investigation and, as part of that investigation, shall continue to have access to the records of the individual whose rights have been allegedly violated.

[(h)**] (I)** (1) On admission to a facility, an individual shall be informed of the rights provided in this subtitle in language and terms that are appropriate to the individual's condition and ability to understand.

(2) A facility shall post notices in locations accessible to the individual and to visitors describing the rights provided in this subtitle in language and terms that may be readily understood.

[(i)**] (J)** A facility shall implement an impartial, timely complaint procedure that affords an individual the ability to exercise the rights provided in this subtitle.

[(j)**] (K)** This section may not be construed to:

(1) Grant the advocate of an individual legal authority that the advocate does not otherwise have under law to make decisions on behalf of the individual regarding treatment or discharge;

(2) Grant the advocate access to the medical records of the individual or other confidential information that the advocate does not otherwise have access to under law; or

(3) Limit the legal authority that an attorney or other person otherwise has under law to participate in the treatment planning and discharge planning process or to otherwise act on behalf of an individual in a facility.

10–705.

(a) (1) In this **[**section, "abuse"**]** **SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

(2) (I) "ABUSE" means cruel or inhumane treatment that causes:

[(i)**]** **1.** Any physical injury; or

[(ii)**]** **2.** Any of the following kinds of sexual abuse:

[1.**] A.** A sexual act, as defined in § 3–301 of the Criminal Law Article**[**.**];**

[2.**] B.** Sexual contact, as defined in § 3–301 of the Criminal Law Article**[**.**];** ~~AND~~ **OR**

[3.**] C.** Vaginal intercourse, as defined in § 3–301 of the Criminal Law Article.

[(2)**]** **(II)** **[**In this section, "abuse"**]** **"ABUSE"** does not include the performance of an accepted medical procedure that a physician orders in a manner that is consistent with the provisions of this subtitle.

(3) "SEXUAL HARASSMENT" MEANS INTIMIDATION, BULLYING, OR COERCION OF A SEXUAL NATURE OR UNWELCOME SEXUAL ADVANCES, REQUESTS FOR SEXUAL FAVORS, AND OTHER VERBAL OR PHYSICAL CONDUCT OF A SEXUAL NATURE THAT TENDS TO CREATE A HOSTILE OR OFFENSIVE ENVIRONMENT.

(b) (1) A **[**person who believes that an individual in a facility has been abused**]** **PERSON OR ANY EMPLOYEE OF A FACILITY OR OF THE DEPARTMENT**

WHO RECEIVES A COMPLAINT OF ABUSE, OR WHO OBSERVES OR HAS REASON TO BELIEVE THAT ABUSE HAS OCCURRED, shall promptly report the alleged abuse to:

(i) An appropriate law enforcement agency; or

(ii) The administrative head of the facility, who promptly shall report the alleged abuse to an appropriate law enforcement agency.

(2) A report:

(i) May be oral or written; and

(ii) Shall contain as much information as the reporter is able to provide.

(3) A STATE FACILITY SHALL REPORT COMPLAINTS OF SEXUAL ABUSE AND SEXUAL HARASSMENT TO THE STATE DESIGNATED PROTECTION AND ADVOCACY SYSTEM.

(c) (1) The law enforcement agency shall:

(i) Investigate thoroughly each report of an alleged abuse; and

(ii) Attempt to **[**insure**]** **ENSURE** the protection of the alleged victim.

(2) The investigation shall include:

(i) A determination of the nature, extent, and cause of the abuse, if any;

(ii) The identity of the alleged abuser; and

(iii) Any other pertinent fact or matter.

(d) As soon as possible, but no later than 10 working days after the completion of the investigation, the law enforcement agency shall submit a written report of its findings to the State's Attorney**, THE STATE DESIGNATED PROTECTION AND ADVOCACY SYSTEM,** and the administrative head of the facility.

(e) A person shall have the immunity from liability described under § 5–626 of the Courts and Judicial Proceedings Article for:

(1) Making a report under this section;

(2) Participating in an investigation arising out of a report under this section; or

(3) Participating in a judicial proceeding arising out of a report under this section.

(F) THE ADMINISTRATION SHALL ENSURE THAT STATE FACILITIES:

(1) DEVELOP UNIFORM POLICIES AND PROCEDURES ON MAKING AND RESPONDING TO ALLEGATIONS OF SEXUAL ABUSE OR SEXUAL HARASSMENT;

(2) ENSURE THAT STAFF ~~DO NOT DISCOURAGE PATIENTS FROM~~ PROVIDE ASSISTANCE TO PATIENTS WHO HAVE REQUESTED ASSISTANCE IN MAKING COMPLAINTS ABOUT SEXUAL ABUSE OR SEXUAL HARASSMENT ~~AND DO NOT THREATEN OR PUNISH PATIENTS FOR MAKING THE COMPLAINTS~~;

(3) DEVELOP AND OVERSEE TRAINING FOR STAFF ON HOW TO IDENTIFY AND PREVENT SEXUAL ABUSE AND SEXUAL HARASSMENT, HOW TO RESPOND TO COMPLAINTS, AND HOW TO SUPPORT VICTIMS IN AN APPROPRIATE MANNER; AND

(4) DEVELOP AND OVERSEE PATIENT EDUCATION ON IDENTIFYING SEXUAL ABUSE AND SEXUAL HARASSMENT AND ON REPORTING INCIDENTS OF SEXUAL ABUSE AND SEXUAL HARASSMENT.

(G) ~~(1) A STATE FACILITY MAY NOT LOCATE MALE AND FEMALE BEDROOMS ON THE SAME HALLWAY AND SHALL PROVIDE FOR A BARRIER TO PREVENT UNAUTHORIZED ACCESS TO THE BEDROOM HALLWAY OF THE OPPOSITE GENDER.~~

~~(2) IN PROVIDING ANY PHYSICAL MODIFICATIONS THAT MAY BE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION, A FACILITY SHALL MAXIMIZE THE USE OF EXISTING RESOURCES AND INFRASTRUCTURE~~ THE ADMINISTRATION SHALL DEVELOP AND IMPLEMENT A PLAN TO SECURE THE SLEEPING QUARTERS OF MALE AND FEMALE PATIENTS AT ALL STATE FACILITIES THAT MAXIMIZES THE USE OF AVAILABLE RESOURCES AND INFRASTRUCTURE.

(H) EACH STATE FACILITY SHALL:

(1) USE EVIDENCE–BASED SCREENING TOOLS TO IDENTIFY ON ADMISSION A PATIENT'S RISK OF BEING A VICTIM OF SEXUAL OR PHYSICAL ABUSE, OR BEING A SEXUAL OR PHYSICAL ABUSER, AND SHALL ~~MAKE~~ CONSIDER

THE ASSESSMENT OF RISK IN MAKING ANY UNIT AND ROOM ASSIGNMENT ~~BASED ON THE ASSESSMENT OF RISK~~;

(2) REASSIGN ANY PATIENT ACCUSED OF SEXUAL ASSAULT PROMPTLY TO ANOTHER UNIT AND ENSURE THAT~~, REGARDLESS OF THE OUTCOME OF THE INVESTIGATION,~~ ANY ALLEGED VICTIM AND THE ALLEGED ASSAILANT ARE NOT HOUSED IN THE SAME UNIT ~~AT ANY TIME~~;

(3) ~~HAVE AT LEAST ONE FEMALE ONLY UNIT AVAILABLE ON A VOLUNTARY BASIS TO ANY FEMALE PATIENT AND ASSIGN ONLY FEMALE STAFF TO THE UNIT;~~

~~(4)~~ PROVIDE A PATIENT WHO HAS A HISTORY OF SEXUAL TRAUMA WITH ~~EVIDENCE–BASED~~ TREATMENT AND EDUCATION THAT IS EVIDENCE–BASED OR REFLECTIVE OF BEST PRACTICES TO REDUCE THE LIKELIHOOD OF THE PATIENT BEING THE VICTIM OF REPEATED SEXUAL ABUSE; AND

~~(5)~~ (4) ENSURE THAT DESIGNATED CLINICAL STAFF ARE TRAINED IN AT LEAST ONE TRAUMA RECOVERY MODALITY THAT IS CONSIDERED TO BE A BEST PRACTICE.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The Mental Hygiene Administration shall:

(1) utilize the Maryland Consumer Quality Team to develop and conduct a survey of female patients at each State facility;

(2) design and implement a 3–year pilot *program* ~~of~~ *for* a voluntary single gender unit at a State facility, with a priority toward a voluntary all–female unit;

(3) assess the current design of units at each State facility, including an assessment of the separation of sleeping quarters by gender and mechanisms to prevent unauthorized access to sleeping quarters and individual bedrooms; and

(4) request technical assistance and a consultant from the National Association of State Mental Health Program Directors to implement the requirements of Section 1 of this Act and to conduct the assessment of relevant factors and draft a report of observations and recommendations for implementing the pilot *program* for a single gender unit at a State facility.

(b) (1) The Mental Hygiene Administration shall convene a committee to advise the Administration on the development and implementation of Section 1 of this

Act and of the pilot *program* ~~of~~ *for* a single gender unit required under this section and to make additional recommendations as appropriate.

(2) The committee convened under paragraph (1) of this subsection shall include representatives from:

(i) The Maryland Disability Law Center;

(ii) On Our Own of Maryland;

(iii) The Mental Health Association of Maryland;

(iv) The Maryland Coalition Against Sexual Assault; and

(v) The Office of the State's Attorney.

(c) On or before June 1, 2012, the Mental ~~Health~~ *Hygiene* Administration shall report to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly on the implementation of Section 1 of this Act, the pilot *program* for a single gender unit required under this section, and any further recommendations made by the committee convened under subsection (b) of this section.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 249

(House Bill 1150)

AN ACT concerning

Mental Hygiene Administration – Facilities – Trauma–Informed Care

FOR the purpose of requiring certain facilities to provide certain staff with certain training and to conform with certain trauma–informed care principles under certain circumstances; requiring certain individuals to report certain abuse under certain circumstances; requiring certain facilities to report complaints of certain sexual abuse and sexual harassment to the State designated protection and advocacy system; requiring a law enforcement agency to submit certain findings to the State designated protection and advocacy system under certain circumstances; requiring the Mental Hygiene Administration to develop certain policies and to develop and oversee certain training and education related to

trauma–informed care; ~~prohibiting State facilities from locating male and female bedrooms on the same hallway and requiring the facilities to provide for a certain barrier;~~ requiring the Administration to develop and implement a certain plan to secure the sleeping quarters of male and female patients at State facilities; requiring State facilities to use certain screening tools in a certain manner; requiring State facilities to make certain reassignments under certain circumstances; ~~requiring State facilities to establish a certain female–only unit;~~ requiring State facilities to provide certain patients with certain treatment and education related to sexual abuse; requiring State facilities to ensure that certain staff receive certain training related to trauma recovery; requiring the Administration to utilize a certain team to develop and conduct a certain survey; requiring the Administration to design and implement a certain pilot *program*; requiring the Administration to assess the current design of units at each State facility in a certain manner; requiring the Administration to request technical assistance from a certain group to implement certain provisions of this Act; requiring the Administration to convene a certain committee to provide certain advice and make certain recommendations; requiring the Administration to make a certain report to the Governor and General Assembly on or before a certain date; making certain technical changes; defining certain terms; and generally relating to mental health facilities and trauma–informed care.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 10–701 and 10–705
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

Preamble

WHEREAS, The Mental Hygiene Administration has a duty to protect patients in State–operated or licensed facilities from abuse and sexual harassment; and

WHEREAS, There are high rates of trauma histories involving sexual abuse and exploitation among individuals receiving public mental health services, leaving these individuals vulnerable to further victimization and hindering their ability to recover; and

WHEREAS, It is the mission of the Mental Hygiene Administration to provide services in a safe and supportive environment; now, therefore,

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

Article – Health – General

10–701.

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

(2) (i) "Advocate" means a person who provides support and guidance to an individual in a facility.

(ii) "Advocate" includes a family member or friend.

(iii) "Advocate" does not include an attorney acting in the capacity of legal counsel to an individual in a facility during the treatment planning and discharge planning process.

(3) "Facility" does not include an acute general care hospital that does not have a separately identified inpatient psychiatric service.

(4) (i) "Mental abuse" means any persistent course of conduct resulting in or maliciously intended to produce emotional harm.

(ii) "Mental abuse" does not include the performance of an accepted clinical procedure.

(5) (i) "Prone restraint" means restricting the free movement of all or a portion of an individual's body through the use of physical force or mechanical devices while the individual is in a prone position.

(ii) "Prone restraint" does not include a technique for transitioning an individual to a restraint position that involves momentarily placing the individual face down.

(6) "STATE FACILITY" MEANS A FACILITY THAT IS MAINTAINED UNDER THE DIRECTION OF THE MENTAL HYGIENE ADMINISTRATION.

(7) "TRAUMA–INFORMED CARE" MEANS MENTAL HEALTH TREATMENT THAT INCLUDES:

(I) AN APPRECIATION FOR THE HIGH PREVALENCE OF TRAUMA EXPERIENCED BY INDIVIDUALS RECEIVING MENTAL HEALTH SERVICES;

(II) AN UNDERSTANDING OF THE NEUROLOGICAL, BIOLOGICAL, PSYCHOLOGICAL, AND SOCIAL EFFECTS OF TRAUMA AND VIOLENCE, INCLUDING SEXUAL ABUSE AND EXPLOITATION, ON AN INDIVIDUAL; AND

(III) AN UNDERSTANDING OF THE ENVIRONMENT, PRACTICES, AND TREATMENTS THAT MAY NEED TO BE MODIFIED TO ADDRESS TRAUMA ISSUES.

(b) It is the policy of this State that each individual with a mental disorder who receives any service in a facility has, in addition to any other rights, the rights provided in this subtitle.

(c) Each individual in a facility shall:

(1) Receive appropriate humane treatment and services in a manner that restricts the individual's personal liberty within a facility only to the extent necessary and consistent with the individual's treatment needs and applicable legal requirements;

(2) Receive treatment in accordance with the applicable individualized plan of rehabilitation or the individualized treatment plan provided for in § 10–706 of this subtitle;

(3) Be free from restraints or seclusions except for restraints or seclusions that are:

(i) Used only during an emergency in which the behavior of the individual places the individual or others at serious threat of violence or injury; and

(ii) 1. Ordered by a physician in writing; or

2. Directed by a registered nurse if a physician's order is obtained within 2 hours of the action;

(4) Be free from prone restraint;

(5) Be free from restraint that:

(i) Applies pressure to the individual's back;

(ii) Obstructs the airway of the individual or impairs the individual's ability to breathe;

(iii) Obstructs a staff member's view of the individual's face; or

(iv) Restricts the individual's ability to communicate distress;

(6) Be free from mental abuse;

(7) Be protected from harm or abuse as provided in this subtitle;

(8) Except as provided in subsection **[**(d)**] (E)** of this section, and subject to subsection **[**(j)**] (K)** of this section, have the right to an advocate of the individual's choice **TO** participate in the treatment planning and discharge planning process; and

(9) Subject to the provisions of § 10–708 of this subtitle, if the individual has an advance directive for mental health services provided for in § 5–602.1 of this article, receive treatment in accordance with the preferences in the advance directive.

(D) A STATE FACILITY SHALL ENSURE THAT:

(1) ALL CLINICAL, DIRECT CARE, AND OTHER DESIGNATED STAFF WITH REGULAR PATIENT INTERACTION RECEIVE TRAINING IN TRAUMA–INFORMED CARE AND DEMONSTRATE COMPETENCY IN PROVIDING TRAUMA–INFORMED CARE SERVICES WITHIN 3 MONTHS OF BEING HIRED AND ON AN ANNUAL BASIS;

(2) ANY POLICY OR PRACTICE FOLLOWED BY THE FACILITY IS REVIEWED AND REVISED TO CONFORM WITH TRAUMA–INFORMED CARE PRINCIPLES; AND

(3) THE PHYSICAL ENVIRONMENT OF THE FACILITY IS ASSESSED AT LEAST ANNUALLY AND MODIFIED IF THE MODIFICATIONS:

(I) ARE NECESSARY TO ENSURE CONFORMITY WITH TRAUMA–INFORMED CARE PRINCIPLES; AND

(II) CAN BE FUNDED THROUGH THE STATE'S OPERATING BUDGET OR CAPITAL BUDGET.

[(d)**] (E)** Notwithstanding the provisions of subsection (c)(8) of this section, a facility may prohibit an advocate from participating in the treatment planning or discharge planning process for an individual if:

(1) (i) The individual is a minor or an adult under guardianship in accordance with § 13–705 of the Estates and Trusts Article; and

(ii) The parent of the minor or the legal guardian of the individual has requested that the advocate not participate; or

(2) The advocate has engaged in behavior that:

(i) Is disruptive to the individual, other patients, or staff at the facility; or

(ii) Poses a threat to the safety of the individual, other patients, or staff at the facility.

[(e)**] (F)** A facility shall:

(1) Have a written policy specifying the method used to ensure that an individual whose primary language or method of communication is nonverbal is able to effectively communicate distress during a physical restraint or hold; and

(2) Ensure that all staff at the facility who are authorized to participate in a physical restraint or hold of individuals are trained in the method specified in the written policy required under item (1) of this subsection.

[(f)**] (G)** Subject to the provisions of §§ 4–301 through 4–309 of this article, the records of each individual in a facility are confidential.

[(g)**] (H)** (1) Notwithstanding any other provision of law, when the State designated protection and advocacy agency **[**for persons with developmental disabilities**]** has received and documented a request for an investigation of a possible violation of the rights of an individual in a facility that is owned and operated by the Department or under contract to the Department to provide mental health services in the community under this subtitle, the executive director of the protection and advocacy agency or the executive director's designee:

(i) Before pursuing any investigation:

1. Shall interview the individual whose rights have been allegedly violated; and

2. Shall attempt to obtain written consent from the individual; and

(ii) If the individual is unable to give written consent but does not object to the investigation:

1. Shall document this fact; and

2. Shall request, in writing, access to the individual's records from the Director of the Mental Hygiene Administration.

(2) On receipt of the request for access to the individual's records, the Director of the Mental Hygiene Administration shall authorize access to the individual's records.

(3) After satisfying the provisions of paragraphs (1) and (2) of this subsection, the executive director of the protection and advocacy agency, or the executive director's designee, may pursue an investigation and, as part of that investigation, shall continue to have access to the records of the individual whose rights have been allegedly violated.

[(h)**] (I)** (1) On admission to a facility, an individual shall be informed of the rights provided in this subtitle in language and terms that are appropriate to the individual's condition and ability to understand.

(2) A facility shall post notices in locations accessible to the individual and to visitors describing the rights provided in this subtitle in language and terms that may be readily understood.

[(i)**] (J)** A facility shall implement an impartial, timely complaint procedure that affords an individual the ability to exercise the rights provided in this subtitle.

[(j)**] (K)** This section may not be construed to:

(1) Grant the advocate of an individual legal authority that the advocate does not otherwise have under law to make decisions on behalf of the individual regarding treatment or discharge;

(2) Grant the advocate access to the medical records of the individual or other confidential information that the advocate does not otherwise have access to under law; or

(3) Limit the legal authority that an attorney or other person otherwise has under law to participate in the treatment planning and discharge planning process or to otherwise act on behalf of an individual in a facility.

10–705.

(a) (1) In this **[**section, "abuse"**] SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

(2) (I) "ABUSE" means cruel or inhumane treatment that causes:

[(i)**] 1.** Any physical injury; or

[(ii)**] 2.** Any of the following kinds of sexual abuse:

[1.**] A.** A sexual act, as defined in § 3–301 of the Criminal Law Article**[**.**];**

[2.**] B.** Sexual contact, as defined in § 3–301 of the Criminal Law Article**[.]; ~~AND~~ OR**

[3.**] C.** Vaginal intercourse, as defined in § 3–301 of the Criminal Law Article.

[(2)**] (II) [**In this section, "abuse"**] "ABUSE"** does not include the performance of an accepted medical procedure that a physician orders in a manner that is consistent with the provisions of this subtitle.

(3) "SEXUAL HARASSMENT" MEANS INTIMIDATION, BULLYING, OR COERCION OF A SEXUAL NATURE OR UNWELCOME SEXUAL ADVANCES, REQUESTS FOR SEXUAL FAVORS, AND OTHER VERBAL OR PHYSICAL CONDUCT OF A SEXUAL NATURE THAT TENDS TO CREATE A HOSTILE OR OFFENSIVE ENVIRONMENT.

(b) (1) A **[**person who believes that an individual in a facility has been abused**] PERSON OR ANY EMPLOYEE OF A FACILITY OR OF THE DEPARTMENT WHO RECEIVES A COMPLAINT OF ABUSE, OR WHO OBSERVES OR HAS REASON TO BELIEVE THAT ABUSE HAS OCCURRED,** shall promptly report the alleged abuse to:

(i) An appropriate law enforcement agency; or

(ii) The administrative head of the facility, who promptly shall report the alleged abuse to an appropriate law enforcement agency.

(2) A report:

(i) May be oral or written; and

(ii) Shall contain as much information as the reporter is able to provide.

(3) A STATE FACILITY SHALL REPORT COMPLAINTS OF SEXUAL ABUSE AND SEXUAL HARASSMENT TO THE STATE DESIGNATED PROTECTION AND ADVOCACY SYSTEM.

(c) (1) The law enforcement agency shall:

(i) Investigate thoroughly each report of an alleged abuse; and

(ii) Attempt to **[**insure**] ENSURE** the protection of the alleged victim.

(2) The investigation shall include:

(i) A determination of the nature, extent, and cause of the abuse, if any;

(ii) The identity of the alleged abuser; and

(iii) Any other pertinent fact or matter.

(d) As soon as possible, but no later than 10 working days after the completion of the investigation, the law enforcement agency shall submit a written report of its findings to the State's Attorney**, THE STATE DESIGNATED PROTECTION AND ADVOCACY SYSTEM,** and the administrative head of the facility.

(e) A person shall have the immunity from liability described under § 5–626 of the Courts and Judicial Proceedings Article for:

(1) Making a report under this section;

(2) Participating in an investigation arising out of a report under this section; or

(3) Participating in a judicial proceeding arising out of a report under this section.

(F) THE ADMINISTRATION SHALL ENSURE THAT STATE FACILITIES:

(1) DEVELOP UNIFORM POLICIES AND PROCEDURES ON MAKING AND RESPONDING TO ALLEGATIONS OF SEXUAL ABUSE OR SEXUAL HARASSMENT;

(2) ENSURE THAT STAFF ~~DO NOT DISCOURAGE PATIENTS FROM~~ PROVIDE ASSISTANCE TO PATIENTS WHO HAVE REQUESTED ASSISTANCE IN MAKING COMPLAINTS ABOUT SEXUAL ABUSE OR SEXUAL HARASSMENT ~~AND DO NOT THREATEN OR PUNISH PATIENTS FOR MAKING THE COMPLAINTS~~;

(3) DEVELOP AND OVERSEE TRAINING FOR STAFF ON HOW TO IDENTIFY AND PREVENT SEXUAL ABUSE AND SEXUAL HARASSMENT, HOW TO RESPOND TO COMPLAINTS, AND HOW TO SUPPORT VICTIMS IN AN APPROPRIATE MANNER; AND

(4) DEVELOP AND OVERSEE PATIENT EDUCATION ON IDENTIFYING SEXUAL ABUSE AND SEXUAL HARASSMENT AND ON REPORTING INCIDENTS OF SEXUAL ABUSE AND SEXUAL HARASSMENT.

(G) ~~(1) A STATE FACILITY MAY NOT LOCATE MALE AND FEMALE BEDROOMS ON THE SAME HALLWAY AND SHALL PROVIDE FOR A BARRIER TO PREVENT UNAUTHORIZED ACCESS TO THE BEDROOM HALLWAY OF THE OPPOSITE GENDER.~~

~~(2) IN PROVIDING ANY PHYSICAL MODIFICATIONS THAT MAY BE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION, A FACILITY SHALL MAXIMIZE THE USE OF EXISTING RESOURCES AND INFRASTRUCTURE~~ **THE ADMINISTRATION SHALL DEVELOP AND IMPLEMENT A PLAN TO SECURE THE SLEEPING QUARTERS OF MALE AND FEMALE PATIENTS AT ALL STATE FACILITIES THAT MAXIMIZES THE USE OF AVAILABLE RESOURCES AND INFRASTRUCTURE.**

(H) EACH STATE FACILITY SHALL:

(1) USE EVIDENCE–BASED SCREENING TOOLS TO IDENTIFY ON ADMISSION A PATIENT'S RISK OF BEING A VICTIM OF SEXUAL OR PHYSICAL ABUSE, OR BEING A SEXUAL OR PHYSICAL ABUSER, AND SHALL ~~**MAKE**~~ **CONSIDER THE ASSESSMENT OF RISK IN MAKING ANY UNIT AND ROOM ASSIGNMENT** ~~**BASED ON THE ASSESSMENT OF RISK**~~**;**

(2) REASSIGN ANY PATIENT ACCUSED OF SEXUAL ASSAULT PROMPTLY TO ANOTHER UNIT AND ENSURE THAT~~**, REGARDLESS OF THE OUTCOME OF THE INVESTIGATION,**~~ **ANY ALLEGED VICTIM AND THE ALLEGED ASSAILANT ARE NOT HOUSED IN THE SAME UNIT** ~~**AT ANY TIME**~~**;**

~~**(3) HAVE AT LEAST ONE FEMALE–ONLY UNIT AVAILABLE ON A VOLUNTARY BASIS TO ANY FEMALE PATIENT AND ASSIGN ONLY FEMALE STAFF TO THE UNIT;**~~

~~**(4)**~~ **PROVIDE A PATIENT WHO HAS A HISTORY OF SEXUAL TRAUMA WITH** ~~**EVIDENCE–BASED**~~ **TREATMENT AND EDUCATION THAT IS EVIDENCE–BASED OR REFLECTIVE OF BEST PRACTICES TO REDUCE THE LIKELIHOOD OF THE PATIENT BEING THE VICTIM OF REPEATED SEXUAL ABUSE; AND**

~~**(5)**~~ **(4) ENSURE THAT DESIGNATED CLINICAL STAFF ARE TRAINED IN AT LEAST ONE TRAUMA RECOVERY MODALITY THAT IS CONSIDERED TO BE A BEST PRACTICE.**

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The Mental Hygiene Administration shall:

(1) utilize the Maryland Consumer Quality Team to develop and conduct a survey of female patients at each State facility;

(2) design and implement a 3–year pilot *program* ~~of~~ *for* a voluntary single gender unit at a State facility, with a priority toward a voluntary all–female unit;

(3) assess the current design of units at each State facility, including an assessment of the separation of sleeping quarters by gender and mechanisms to prevent unauthorized access to sleeping quarters and individual bedrooms; and

(4) request technical assistance and a consultant from the National Association of State Mental Health Program Directors to implement the requirements of Section 1 of this Act and to conduct the assessment of relevant factors and draft a report of observations and recommendations for implementing the pilot *program* for a single gender unit at a State facility.

(b) (1) The Mental Hygiene Administration shall convene a committee to advise the Administration on the development and implementation of Section 1 of this Act and of the pilot *program* ~~of~~ *for* a single gender unit required under this section and to make additional recommendations as appropriate.

(2) The committee convened under paragraph (1) of this subsection shall include representatives from:

(i) The Maryland Disability Law Center;

(ii) On Our Own of Maryland;

(iii) The Mental Health Association of Maryland;

(iv) The Maryland Coalition Against Sexual Assault; and

(v) The Office of the State's Attorney.

(c) On or before June 1, 2012, the Mental ~~Health~~ *Hygiene* Administration shall report to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly on the implementation of Section 1 of this Act, the pilot *program* for a single gender unit required under this section, and any further recommendations made by the committee convened under subsection (b) of this section.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 250

(Senate Bill 557)

AN ACT concerning

Commission on Maryland Cybersecurity Innovation and Excellence

FOR the purpose of establishing the Commission on Maryland Cybersecurity~~,~~ Innovation and Excellence; specifying the membership, chairs, staff, and purpose of the Commission; specifying that a member of the Commission may not receive compensation but may receive certain reimbursement; requiring the Commission to conduct an overview of certain laws, develop certain plans and policies, make certain recommendations, and carry out other certain duties regarding cybersecurity and innovation; requiring the Commission to submit certain reports to the Governor and the General Assembly on or before certain dates; providing for the termination of this Act; and generally relating to the Commission on Maryland Cybersecurity Innovation and Excellence.

BY adding to
Article – State Government
Section 9–2901 to be under the new subtitle "Subtitle 29. Commission on Maryland Cybersecurity Innovation and Excellence"
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

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

Article – State Government

SUBTITLE 29. COMMISSION ON MARYLAND CYBERSECURITY INNOVATION AND EXCELLENCE.

9–2901.

(A) THERE IS A COMMISSION ON MARYLAND CYBERSECURITY INNOVATION AND EXCELLENCE.

(B) (1) THE COMMISSION CONSISTS OF THE FOLLOWING MEMBERS:

(I) ONE MEMBER OF THE SENATE OF MARYLAND, APPOINTED BY THE PRESIDENT OF THE SENATE;

(II) ONE MEMBER OF THE HOUSE OF DELEGATES, APPOINTED BY THE SPEAKER OF THE HOUSE;

(III) THE SECRETARY OF INFORMATION TECHNOLOGY, OR THE SECRETARY'S DESIGNEE;

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

(V) THE SECRETARY OF THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION, OR THE SECRETARY'S DESIGNEE;

(VI) THE EXECUTIVE DIRECTOR OF THE MARYLAND TECHNOLOGY DEVELOPMENT CORPORATION, OR THE EXECUTIVE DIRECTOR'S DESIGNEE;

(VII) THE CHAIR OF THE TECH COUNCIL OF MARYLAND, OR THE CHAIR'S DESIGNEE;

(VIII) THE PRESIDENT OF THE FORT MEADE ALLIANCE, OR THE PRESIDENT'S DESIGNEE; AND

(IX) THE FOLLOWING MEMBERS APPOINTED BY THE GOVERNOR:

1. FIVE REPRESENTATIVES OF CYBERSECURITY COMPANIES LOCATED IN THE STATE, WITH AT LEAST THREE REPRESENTING CYBERSECURITY COMPANIES WITH 50 EMPLOYEES OR LESS;

2. THREE REPRESENTATIVES FROM STATEWIDE OR REGIONAL BUSINESS ASSOCIATIONS; ~~AND~~

3. FOUR REPRESENTATIVES FROM INSTITUTIONS OF HIGHER EDUCATION LOCATED IN THE STATE;

4. ONE REPRESENTATIVE OF A CRIME VICTIMS ORGANIZATION;

5. THREE REPRESENTATIVES FROM INDUSTRIES THAT MAY BE SUSCEPTIBLE TO ATTACKS ON CYBERSECURITY; AND

6. ONE REPRESENTATIVE OF AN ORGANIZATION THAT HAS EXPERTISE IN ELECTRONIC HEALTH CARE RECORDS.

(2) THE GOVERNOR ALSO SHALL INVITE THE FOLLOWING REPRESENTATIVES OF FEDERAL AGENCIES TO SERVE ON THE COMMISSION:

(I) THE DIRECTOR OF THE NATIONAL INSTITUTE FOR STANDARDS AND TECHNOLOGY, OR THE DIRECTOR'S DESIGNEE;

(II) THE SECRETARY OF DEFENSE, OR THE SECRETARY'S DESIGNEE;

(III) THE DIRECTOR OF THE NATIONAL SECURITY AGENCY, OR THE DIRECTOR'S DESIGNEE;

(IV) THE SECRETARY OF HOMELAND SECURITY, OR THE SECRETARY'S DESIGNEE;

(V) THE DIRECTOR OF THE DEFENSE INFORMATION SYSTEMS AGENCY, OR THE DIRECTOR'S DESIGNEE; AND

(VI) THE DIRECTOR OF THE INTELLIGENCE ADVANCED RESEARCH PROJECTS ACTIVITY, OR THE DIRECTOR'S DESIGNEE.

(C) THE MEMBERS APPOINTED BY THE PRESIDING OFFICERS OF THE GENERAL ASSEMBLY SHALL COCHAIR THE COMMISSION.

(D) THE ~~DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT AND THE DEPARTMENT OF INFORMATION TECHNOLOGY JOINTLY~~ UNIVERSITY OF MARYLAND UNIVERSITY COLLEGE 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 PURPOSE OF THE COMMISSION IS TO PROVIDE A ROAD MAP FOR MAKING THE STATE THE EPICENTER OF CYBERSECURITY INNOVATION AND EXCELLENCE.

(G) THE COMMISSION SHALL:

(1) CONDUCT A COMPREHENSIVE REVIEW OF AND IDENTIFY ANY INCONSISTENCIES IN:

(I) STATE AND FEDERAL CYBERSECURITY LAWS; AND

(II) POLICIES, STANDARDS, AND BEST PRACTICES FOR ENSURING THE SECURITY OF COMPUTER SYSTEMS AND NETWORKS USED BY EDUCATIONAL INSTITUTIONS AND STATE GOVERNMENT AND OTHER ORGANIZATIONS THAT WORK WITH HEALTH CARE RECORDS, PERSONAL IDENTIFICATION INFORMATION, PUBLIC SAFETY, AND PUBLIC SERVICE AND UTILITIES;

(2) CONDUCT A COMPREHENSIVE REVIEW OF THE STATE'S ROLE IN PROMOTING CYBER INNOVATION;

(3) IDENTIFY ANY FEDERAL PREEMPTION ISSUES RELATING TO CYBERSECURITY;

(4) PROVIDE RECOMMENDATIONS FOR:

(I) A COMPREHENSIVE STATE FRAMEWORK AND STRATEGIC PLAN FOR CYBERSECURITY INNOVATION AND EXCELLENCE;

(II) A COMPREHENSIVE STATE STRATEGIC PLAN TO ENSURE A COORDINATED AND ADAPTABLE RESPONSE TO AND RECOVERY ~~TO~~ FROM ATTACKS ON CYBERSECURITY;

(III) COORDINATED AND UNIFIED POLICIES TO CLARIFY THE ROLES AND RESPONSIBILITIES OF STATE UNITS REGARDING CYBERSECURITY;

(IV) GROWTH OPPORTUNITIES AND ECONOMIC DEVELOPMENT STRATEGIES AND ACTION PLANS; AND

(V) STRATEGIES THAT CAN BE USED TO COORDINATE STATE AND FEDERAL RESOURCES TO ATTRACT PRIVATE SECTOR INVESTMENT AND JOB CREATION IN CYBERSECURITY;

(5) MAKE RECOMMENDATIONS REGARDING:

(I) METHODS THE STATE CAN USE TO INCREASE CYBERSECURITY INNOVATION BY:

1. PROMOTING PUBLIC AND PRIVATE PARTNERSHIPS, RESEARCH AND DEVELOPMENT, WORKFORCE TRAINING, EDUCATION AND DEVELOPMENT;

2. PROMOTING SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS COURSES IN ALL LEVELS OF EDUCATION;

3. HELPING COMPANIES TRANSFER RESEARCH TO PRODUCT;

4. PROTECTING INTELLECTUAL PROPERTIES; AND

5. LEVERAGING FEDERAL FUNDS FOR RESEARCH, DEVELOPMENT, AND COMMERCIALIZATION;

(II) METHODS THAT THE STATE CAN USE TO PROMOTE COLLABORATION AND COORDINATION AMONG CYBERSECURITY COMPANIES AND AMONG INSTITUTIONS OF HIGHER EDUCATION LOCATED IN THE STATE;

(III) A UNIT OF STATE GOVERNMENT THAT IS SUITABLE TO RUN A PILOT PROGRAM REGARDING CYBERSECURITY; AND

(IV) THE DESIGNATION OF A CYBERSECURITY POLICY OFFICIAL THAT WOULD BE RESPONSIBLE FOR COORDINATING THE STATE'S CYBERSECURITY POLICIES, STRATEGIES, AND ACTIVITIES.

(H) ON OR BEFORE JANUARY 1, 2012, THE COMMISSION SHALL SUBMIT AN INTERIM REPORT OF ITS FINDINGS AND RECOMMENDATIONS, INCLUDING RECOMMENDED LEGISLATION, TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THIS ARTICLE, THE GENERAL ASSEMBLY.

(I) ON OR BEFORE SEPTEMBER 1, 2014, THE COMMISSION SHALL SUBMIT A FINAL REPORT OF ITS FINDINGS AND RECOMMENDATIONS, INCLUDING RECOMMENDED LEGISLATION, TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THIS ARTICLE, THE GENERAL ASSEMBLY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011. It shall remain effective for a period of 3 years and 6 months and, at the end of December 31, 2014, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 10, 2011.

Chapter 251

(House Bill 665)

AN ACT concerning

Commission on Maryland Cybersecurity Innovation and Excellence

FOR the purpose of establishing the Commission on Maryland Cybersecurity~~,~~ Innovation and Excellence; specifying the membership, chairs, staff, and purpose of the Commission; specifying that a member of the Commission may not receive compensation but may receive certain reimbursement; requiring the Commission to conduct an overview of certain laws, develop certain plans and policies, make certain recommendations, and carry out other certain duties regarding cybersecurity and innovation; requiring the Commission to submit certain reports to the Governor and the General Assembly on or before certain dates; providing for the termination of this Act; and generally relating to the Commission on Maryland Cybersecurity Innovation and Excellence.

BY adding to
Article – State Government
Section 9–2901 to be under the new subtitle "Subtitle 29. Commission on Maryland Cybersecurity Innovation and Excellence"
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

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

Article – State Government

SUBTITLE 29. COMMISSION ON MARYLAND CYBERSECURITY INNOVATION AND EXCELLENCE.

9–2901.

(A) THERE IS A COMMISSION ON MARYLAND CYBERSECURITY INNOVATION AND EXCELLENCE.

(B) (1) THE COMMISSION CONSISTS OF THE FOLLOWING MEMBERS:

(I) ONE MEMBER OF THE SENATE OF MARYLAND, APPOINTED BY THE PRESIDENT OF THE SENATE;

(II) ONE MEMBER OF THE HOUSE OF DELEGATES, APPOINTED BY THE SPEAKER OF THE HOUSE;

(III) THE SECRETARY OF INFORMATION TECHNOLOGY, OR THE SECRETARY'S DESIGNEE;

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

(V) THE SECRETARY OF THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION, OR THE SECRETARY'S DESIGNEE;

(VI) THE EXECUTIVE DIRECTOR OF THE MARYLAND TECHNOLOGY DEVELOPMENT CORPORATION, OR THE EXECUTIVE DIRECTOR'S DESIGNEE;

(VII) THE CHAIR OF THE TECH COUNCIL OF MARYLAND, OR THE CHAIR'S DESIGNEE;

(VIII) THE PRESIDENT OF THE FORT MEADE ALLIANCE, OR THE PRESIDENT'S DESIGNEE; AND

(IX) THE FOLLOWING MEMBERS APPOINTED BY THE GOVERNOR:

1. FIVE REPRESENTATIVES OF CYBERSECURITY COMPANIES LOCATED IN THE STATE, WITH AT LEAST THREE REPRESENTING CYBERSECURITY COMPANIES WITH 50 EMPLOYEES OR LESS;

2. THREE REPRESENTATIVES FROM STATEWIDE OR REGIONAL BUSINESS ASSOCIATIONS; ~~AND~~

3. FOUR REPRESENTATIVES FROM INSTITUTIONS OF HIGHER EDUCATION LOCATED IN THE STATE ;

4. ONE REPRESENTATIVE OF A CRIME VICTIMS ORGANIZATION;

5. THREE REPRESENTATIVES FROM INDUSTRIES THAT MAY BE SUSCEPTIBLE TO ATTACKS ON CYBERSECURITY; AND

6. ONE REPRESENTATIVE OF AN ORGANIZATION THAT HAS EXPERTISE IN ELECTRONIC HEALTH CARE RECORDS.

(2) THE GOVERNOR ALSO SHALL INVITE THE FOLLOWING REPRESENTATIVES OF FEDERAL AGENCIES TO SERVE ON THE COMMISSION:

(I) THE DIRECTOR OF THE NATIONAL INSTITUTE FOR STANDARDS AND TECHNOLOGY, OR THE DIRECTOR'S DESIGNEE;

(II) THE SECRETARY OF DEFENSE, OR THE SECRETARY'S DESIGNEE;

(III) THE DIRECTOR OF THE NATIONAL SECURITY AGENCY, OR THE DIRECTOR'S DESIGNEE;

(IV) THE SECRETARY OF HOMELAND SECURITY, OR THE SECRETARY'S DESIGNEE;

(V) THE DIRECTOR OF THE DEFENSE INFORMATION SYSTEMS AGENCY, OR THE DIRECTOR'S DESIGNEE; AND

(VI) THE DIRECTOR OF THE INTELLIGENCE ADVANCED RESEARCH PROJECTS ACTIVITY, OR THE DIRECTOR'S DESIGNEE.

(C) THE MEMBERS APPOINTED BY THE PRESIDING OFFICERS OF THE GENERAL ASSEMBLY SHALL COCHAIR THE COMMISSION.

(D) THE ~~DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT AND THE DEPARTMENT OF INFORMATION TECHNOLOGY JOINTLY~~ UNIVERSITY OF MARYLAND UNIVERSITY COLLEGE 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 PURPOSE OF THE COMMISSION IS TO PROVIDE A ROAD MAP FOR MAKING THE STATE THE EPICENTER OF CYBERSECURITY INNOVATION AND EXCELLENCE.

(G) THE COMMISSION SHALL:

(1) CONDUCT A COMPREHENSIVE REVIEW OF AND IDENTIFY ANY INCONSISTENCIES IN:

(I) STATE AND FEDERAL CYBERSECURITY LAWS; AND

(II) POLICIES, STANDARDS, AND BEST PRACTICES FOR ENSURING THE SECURITY OF COMPUTER SYSTEMS AND NETWORKS USED BY EDUCATIONAL INSTITUTIONS AND STATE GOVERNMENT AND OTHER ORGANIZATIONS THAT WORK WITH HEALTH CARE RECORDS, PERSONAL IDENTIFICATION INFORMATION, PUBLIC SAFETY, AND PUBLIC SERVICE AND UTILITIES;

(2) CONDUCT A COMPREHENSIVE REVIEW OF THE STATE'S ROLE IN PROMOTING CYBER INNOVATION;

(3) IDENTIFY ANY FEDERAL PREEMPTION ISSUES RELATING TO CYBERSECURITY;

(4) PROVIDE RECOMMENDATIONS FOR:

(I) A COMPREHENSIVE STATE FRAMEWORK AND STRATEGIC PLAN FOR CYBERSECURITY INNOVATION AND EXCELLENCE;

(II) A COMPREHENSIVE STATE STRATEGIC PLAN TO ENSURE A COORDINATED AND ADAPTABLE RESPONSE TO AND RECOVERY ~~TO~~ FROM ATTACKS ON CYBERSECURITY;

(III) COORDINATED AND UNIFIED POLICIES TO CLARIFY THE ROLES AND RESPONSIBILITIES OF STATE UNITS REGARDING CYBERSECURITY;

(IV) GROWTH OPPORTUNITIES AND ECONOMIC DEVELOPMENT STRATEGIES AND ACTION PLANS; AND

(V) STRATEGIES THAT CAN BE USED TO COORDINATE STATE AND FEDERAL RESOURCES TO ATTRACT PRIVATE SECTOR INVESTMENT AND JOB CREATION IN CYBERSECURITY;

(5) MAKE RECOMMENDATIONS REGARDING:

(I) METHODS THE STATE CAN USE TO INCREASE CYBERSECURITY INNOVATION BY:

1. PROMOTING PUBLIC AND PRIVATE PARTNERSHIPS, RESEARCH AND DEVELOPMENT, WORKFORCE TRAINING, EDUCATION AND DEVELOPMENT;

2. PROMOTING SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS COURSES IN ALL LEVELS OF EDUCATION;

3. HELPING COMPANIES TRANSFER RESEARCH TO PRODUCT;

4. PROTECTING INTELLECTUAL PROPERTIES; AND

5. LEVERAGING FEDERAL FUNDS FOR RESEARCH, DEVELOPMENT, AND COMMERCIALIZATION;

(II) METHODS THAT THE STATE CAN USE TO PROMOTE COLLABORATION AND COORDINATION AMONG CYBERSECURITY COMPANIES AND AMONG INSTITUTIONS OF HIGHER EDUCATION LOCATED IN THE STATE;

(III) A UNIT OF STATE GOVERNMENT THAT IS SUITABLE TO RUN A PILOT PROGRAM REGARDING CYBERSECURITY; AND

(IV) THE DESIGNATION OF A CYBERSECURITY POLICY OFFICIAL THAT WOULD BE RESPONSIBLE FOR COORDINATING THE STATE'S CYBERSECURITY POLICIES, STRATEGIES, AND ACTIVITIES.

(H) ON OR BEFORE JANUARY 1, 2012, THE COMMISSION SHALL SUBMIT AN INTERIM REPORT OF ITS FINDINGS AND RECOMMENDATIONS, INCLUDING RECOMMENDED LEGISLATION, TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THIS ARTICLE, THE GENERAL ASSEMBLY.

(I) ON OR BEFORE SEPTEMBER 1, 2014, THE COMMISSION SHALL SUBMIT A FINAL REPORT OF ITS FINDINGS AND RECOMMENDATIONS, INCLUDING RECOMMENDED LEGISLATION, TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THIS ARTICLE, THE GENERAL ASSEMBLY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011. It shall remain effective for a period of 3 years and 6 months and, at the end of December 31, 2014, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 10, 2011.

Chapter 252

(House Bill 456)

AN ACT concerning

Procurement – Minority Business Participation

FOR the purpose of repealing the requirement that certain procurement procedures try to achieve the result that a certain percentage of a unit's total dollar value of procurement contracts be made to certified minority business enterprises; clarifying that it is a goal that a certain percentage of a unit's total dollar value of procurement contracts be made to certified minority business enterprises; requiring the Governor's Office of Minority Affairs, in consultation with the State Department of Transportation and the Office of the Attorney General, to establish certain guidelines for units to follow while determining whether to set certain subgoals for certain minority groups; requiring units to implement a program that enables the unit to evaluate each contract to determine the appropriate minority business enterprise participation goals for the contract based on certain factors; requiring certain units to make certain determinations on whether certain contractors have demonstrated taking certain steps to achieve certain goals, including complying with certain requirements; requiring certain waivers to be granted if certain contractors demonstrate certain good–faith efforts; prohibiting certain units from requiring certain contractors to renegotiate certain subcontracts under certain circumstances; authorizing certain units to waive certain requirements under certain circumstances; requiring certain units to issue and forward to the Office of Minority Affairs certain written waiver determinations; requiring certain units to submit certain annual reports to the Board of Public Works and the Governor's Office of Minority Affairs; requiring the Board of Public Works to adopt certain regulations; continuing until a certain date the provisions of the State Procurement Law relating to procurement from minority businesses; ~~requiring a certain study and a final report on the study by a certain date;~~ declaring the intent of the General Assembly; making the provisions of this Act severable; and generally relating to minority business participation in State procurement.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 14–302, 14–303, and 14–309
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

~~BY repealing and reenacting, with amendments,~~
~~Chapter 116 of the Acts of the General Assembly of 1995, as amended by Chapters 495 and 496 of the Acts of the General Assembly of 2000, Chapter 339 of the Acts of the General Assembly of 2001, and Chapter 359 of the Acts of the General Assembly of 2006~~
~~Section 2~~

Preamble

WHEREAS, The State of Maryland wishes to provide all of its citizens with equal access to business formation and business growth opportunities; and

WHEREAS, The elimination of discrimination against minority– and women–owned businesses is of great importance to the future welfare of the State; and

WHEREAS, The disparity study entitled "The State of Minority– and Women–Owned Business Enterprise: Evidence from Maryland" commissioned by the General Assembly and published on February 17, 2011 (the "Study") provides a strong basis in evidence that demonstrates persistent discrimination against minority– and women–owned businesses, including:

(1) Substantial and statistically significant adverse disparities between the availability and utilization of minorities and women in every major contracting category examined by the Study;

(2) Substantial and statistically significant adverse disparities for all racial and ethnic groups and nonminority women combined in all major contracting categories;

(3) Substantial and statistically significant adverse disparities for all racial and ethnic groups and for nonminority women in most major industry categories;

(4) Substantial and statistically significant evidence of discrimination in the private sector in the same industry categories in which the State of Maryland does business for all minorities and nonminority women, which has depressed firm formation and firm growth among minority and nonminority women entrepreneurs; and

(5) Powerful and persuasive qualitative evidence of discrimination against minority and nonminority women business owners; and

WHEREAS, Despite the fact that since 2001, the State has aspired to achieve a minority business enterprise participation goal of 25% of its total contract dollars awarded, overall State utilization of minority business enterprises for the 5 years covered by the Study was less than 20%; and

WHEREAS, This Act ensures that race–neutral efforts will be used to the maximum extent feasible and that race–conscious measures will be used only where necessary to eliminate discrimination that was not alleviated by race–neutral efforts; and

WHEREAS, Ending discrimination against minority– and women–owned businesses requires ending discrimination in prime contracting as well as subcontracting in Maryland contracting markets; and

WHEREAS, If the Minority Business Enterprise Program imposes a burden on nonminority businesses, the State is committed to limiting the burden as much as possible; and

WHEREAS, The establishment of control (zero goals) contracts has been viewed favorably as a method of determining whether minority business enterprise participation occurs in the absence of goals; and

WHEREAS, Improvements in Minority Business Enterprise Program development, implementation, evaluation, and compliance are essential tools to the State goal to eliminate business discrimination in the Maryland contracting markets; and

WHEREAS, The State is extending the existing Minority Business Enterprise Program for 1 year to allow time to evaluate and propose additional improvements to the Program; now, therefore,

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

Article – State Finance and Procurement

14–302.

(a) (1) **(I)** Except for leases of real property **[**and except as provided in paragraphs (2) and (3) of this subsection**]**, each unit shall structure procurement procedures, consistent with the purposes of this subtitle, to try to achieve **[**the following results**]**:

[(i) a minimum of 7% of the unit's total dollar value of procurement contracts is to be made directly or indirectly from certified minority business enterprises classified by the certification agency as African American–owned businesses;

(ii) a minimum of 10% of the unit's total dollar value of procurement contracts is to be made directly or indirectly from certified minority business enterprises classified by the certification agency as women–owned businesses; and

(iii)**]** an overall **GOAL [**minimum**]** of 25% of the unit's total dollar value of procurement contracts **[**is to be**] BEING** made directly or indirectly **[**from all**] TO** certified minority business enterprises.

(II) IN CONSULTATION WITH THE STATE DEPARTMENT OF TRANSPORTATION AND THE OFFICE OF THE ATTORNEY GENERAL, THE GOVERNOR'S OFFICE OF MINORITY AFFAIRS SHALL ESTABLISH GUIDELINES

FOR EACH UNIT TO CONSIDER WHILE DETERMINING WHETHER TO SET SUBGOALS FOR THE MINORITY GROUPS LISTED IN § 14–301(I)(1)(I)1, 2, 3, 4, AND 6 OF THIS SUBTITLE.

(2) **[**(i) Except as provided in paragraph (3) of this subsection, in procurement for construction, each unit shall structure procurement procedures, consistent with the purposes of this subtitle, to try to achieve the following results:

1. a minimum of 7% of the unit's total dollar value of construction contracts is to be made directly or indirectly from certified minority business enterprises classified by the certification agency as African American–owned businesses;

2. a minimum of 10% of the unit's total dollar value of construction contracts is to be made directly or indirectly from certified minority business enterprises classified by the certification agency as women–owned businesses; and

3. an overall minimum of 25% of the unit's total dollar value of construction contracts is to be made directly or indirectly from all certified minority business enterprises.

(ii) The**] EACH** unit shall:

[1.**] (I)** consider the practical severability of **[**the construction projects**] CONTRACTS**; and

[2.**] (II)** implement a program that will enable the unit to evaluate each contract to determine the **[**appropriateness of the goal**] APPROPRIATE MINORITY BUSINESS ENTERPRISE PARTICIPATION GOALS FOR THE CONTRACT BASED, IN PART, ON:**

1. THE POTENTIAL SUBCONTRACT OPPORTUNITIES AVAILABLE IN THE PRIME PROCUREMENT CONTRACT;

2. THE AVAILABILITY OF CERTIFIED MINORITY BUSINESS ENTERPRISES TO RESPOND COMPETITIVELY TO THE POTENTIAL SUBCONTRACT OPPORTUNITIES; AND

3. THE GUIDELINES ESTABLISHED UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION.

[(3) With respect to the Maryland Department of Transportation, the provisions of paragraph (2)(i) of this subsection shall apply only to construction contracts in excess of $50,000.**]**

[(4)**] (3)** (i) A woman who is also a member of an ethnic or racial minority group may be certified in that category in addition to the gender category.

(ii) For purposes of achieving the goals in this subsection, a certified minority business enterprise may participate in a procurement contract and be counted as a woman–owned business, or as a business owned by a member of an ethnic or racial group, but not both, if the business has been certified in both categories.

[(5)**] (4)** Each unit shall meet the maximum feasible portion of the goals **[**stated in paragraphs (1), (2), and (3) of**] ESTABLISHED IN ACCORDANCE WITH** this subsection by using race–neutral measures to facilitate minority business enterprise participation in the procurement process.

[(6)**] (5)** **[**To achieve the result specified in paragraph (1) or (2) of this subsection,**] IF A UNIT ESTABLISHES MINORITY BUSINESS ENTERPRISE PARTICIPATION GOALS FOR A CONTRACT,** a contractor, including a contractor that is a certified minority business enterprise, shall:

(i) identify specific work categories appropriate for subcontracting;

(ii) at least 10 days before bid opening, solicit minority business enterprises, through written notice that:

1. describes the categories of work under item (i) of this paragraph; and

2. provides information regarding the type of work being solicited and specific instructions on how to submit a bid;

(iii) attempt to make personal contact with the firms in item (ii) of this paragraph;

(iv) **[**assist**] OFFER TO PROVIDE REASONABLE ASSISTANCE TO** minority business enterprises to fulfill bonding requirements or to obtain a waiver of those requirements;

(v) in order to publicize contracting opportunities to minority business enterprises, attend prebid **OR PREPROPOSAL** meetings or other meetings scheduled by the unit; and

(vi) upon acceptance of a bid **OR PROPOSAL**, provide the unit with a list of minority businesses with whom the contractor negotiated, including price quotes from minority and nonminority firms.

[(7) (i) The unit shall make a finding whether the contractor complied, in good faith, with paragraph (6) of this subsection.

(ii) If the unit finds the contractor complied with paragraph (6) of this subsection, the unit may not require the contractor to renegotiate any subcontract in order to achieve a different result.]

(6) (I) 1. IF A CONTRACTOR DOES NOT ACHIEVE ALL OR A PART OF THE MINORITY BUSINESS ENTERPRISE PARTICIPATION GOALS ON A CONTRACT, THE UNIT SHALL MAKE A FINDING OF WHETHER THE CONTRACTOR HAS DEMONSTRATED THAT THE CONTRACTOR TOOK ALL NECESSARY AND REASONABLE STEPS TO ACHIEVE THE GOALS, INCLUDING COMPLIANCE WITH PARAGRAPH (5) OF THIS SUBSECTION.

2. A WAIVER OF ANY PART OF THE MINORITY BUSINESS ENTERPRISE GOALS FOR A CONTRACT SHALL BE GRANTED IF A CONTRACTOR PROVIDES A REASONABLE DEMONSTRATION OF GOOD–FAITH EFFORTS TO ACHIEVE THE GOALS.

(II) IF THE UNIT DETERMINES THAT A WAIVER SHOULD BE GRANTED IN ACCORDANCE WITH SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE UNIT MAY NOT REQUIRE THE CONTRACTOR TO RENEGOTIATE ANY SUBCONTRACT IN ORDER TO ACHIEVE A DIFFERENT RESULT.

(III) THE HEAD OF THE UNIT MAY WAIVE ANY OF THE REQUIREMENTS OF THIS SUBSECTION RELATING TO THE ESTABLISHMENT, USE, AND WAIVER OF CONTRACT GOALS FOR A SOLE SOURCE, EXPEDITED, OR EMERGENCY PROCUREMENT IN WHICH THE PUBLIC INTEREST CANNOT REASONABLY ACCOMMODATE USE OF THOSE REQUIREMENTS.

(IV) 1. EXCEPT FOR WAIVERS GRANTED IN ACCORDANCE WITH SUBPARAGRAPH (III) OF THIS PARAGRAPH, WHEN A WAIVER DETERMINATION IS MADE, THE UNIT SHALL ISSUE THE DETERMINATION IN WRITING.

2. THE HEAD OF THE UNIT SHALL:

A. KEEP ONE COPY OF THE WAIVER DETERMINATION AND THE REASONS FOR THE DETERMINATION; AND

B. FORWARD ONE COPY OF THE WAIVER DETERMINATION TO THE GOVERNOR'S OFFICE OF MINORITY AFFAIRS.

(V) ON OR BEFORE JULY 31 OF EACH YEAR, EACH UNIT SHALL SUBMIT DIRECTLY TO THE BOARD OF PUBLIC WORKS AND THE GOVERNOR'S OFFICE OF MINORITY AFFAIRS AN ANNUAL REPORT OF WAIVERS REQUESTED AND WAIVERS GRANTED UNDER THIS PARAGRAPH.

(VI) THE REPORT REQUIRED UNDER SUBPARAGRAPH (V) OF THIS PARAGRAPH SHALL CONTAIN THE FOLLOWING INFORMATION ON THOSE CONTRACTS WHERE THE UNIT CONSIDERED A CONTRACTOR'S REQUEST FOR WAIVER OF ALL OR A PORTION OF THE MINORITY BUSINESS ENTERPRISE GOALS:

1. THE CONTRACT TITLES, NUMBERS, AND DATES;

2. THE NUMBER OF WAIVER REQUESTS RECEIVED;

3. THE NUMBER OF WAIVER REQUESTS GRANTED; AND

4. ANY OTHER INFORMATION SPECIFICALLY REQUESTED BY THE BOARD.

[(8)**] (7)** If, during the performance of a contract, a certified minority business enterprise contractor or subcontractor becomes ineligible to participate in the Minority Business Enterprise Program because one or more of its owners has a personal net worth that exceeds the amount specified in § 14–301(i)(3) of this subtitle:

(i) that ineligibility alone may not cause the termination of the certified minority business enterprise's contractual relationship for the remainder of the term of the contract; and

(ii) the certified minority business enterprise's participation under the contract shall continue to be counted toward the program and contract goals.

(b) (1) The provisions of §§ 14–301(f) and 14–303 of this subtitle and subsection (a) of this section are inapplicable to the extent that any unit determines the provisions to be in conflict with any applicable federal program requirement.

(2) The determination under this subsection shall be included with the report required under § 14–305 of this subtitle.

14–303.

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

(ii) The Board shall keep a record of **[**the number of**]** **INFORMATION REGARDING ANY** waivers requested **[**and the number of waivers granted each year under**]** **IN ACCORDANCE WITH § 14–302(A)(5)(I) OF THIS SUBTITLE AND** 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.

(iii) The Board shall keep a record of the aggregate number and the identity of minority business enterprises that receive certification under the process established by the Board under subsection (b)(1) of this section and submit a copy of the record to the General Assembly on or before October 1 of each year, in accordance with § 2–1246 of the State Government Article.

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

(b) These regulations shall include:

(1) provisions:

(i) designating one State agency to certify and decertify minority business enterprises for all units through a single process that meets applicable federal requirements, including provisions that promote and facilitate the submission of some or all of the certification application through an electronic process;

(ii) for the purpose of certification under this subtitle, that promote and facilitate certification of minority business enterprises that have received certification from the U.S. Small Business Administration or a county that uses a certification process substantially similar to the process established in accordance with item (i) of this item;

(iii) requiring the agency designated to certify minority business enterprises to complete the agency's review of an application for certification and notify the applicant of the agency's decision within 90 days of receipt of a complete application that includes all of the information necessary for the agency to make a decision; and

(iv) authorizing the agency designated to certify minority business enterprises to extend the notification requirement established under item (iii) of this item once, for no more than an additional 60 days, if the agency provides the applicant with a written notice and explanation;

(2) a requirement that the solicitation document accompanying each solicitation set forth the expected degree of minority business enterprise participation

based, in part, on**[**:**]** **THE FACTORS SET FORTH IN § 14–302(A)(2)(II) OF THIS SUBTITLE**

[(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)**]****(5)** 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) PROVISIONS ESTABLISHING STANDARDS TO REQUIRE A MINORITY BUSINESS ENTERPRISE TO PERFORM A COMMERCIALLY USEFUL FUNCTION ON A CONTRACT;

(16) A REQUIREMENT THAT EACH UNIT WORK WITH THE GOVERNOR'S OFFICE OF MINORITY AFFAIRS TO DESIGNATE CERTAIN PROCUREMENTS AS BEING EXCLUDED FROM THE REQUIREMENTS OF § 14–302(A) OF THIS SUBTITLE; AND

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

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

14–309.

The provisions of §§ 14–301 through 14–305 of this subtitle, and any regulations adopted under those sections, shall be of no effect and may not be enforced after July 1, **[**2011**]** ~~**2016**~~ **2012**.

~~**Chapter 116 of the Acts of 1995, as amended by Chapters 495 and 496 of the Acts of 2000, Chapter 339 of the Acts of 2001, and Chapter 359 of the Acts of 2006**~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That the Certification Agency, in consultation with the General Assembly and the Office of the Attorney General, shall initiate a study of the Minority Business Enterprise Program to evaluate the Program's continued compliance with the requirements of the Croson decision and any subsequent federal or constitutional requirements. In preparation for the study, the Board of Public Works may adopt regulations authorizing a unit of State government to require bidders and offerors to submit information necessary for the conduct of the study. The Board of Public Works may designate that certain information received in~~

~~accordance with regulations adopted under this section shall be confidential. Notwithstanding that certain information may be designated by the Board of Public Works as confidential, the certification agency may provide the information to any person that is under contract with the certification agency to assist in conducting the study. The study shall also evaluate race neutral programs and other methods that can be used to address the needs of minority businesses. The final report on the study shall be submitted to the Legislative Policy Committee of the General Assembly prior to [September 30, 2010] SEPTEMBER 30, 2015, so that the General Assembly may review the report prior to the [2011] 2016 Session.~~

SECTION 2. AND BE IT FURTHER ENACTED, That having considered the evidence of discrimination against minority and women–owned businesses included in the study entitled "The State of Minority– And Women–Owned Business Enterprise: Evidence From Maryland" published on February 17, 2011, and other evidence generally available to the General Assembly, it is the intent of the General Assembly to eliminate discrimination against minority and women–owned businesses doing business in Maryland contracting markets in a manner that:

(1) complies with the United States and Maryland Constitutions;

(2) is effective and narrowly tailored to achieve the goal of eliminating business discrimination based on race and gender in Maryland contracting markets;

(3) makes full and effective use of race–neutral measures;

(4) is focused on operating an effective Minority Business Enterprise Program targeted at eliminating the discrimination thoroughly documented in the Study;

(5) to the maximum extent feasible under federal constitutional law, provides for flexibility in the operations of the Program and the use of numerical targets or goals;

(6) prohibits the use of rigid and inflexible quotas;

(7) ensures that any use of numerical targets in overall aspirational State goals and in contract goals, includes the use of good faith waivers and is narrowly tailored to reflect the best available evidence of the actual, relative availability of minority business enterprises in Maryland contracting markets;

(8) to the maximum extent feasible, limits and ameliorates burdens on nonminority business enterprises resulting from the operation of the Program; and

(9) ensures that the beneficiaries of the Program are drawn from those groups that have suffered discrimination in Maryland contracting markets.

SECTION 3. AND BE IT FURTHER ENACTED, That, if any of the provisions of this Act or the application thereof, to any person or circumstance, is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect the other provisions or any other application of this Act which can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are declared severable.

SECTION ~~2.~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 253

(Senate Bill 120)

AN ACT concerning

Procurement – Minority Business Participation

FOR the purpose of repealing the requirement that certain procurement procedures try to achieve the result that a certain percentage of a unit's total dollar value of procurement contracts be made to certified minority business enterprises; clarifying that it is a goal that a certain percentage of a unit's total dollar value of procurement contracts be made to certified minority business enterprises; requiring the Governor's Office of Minority Affairs, in consultation with the State Department of Transportation and the Office of the Attorney General, to establish certain guidelines for units to follow while determining whether to set certain subgoals for certain minority groups; requiring units to implement a program that enables the unit to evaluate each contract to determine the appropriate minority business enterprise participation goals for the contract based on certain factors; requiring certain units to make certain determinations on whether certain contractors have demonstrated taking certain steps to achieve certain goals, including complying with certain requirements; requiring certain waivers to be granted if certain contractors demonstrate certain good–faith efforts; prohibiting certain units from requiring certain contractors to renegotiate certain subcontracts under certain circumstances; authorizing certain units to waive certain requirements under certain circumstances; requiring certain units to issue and forward to the Office of Minority Affairs certain written waiver determinations; requiring certain units to submit certain annual reports to the Board of Public Works and the Governor's Office of Minority Affairs; requiring the Board of Public Works to adopt certain regulations; continuing until a certain date the provisions of the State Procurement Law relating to procurement from minority businesses; ~~requiring a certain study and a final report on the study by a certain date;~~ declaring the

intent of the General Assembly; making the provisions of this Act severable; and generally relating to minority business participation in State procurement.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 14–302, 14–303, and 14–309
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

~~BY repealing and reenacting, with amendments,~~
~~Chapter 116 of the Acts of the General Assembly of 1995, as amended by Chapters 495 and 496 of the Acts of the General Assembly of 2000, Chapter 339 of the Acts of the General Assembly of 2001, and Chapter 359 of the Acts of the General Assembly of 2006~~
~~Section 2~~

Preamble

WHEREAS, The State of Maryland wishes to provide all of its citizens with equal access to business formation and business growth opportunities; and

WHEREAS, The elimination of discrimination against minority– and women–owned businesses is of great importance to the future welfare of the State; and

WHEREAS, The disparity study entitled "The State of Minority– and Women–Owned Business Enterprise: Evidence from Maryland" commissioned by the General Assembly and published on February 17, 2011 (the "Study") provides a strong basis in evidence that demonstrates persistent discrimination against minority– and women–owned businesses, including:

(1) Substantial and statistically significant adverse disparities between the availability and utilization of minorities and women in every major contracting category examined by the Study;

(2) Substantial and statistically significant adverse disparities for all racial and ethnic groups and nonminority women combined in all major contracting categories;

(3) Substantial and statistically significant adverse disparities for all racial and ethnic groups and for nonminority women in most major industry categories;

(4) Substantial and statistically significant evidence of discrimination in the private sector in the same industry categories in which the State of Maryland does business for all minorities and nonminority women, which has depressed firm formation and firm growth among minority and nonminority women entrepreneurs; and

(5) Powerful and persuasive qualitative evidence of discrimination against minority and nonminority women business owners; and

WHEREAS, Despite the fact that since 2001, the State has aspired to achieve a minority business enterprise participation goal of 25% of its total contract dollars awarded, overall State utilization of minority business enterprises for the 5 years covered by the Study was less than 20%; and

WHEREAS, This Act ensures that race–neutral efforts will be used to the maximum extent feasible and that race–conscious measures will be used only where necessary to eliminate discrimination that was not alleviated by race–neutral efforts; and

WHEREAS, Ending discrimination against minority– and women–owned businesses requires ending discrimination in prime contracting as well as subcontracting in Maryland contracting markets; and

WHEREAS, If the Minority Business Enterprise Program imposes a burden on nonminority businesses, the State is committed to limiting the burden as much as possible; and

WHEREAS, The establishment of control (zero goals) contracts has been viewed favorably as a method of determining whether minority business enterprise participation occurs in the absence of goals; and

WHEREAS, Improvements in Minority Business Enterprise Program development, implementation, evaluation, and compliance are essential tools to the State goal to eliminate business discrimination in the Maryland contracting markets; and

WHEREAS, The State is extending the existing Minority Business Enterprise Program for 1 year to allow time to evaluate and propose additional improvements to the program; now, therefore,

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

Article – State Finance and Procurement

14–302.

(a) (1) **(I)** Except for leases of real property **[**and except as provided in paragraphs (2) and (3) of this subsection**]**, each unit shall structure procurement procedures, consistent with the purposes of this subtitle, to try to achieve **[**the following results:**]**

[(i) a minimum of 7% of the unit's total dollar value of procurement contracts is to be made directly or indirectly from certified minority business enterprises classified by the certification agency as African American–owned businesses;

(ii) a minimum of 10% of the unit's total dollar value of procurement contracts is to be made directly or indirectly from certified minority business enterprises classified by the certification agency as women–owned businesses; and

(iii)] an overall **GOAL** [minimum] of 25% of the unit's total dollar value of procurement contracts [is to be] **BEING** made directly or indirectly [from all] **TO** certified minority business enterprises.

(II) IN CONSULTATION WITH THE STATE DEPARTMENT OF TRANSPORTATION AND THE OFFICE OF THE ATTORNEY GENERAL, THE GOVERNOR'S OFFICE OF MINORITY AFFAIRS SHALL ESTABLISH GUIDELINES FOR EACH UNIT TO CONSIDER WHILE DETERMINING WHETHER TO SET SUBGOALS FOR THE MINORITY GROUPS LISTED IN § 14–301(I)(1)(I)1, 2, 3, 4, AND 6 OF THIS SUBTITLE.

(2) [(i) Except as provided in paragraph (3) of this subsection, in procurement for construction, each unit shall structure procurement procedures, consistent with the purposes of this subtitle, to try to achieve the following results:

1. a minimum of 7% of the unit's total dollar value of construction contracts is to be made directly or indirectly from certified minority business enterprises classified by the certification agency as African American–owned businesses;

2. a minimum of 10% of the unit's total dollar value of construction contracts is to be made directly or indirectly from certified minority business enterprises classified by the certification agency as women–owned businesses; and

3. an overall minimum of 25% of the unit's total dollar value of construction contracts is to be made directly or indirectly from all certified minority business enterprises.

(ii) The] **EACH** unit shall:

[1.] **(I)** consider the practical severability of [the construction projects] **CONTRACTS**; and

[2.] **(II)** implement a program that will enable the unit to evaluate each contract to determine the [appropriateness of the goal]

APPROPRIATE MINORITY BUSINESS ENTERPRISE PARTICIPATION GOALS FOR THE CONTRACT BASED, IN PART, ON:

1. THE POTENTIAL SUBCONTRACT OPPORTUNITIES AVAILABLE IN THE PRIME PROCUREMENT CONTRACT;

2. THE AVAILABILITY OF CERTIFIED MINORITY BUSINESS ENTERPRISES TO RESPOND COMPETITIVELY TO THE POTENTIAL SUBCONTRACT OPPORTUNITIES; AND

3. THE GUIDELINES ESTABLISHED UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION.

[(3) With respect to the Maryland Department of Transportation, the provisions of paragraph (2)(i) of this subsection shall apply only to construction contracts in excess of $50,000.**]**

[(4)**] (3)** (i) A woman who is also a member of an ethnic or racial minority group may be certified in that category in addition to the gender category.

(ii) For purposes of achieving the goals in this subsection, a certified minority business enterprise may participate in a procurement contract and be counted as a woman–owned business, or as a business owned by a member of an ethnic or racial group, but not both, if the business has been certified in both categories.

[(5)**] (4)** Each unit shall meet the maximum feasible portion of the goals **[**stated in paragraphs (1), (2), and (3) of**] ESTABLISHED IN ACCORDANCE WITH** this subsection by using race–neutral measures to facilitate minority business enterprise participation in the procurement process.

[(6)**] (5)** **[**To achieve the result specified in paragraph (1) or (2) of this subsection,**] IF A UNIT ESTABLISHES MINORITY BUSINESS ENTERPRISE PARTICIPATION GOALS FOR A CONTRACT,** a contractor, including a contractor that is a certified minority business enterprise, shall:

(i) identify specific work categories appropriate for subcontracting;

(ii) at least 10 days before bid opening, solicit minority business enterprises, through written notice that:

1. describes the categories of work under item (i) of this paragraph; and

2. provides information regarding the type of work being solicited and specific instructions on how to submit a bid;

(iii) attempt to make personal contact with the firms in item (ii) of this paragraph;

(iv) **[**assist**] OFFER TO PROVIDE REASONABLE ASSISTANCE TO** minority business enterprises to fulfill bonding requirements or to obtain a waiver of those requirements;

(v) in order to publicize contracting opportunities to minority business enterprises, attend prebid **OR PREPROPOSAL** meetings or other meetings scheduled by the unit; and

(vi) upon acceptance of a bid **OR PROPOSAL**, provide the unit with a list of minority businesses with whom the contractor negotiated, including price quotes from minority and nonminority firms.

[(7) (i) The unit shall make a finding whether the contractor complied, in good faith, with paragraph (6) of this subsection.

(ii) If the unit finds the contractor complied with paragraph (6) of this subsection, the unit may not require the contractor to renegotiate any subcontract in order to achieve a different result.**]**

(6) (I) 1. IF A CONTRACTOR DOES NOT ACHIEVE ALL OR A PART OF THE MINORITY BUSINESS ENTERPRISE PARTICIPATION GOALS ON A CONTRACT, THE UNIT SHALL MAKE A FINDING OF WHETHER THE CONTRACTOR HAS DEMONSTRATED THAT THE CONTRACTOR TOOK ALL NECESSARY AND REASONABLE STEPS TO ACHIEVE THE GOALS, INCLUDING COMPLIANCE WITH PARAGRAPH (5) OF THIS SUBSECTION.

2. A WAIVER OF ANY PART OF THE MINORITY BUSINESS ENTERPRISE GOALS FOR A CONTRACT SHALL BE GRANTED IF A CONTRACTOR PROVIDES A REASONABLE DEMONSTRATION OF GOOD–FAITH EFFORTS TO ACHIEVE THE GOALS.

(II) IF THE UNIT DETERMINES THAT A WAIVER SHOULD BE GRANTED IN ACCORDANCE WITH SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE UNIT MAY NOT REQUIRE THE CONTRACTOR TO RENEGOTIATE ANY SUBCONTRACT IN ORDER TO ACHIEVE A DIFFERENT RESULT.

(III) THE HEAD OF THE UNIT MAY WAIVE ANY OF THE REQUIREMENTS OF THIS SUBSECTION RELATING TO THE ESTABLISHMENT, USE, AND WAIVER OF CONTRACT GOALS FOR A SOLE SOURCE, EXPEDITED, OR

EMERGENCY PROCUREMENT IN WHICH THE PUBLIC INTEREST CANNOT REASONABLY ACCOMMODATE USE OF THOSE REQUIREMENTS.

(IV) 1. EXCEPT FOR WAIVERS GRANTED IN ACCORDANCE WITH SUBPARAGRAPH (III) OF THIS PARAGRAPH, WHEN A WAIVER DETERMINATION IS MADE, THE UNIT SHALL ISSUE THE DETERMINATION IN WRITING.

2. THE HEAD OF THE UNIT SHALL:

A. KEEP ONE COPY OF THE WAIVER DETERMINATION AND THE REASONS FOR THE DETERMINATION; AND

B. FORWARD ONE COPY OF THE WAIVER DETERMINATION TO THE GOVERNOR'S OFFICE OF MINORITY AFFAIRS.

(V) ON OR BEFORE JULY 31 OF EACH YEAR, EACH UNIT SHALL SUBMIT DIRECTLY TO THE BOARD OF PUBLIC WORKS AND THE GOVERNOR'S OFFICE OF MINORITY AFFAIRS AN ANNUAL REPORT OF WAIVERS REQUESTED AND WAIVERS GRANTED UNDER THIS PARAGRAPH.

(VI) THE REPORT REQUIRED UNDER SUBPARAGRAPH (V) OF THIS PARAGRAPH SHALL CONTAIN THE FOLLOWING INFORMATION ON THOSE CONTRACTS WHERE THE UNIT CONSIDERED A CONTRACTOR'S REQUEST FOR WAIVER OF ALL OR A PORTION OF THE MINORITY BUSINESS ENTERPRISE GOALS:

1. THE CONTRACT TITLES, NUMBERS, AND DATES;

2. THE NUMBER OF WAIVER REQUESTS RECEIVED;

3. THE NUMBER OF WAIVER REQUESTS GRANTED; AND

4. ANY OTHER INFORMATION SPECIFICALLY REQUESTED BY THE BOARD.

[(8)**] (7)** If, during the performance of a contract, a certified minority business enterprise contractor or subcontractor becomes ineligible to participate in the Minority Business Enterprise Program because one or more of its owners has a personal net worth that exceeds the amount specified in § 14–301(i)(3) of this subtitle:

(i) that ineligibility alone may not cause the termination of the certified minority business enterprise's contractual relationship for the remainder of the term of the contract; and

(ii) the certified minority business enterprise's participation under the contract shall continue to be counted toward the program and contract goals.

(b) (1) The provisions of §§ 14–301(f) and 14–303 of this subtitle and subsection (a) of this section are inapplicable to the extent that any unit determines the provisions to be in conflict with any applicable federal program requirement.

(2) The determination under this subsection shall be included with the report required under § 14–305 of this subtitle.

14–303.

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

(ii) The Board shall keep a record of **[**the number of**]** **INFORMATION REGARDING ANY** waivers requested **[**and the number of waivers granted each year under**]** **IN ACCORDANCE WITH § 14–302(A)(5)(I) OF THIS SUBTITLE AND** 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.

(iii) The Board shall keep a record of the aggregate number and the identity of minority business enterprises that receive certification under the process established by the Board under subsection (b)(1) of this section and submit a copy of the record to the General Assembly on or before October 1 of each year, in accordance with § 2–1246 of the State Government Article.

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

(b) These regulations shall include:

(1) provisions:

(i) designating one State agency to certify and decertify minority business enterprises for all units through a single process that meets applicable federal requirements, including provisions that promote and facilitate the submission of some or all of the certification application through an electronic process;

(ii) for the purpose of certification under this subtitle, that promote and facilitate certification of minority business enterprises that have received certification from the U.S. Small Business Administration or a county that uses a

certification process substantially similar to the process established in accordance with item (i) of this item;

(iii) requiring the agency designated to certify minority business enterprises to complete the agency's review of an application for certification and notify the applicant of the agency's decision within 90 days of receipt of a complete application that includes all of the information necessary for the agency to make a decision; and

(iv) authorizing the agency designated to certify minority business enterprises to extend the notification requirement established under item (iii) of this item once, for no more than an additional 60 days, if the agency provides the applicant with a written notice and explanation;

(2) a requirement that the solicitation document accompanying each solicitation set forth the expected degree of minority business enterprise participation based, in part, on**[**:**]** **THE FACTORS SET FORTH IN § 14–302(A)(2)(II) OF THIS SUBTITLE**

[(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)**]** **14–302(A)(5)** 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) PROVISIONS ESTABLISHING STANDARDS TO REQUIRE A MINORITY BUSINESS ENTERPRISE TO PERFORM A COMMERCIALLY USEFUL FUNCTION ON A CONTRACT;

(16) A REQUIREMENT THAT EACH UNIT WORK WITH THE GOVERNOR'S OFFICE OF MINORITY AFFAIRS TO DESIGNATE CERTAIN PROCUREMENTS AS BEING EXCLUDED FROM THE REQUIREMENTS OF § 14–302(A) OF THIS SUBTITLE; AND

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

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

14–309.

The provisions of §§ 14–301 through 14–305 of this subtitle, and any regulations adopted under those sections, shall be of no effect and may not be enforced after July 1, **[**2011**]** ~~**2016**~~ **2012**.

~~**Chapter 116 of the Acts of 1995, as amended by Chapters 495 and 496 of the Acts of 2000, Chapter 339 of the Acts of 2001, and Chapter 359 of the Acts of 2006**~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That the Certification Agency, in consultation with the General Assembly and the Office of the Attorney General, shall initiate a study of the Minority Business Enterprise Program to evaluate the Program's continued compliance with the requirements of the Croson decision and any subsequent federal or constitutional requirements. In preparation for the study, the Board of Public Works may adopt regulations authorizing a unit of State government to require bidders and offerors to submit information necessary for the conduct of the study. The Board of Public Works may designate that certain information received in accordance with regulations adopted under this section shall be confidential. Notwithstanding that certain information may be designated by the Board of Public Works as confidential, the certification agency may provide the information to any person that is under contract with the certification agency to assist in conducting the study. The study shall also evaluate race neutral programs and other methods that can be used to address the needs of minority businesses. The final report on the study shall be submitted to the Legislative Policy Committee of the General Assembly prior to **[**September 30, 2010**]** **SEPTEMBER 30, 2015**, so that the General Assembly may review the report prior to the **[**2011**]** **2016** Session.~~

SECTION 2. AND BE IT FURTHER ENACTED, That having considered the evidence of discrimination against minority and women–owned businesses included in the study entitled "The State of Minority– And Women–Owned Business Enterprise: Evidence From Maryland" published on February 17, 2011, and other evidence generally available to the General Assembly, it is the intent of the General Assembly to eliminate discrimination against minority and women–owned businesses doing business in Maryland contracting markets in a manner that:

(1) complies with the United States and Maryland Constitutions;

(2) is effective and narrowly tailored to achieve the goal of eliminating business discrimination based on race and gender in Maryland contracting markets;

(3) makes full and effective use of race–neutral measures;

(4) is focused on operating an effective Minority Business Enterprise Program targeted at eliminating the discrimination thoroughly documented in the Study;

(5) to the maximum extent feasible under federal constitutional law, provides for flexibility in the operations of the Program and the use of numerical targets or goals;

(6) prohibits the use of rigid and inflexible quotas;

(7) ensures that any use of numerical targets in overall aspirational State goals and in contract goals, includes the use of good faith waivers and is narrowly tailored to reflect the best available evidence of the actual, relative availability of minority business enterprises in Maryland contracting markets;

(8) to the maximum extent feasible, limits and ameliorates burdens on nonminority business enterprises resulting from the operation of the Program; and

(9) ensures that the beneficiaries of the Program are drawn from those groups that have suffered discrimination in Maryland contracting markets.

SECTION 3. AND BE IT FURTHER ENACTED, That, if any of the provisions of this Act or the application thereof, to any person or circumstance, is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect the other provisions or any other application of this Act which can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are declared severable.

SECTION ~~2.~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 254

(Senate Bill 558)

AN ACT concerning

Minority Business Enterprise Program – Amendments to MBE Participation Schedule *and Extension of Task Force* ~~and Termination Extension~~

FOR the purpose of requiring a certain bidder or offeror to notify a certain unit of State government ~~at a certain~~ within a certain period of time if, after submission of a bid or proposal and before the execution of a certain contract, the bidder or offeror determines that a certain minority business enterprise identified in a certain MBE participation schedule has become or will become unavailable or is determined to be ineligible to perform the work required under the contract; authorizing a certain bidder or offeror to submit a written request

to a unit to amend a certain MBE participation schedule under certain circumstances; requiring a certain written request to include certain information; prohibiting an MBE participation schedule from being amended unless the amendment is approved by certain persons; prohibiting an MBE participation schedule from being amended after the date of contract execution unless approved by a certain person and by contract amendment; defining a certain term; *extending the termination date of the Task Force on the Minority Business Enterprise Program and Equity Investment Capital; altering the year of the legislative session for which the Task Force is required to develop draft legislation; altering a certain reporting date;* ~~continuing until a certain date certain provisions of the State Procurement Law relating to procurement from minority business enterprises; requiring a certain study and a final report on the study by a certain date; providing for the application of certain provisions of this Act;~~ ~~providing for the effective dates of this Act~~ making this Act an emergency measure; and generally relating to minority business enterprise participation in procurement contracts *and the Task Force on the Minority Business Enterprise Program and Equity Investment Capital*.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 14–302 ~~and 14–309~~
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, without amendments,
Chapter 513 of the Acts of the General Assembly of 2010
Section 1(a)

BY repealing and reenacting, with amendments,
Chapter 513 of the Acts of the General Assembly of 2010
Section 1(f) and (g) and 2

BY repealing and reenacting, without amendments,
Chapter 514 of the Acts of the General Assembly of 2010
Section 1(a)

BY repealing and reenacting, with amendments,
Chapter 514 of the Acts of the General Assembly of 2010
Section 1(f) and (g) and 2

~~BY repealing and reenacting, with amendments,~~
~~Chapter 116 of the Acts of the General Assembly of 1995, as amended by Chapters 495 and 496 of the Acts of the General Assembly of 2000, Chapter 339 of the Acts of the General Assembly of 2001, and Chapter 359 of the Acts of the General Assembly of 2006~~
~~Section 2~~

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

Article – State Finance and Procurement

14–302.

(a) (1) Except for leases of real property and except as provided in paragraphs (2) and (3) of this subsection, each unit shall structure procurement procedures, consistent with the purposes of this subtitle, to try to achieve the following results:

(i) a minimum of 7% of the unit's total dollar value of procurement contracts is to be made directly or indirectly from certified minority business enterprises classified by the certification agency as African American–owned businesses;

(ii) a minimum of 10% of the unit's total dollar value of procurement contracts is to be made directly or indirectly from certified minority business enterprises classified by the certification agency as women–owned businesses; and

(iii) an overall minimum of 25% of the unit's total dollar value of procurement contracts is to be made directly or indirectly from all certified minority business enterprises.

(2) (i) Except as provided in paragraph (3) of this subsection, in procurement for construction, each unit shall structure procurement procedures, consistent with the purposes of this subtitle, to try to achieve the following results:

1. a minimum of 7% of the unit's total dollar value of construction contracts is to be made directly or indirectly from certified minority business enterprises classified by the certification agency as African American–owned businesses;

2. a minimum of 10% of the unit's total dollar value of construction contracts is to be made directly or indirectly from certified minority business enterprises classified by the certification agency as women–owned businesses; and

3. an overall minimum of 25% of the unit's total dollar value of construction contracts is to be made directly or indirectly from all certified minority business enterprises.

(ii) The unit shall:

1. consider the practical severability of the construction projects; and

2. implement a program that will enable the unit to evaluate each contract to determine the appropriateness of the goal.

(3) With respect to the Maryland Department of Transportation, the provisions of paragraph (2)(i) of this subsection shall apply only to construction contracts in excess of $50,000.

(4) (i) A woman who is also a member of an ethnic or racial minority group may be certified in that category in addition to the gender category.

(ii) For purposes of achieving the goals in this subsection, a certified minority business enterprise may participate in a procurement contract and be counted as a woman–owned business, or as a business owned by a member of an ethnic or racial group, but not both, if the business has been certified in both categories.

(5) Each unit shall meet the maximum feasible portion of the goals stated in paragraphs (1), (2), and (3) of this subsection by using race–neutral measures to facilitate minority business enterprise participation in the procurement process.

(6) To achieve the result specified in paragraph (1) or (2) of this subsection, a contractor, including a contractor that is a certified minority business enterprise, shall:

(i) identify specific work categories appropriate for subcontracting;

(ii) at least 10 days before bid opening, solicit minority business enterprises, through written notice that:

1. describes the categories of work under item (i) of this paragraph; and

2. provides information regarding the type of work being solicited and specific instructions on how to submit a bid;

(iii) attempt to make personal contact with the firms in item (ii) of this paragraph;

(iv) assist minority business enterprises to fulfill bonding requirements or to obtain a waiver of those requirements;

(v) in order to publicize contracting opportunities to minority business enterprises, attend prebid meetings or other meetings scheduled by the unit; and

(vi) upon acceptance of a bid, provide the unit with a list of minority businesses with whom the contractor negotiated, including price quotes from minority and nonminority firms.

(7) (i) The unit shall make a finding whether the contractor complied, in good faith, with paragraph (6) of this subsection.

(ii) If the unit finds the contractor complied with paragraph (6) of this subsection, the unit may not require the contractor to renegotiate any subcontract in order to achieve a different result.

(8) **(I) IN THIS PARAGRAPH, "MBE PARTICIPATION SCHEDULE" MEANS A SCHEDULE INCLUDED IN THE SUBMISSION OF A BID OR OFFER THAT *IDENTIFIES*:**

1. ~~IDENTIFIES~~ THE CERTIFIED MINORITY BUSINESS ENTERPRISES THAT A BIDDER OR OFFEROR AGREES TO USE IN THE PERFORMANCE OF THE CONTRACT; AND

2. THE PERCENTAGE OF CONTRACT VALUE ATTRIBUTED TO EACH CERTIFIED MINORITY BUSINESS ENTERPRISE.

(II) ~~A BIDDER OR OFFEROR SHALL IMMEDIATELY NOTIFY THE UNIT IF,~~ 1. THIS PARAGRAPH APPLIES TO A BIDDER OR OFFEROR AFTER SUBMISSION OF A BID OR PROPOSAL AND BEFORE THE EXECUTION OF A CONTRACT WITH AN EXPECTED DEGREE OF MINORITY BUSINESS ENTERPRISE PARTICIPATION~~;~~.

2. IF THE BIDDER OR OFFEROR DETERMINES THAT A MINORITY BUSINESS ENTERPRISE IDENTIFIED IN THE MBE PARTICIPATION SCHEDULE HAS BECOME OR WILL BECOME UNAVAILABLE OR IS INELIGIBLE TO PERFORM THE WORK REQUIRED UNDER THE CONTRACT, THE BIDDER OR OFFEROR SHALL NOTIFY THE UNIT WITHIN 72 HOURS OF MAKING THE DETERMINATION.

(III) 1. IF A MINORITY BUSINESS ENTERPRISE IDENTIFIED IN THE MBE PARTICIPATION SCHEDULE SUBMITTED WITH A BID OR OFFER HAS BECOME OR WILL BECOME UNAVAILABLE OR IS INELIGIBLE TO PERFORM THE WORK REQUIRED UNDER THE CONTRACT, THE BIDDER OR OFFEROR MAY SUBMIT A WRITTEN REQUEST WITH THE UNIT TO AMEND THE MBE PARTICIPATION SCHEDULE.

2. THE REQUEST TO AMEND THE MBE PARTICIPATION SCHEDULE SHALL INDICATE THE BIDDER'S OR OFFEROR'S EFFORTS TO SUBSTITUTE ANOTHER CERTIFIED MINORITY BUSINESS ENTERPRISE TO PERFORM THE WORK THAT THE UNAVAILABLE OR INELIGIBLE MINORITY BUSINESS ENTERPRISE WOULD HAVE PERFORMED.

3. EXCEPT AS PROVIDED IN SUBSUBPARAGRAPH 4 OF THIS SUBPARAGRAPH, AN MBE PARTICIPATION SCHEDULE MAY NOT BE AMENDED UNLESS THE AMENDMENT IS APPROVED BY THE UNIT'S PROCUREMENT OFFICER AFTER CONSULTING WITH THE UNIT'S MBE LIAISON.

4. AN MBE PARTICIPATION SCHEDULE MAY NOT BE AMENDED AFTER THE DATE OF CONTRACT EXECUTION UNLESS THE REQUEST IS APPROVED BY THE HEAD OF THE UNIT AND THE CONTRACT IS AMENDED.

(9) If, during the performance of a contract, a certified minority business enterprise contractor or subcontractor becomes ineligible to participate in the Minority Business Enterprise Program because one or more of its owners has a personal net worth that exceeds the amount specified in § 14–301(i)(3) of this subtitle:

(i) that ineligibility alone may not cause the termination of the certified minority business enterprise's contractual relationship for the remainder of the term of the contract; and

(ii) the certified minority business enterprise's participation under the contract shall continue to be counted toward the program and contract goals.

(b) (1) The provisions of §§ 14–301(f) and 14–303 of this subtitle and subsection (a) of this section are inapplicable to the extent that any unit determines the provisions to be in conflict with any applicable federal program requirement.

(2) The determination under this subsection shall be included with the report required under § 14–305 of this subtitle.

Chapter 513 of the Acts of 2010

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

(a) There is a Task Force on the Minority Business Enterprise Program and Equity Investment Capital.

(f) The Task Force shall:

(1) study how to facilitate the acquisition of investment equity capital by minority business enterprises in Maryland in a manner that:

(i) allows minority business enterprise owners to retain operational control of the business enterprise; and

(ii) provides adequate protection to equity investors;

(2) make recommendations regarding the necessary modifications to the Minority Business Enterprise Program that will authorize and encourage equity investment in minority business enterprises in Maryland; and

(3) develop draft legislation for the ***[****2011****] 2012*** *legislative session to implement the recommendations identified in paragraph (2) of this subsection.*

(g) On or before December 1, ***[****2010****] 2011****, the Task Force shall report its recommendations and draft legislation to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.*

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010. It shall remain effective for a period of ***[****1 year****] 2 YEARS*** *and, at the end of May 31,* ***[****2011****] 2012****, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.*

Chapter 514 of the Acts of 2010

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

(a) There is a Task Force on the Minority Business Enterprise Program and Equity Investment Capital.

(f) The Task Force shall:

(1) study how to facilitate the acquisition of investment equity capital by minority business enterprises in Maryland in a manner that:

(i) allows minority business enterprise owners to retain operational control of the business enterprise; and

(ii) provides adequate protection to equity investors;

(2) make recommendations regarding the necessary modifications to the Minority Business Enterprise Program that will authorize and encourage equity investment in minority business enterprises in Maryland; and

(3) develop draft legislation for the ***[****2011****] 2012*** *legislative session to implement the recommendations identified in paragraph (2) of this subsection.*

(g) On or before December 1, ***[****2010****] 2011****, the Task Force shall report its recommendations and draft legislation to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.*

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010. It shall remain effective for a period of ***[****1 year****] 2 YEARS*** *and, at the end of May 31,* ***[****2011****] 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 the Laws of Maryland read as follows:~~

~~Article – State Finance and Procurement~~

~~14–309.~~

~~The provisions of §§ 14–301 through 14–305 of this subtitle, and any regulations adopted under those sections, shall be of no effect and may not be enforced after July 1, [2011] 2013.~~

~~Chapter 116 of the Acts of 1995, as amended by Chapters 495 and 496 of the Acts of 2000, Chapter 339 of the Acts of 2001, and Chapter 359 of the Acts of 2006~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That the Certification Agency, in consultation with the General Assembly and the Office of the Attorney General, shall initiate a study of the Minority Business Enterprise Program to evaluate the Program's continued compliance with the requirements of the Croson decision and any subsequent federal or constitutional requirements. In preparation for the study, the Board of Public Works may adopt regulations authorizing a unit of State government to require bidders and offerors to submit information necessary for the conduct of the study. The Board of Public Works may designate that certain information received in accordance with regulations adopted under this section shall be confidential. Notwithstanding that certain information may be designated by the Board of Public Works as confidential, the certification agency may provide the information to any person that is under contract with the certification agency to assist in conducting the study. The study shall also evaluate race neutral programs and other methods that can be used to address the needs of minority businesses. The final report on the study shall be submitted to the Legislative Policy Committee of the General Assembly prior to September 30, [2010] 2012, so that the General Assembly may review the report prior to the [2011] 2013 Session.~~

~~SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take effect October 1, 2011.~~

SECTION ~~4.~~ 2. AND BE IT FURTHER ENACTED, That~~, except as provided in Section 3 of this Act,~~ this Act ~~shall take effect July 1, 2011~~ 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 10, 2011.

Chapter 255

(Senate Bill 562)

AN ACT concerning

Department of Health and Mental Hygiene – ~~Required Certification of~~ Recovery Homes – Best Practices

FOR the purpose of requiring the Department of Health and Mental Hygiene to ~~adopt regulations for the certification of recovery homes in the State; requiring the regulations to include certain standards, requirements, fees, and procedures; authorizing the regulations to include certain requirements; requiring the certification fee set by the Department to cover certain departmental costs; prohibiting a person from operating a recovery home without certain certification; prohibiting certain programs from referring program participants to a recovery home that is not certified; requiring applicants for certification as a recovery home to submit an application on the form the Department requires; requiring the Department to issue a certificate to an applicant that meets certain certification requirements; requiring the Department to give an applicant an opportunity for a hearing under certain circumstances; providing that a person who operates a recovery home in violation of this Act is subject to a certain penalty~~ identify standards for best practices on recovery homes and report certain findings to the Governor and the General Assembly on or before a certain date; and generally relating to ~~the certification of~~ recovery homes.

~~BY adding to~~
~~Article – Health – General~~
~~Section 8–406~~
~~Annotated Code of Maryland~~
~~(2009 Replacement Volume and 2010 Supplement)~~

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That ~~the Laws of Maryland read as follows:~~ the Department of Health and Mental Hygiene shall:

(1) identify standards for best practices for recovery homes; and

(2) on or before December 31, 2011, report its findings regarding standards for best practices for recovery homes to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

~~**Article – Health – General**~~

~~**8–406.**~~

~~**(A) (1) IN THIS SECTION, "RECOVERY HOME" MEANS A HOME THAT PROVIDES TEMPORARY RESIDENTIAL ACCOMMODATION, GUIDANCE, SUPERVISION, AND PERSONAL ADJUSTMENT SERVICES FOR A GROUP OF THREE OR MORE INDIVIDUALS RECOVERING FROM ALCOHOL OR DRUG ADDICTION.**~~

~~**(2) "RECOVERY HOME" DOES NOT INCLUDE:**~~

~~**(I) AN ALCOHOL ABUSE AND DRUG ABUSE TREATMENT PROGRAM AS DEFINED IN § 8–403 OF THIS SUBTITLE; OR**~~

~~**(II) A PRIVATE GROUP HOME AS DEFINED IN § 10–514 OF THIS ARTICLE.**~~

~~**(B) (1) THE DEPARTMENT SHALL ADOPT REGULATIONS FOR THE CERTIFICATION OF RECOVERY HOMES IN THE STATE.**~~

~~**(2) THE REGULATIONS REQUIRED UNDER THIS SUBSECTION SHALL INCLUDE:**~~

~~**(I) STANDARDS FOR THE STAFF OF THE RECOVERY HOME, INCLUDING A REQUIREMENT THAT STAFF BE FREE OF DRUGS FOR AT LEAST 1 YEAR PRIOR TO WORKING IN THE RECOVERY HOME;**~~

~~**(II) A REQUIREMENT FOR THE DEMONSTRATION OF THE NEED FOR THE RECOVERY HOME;**~~

~~**(III) CERTIFICATION FEES;**~~

~~**(IV) PROCEDURES FOR APPLYING FOR CERTIFICATION AS A RECOVERY HOME UNDER THIS SECTION; AND**~~

~~(V) PROCEDURES FOR THE RENEWAL OF CERTIFICATION AS A RECOVERY HOME UNDER THIS SECTION.~~

~~(3) THE REGULATIONS ADOPTED UNDER THIS SUBSECTION MAY INCLUDE REQUIREMENTS FOR INFORMATION TO BE SUBMITTED BY CERTIFIED RECOVERY HOMES TO THE DEPARTMENT.~~

~~(C) THE CERTIFICATION FEE SET BY THE DEPARTMENT SHALL COVER THE DEPARTMENT'S COSTS OF CERTIFYING RECOVERY HOMES UNDER THIS SECTION.~~

~~(D) (1) A PERSON MAY NOT OPERATE A RECOVERY HOME WITHOUT RECEIVING CERTIFICATION FROM THE DEPARTMENT UNDER THIS SECTION.~~

~~(2) A MENTAL HEALTH PROGRAM LICENSED OR CERTIFIED BY THE DEPARTMENT OR AN ALCOHOL ABUSE AND DRUG ABUSE PROGRAM LICENSED OR CERTIFIED BY THE DEPARTMENT MAY NOT REFER PROGRAM PARTICIPANTS TO A RECOVERY HOME THAT IS NOT CERTIFIED BY THE DEPARTMENT.~~

~~(E) (1) AN APPLICANT FOR CERTIFICATION AS A RECOVERY HOME SHALL SUBMIT AN APPLICATION TO THE DEPARTMENT ON THE FORM THAT THE DEPARTMENT REQUIRES.~~

~~(2) THE DEPARTMENT SHALL ISSUE A CERTIFICATE TO AN APPLICANT THAT MEETS THE DEPARTMENT'S CERTIFICATION REQUIREMENTS.~~

~~(3) BEFORE THE DEPARTMENT DISAPPROVES AN APPLICATION, THE DEPARTMENT SHALL GIVE THE APPLICANT AN OPPORTUNITY FOR A HEARING.~~

~~(F) A PERSON THAT OPERATES A RECOVERY HOME IN VIOLATION OF THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING $1,000.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 256

(Senate Bill 568)

AN ACT concerning

Labor and Employment – Workers' Compensation – Venue for Appeal

FOR the purpose of altering the venue available to certain individuals and employers appealing a certain decision of the Workers' Compensation Commission; clarifying certain language; and generally relating to the venue for appeal available in workers' compensation cases.

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 9–738
Annotated Code of Maryland
(2008 Replacement Volume and 2010 Supplement)

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

Article – Labor and Employment

9–738.

(A) THIS SUBSECTION IS NOT SUBJECT TO THE PROVISIONS SET FORTH IN § 6–201 OF THE COURTS ARTICLE.

[(a)**] (B)** To take an appeal, a person shall file an order of appeal with the circuit court **FOR THE COUNTY WHERE**:

(1) **[**that has jurisdiction over that person**] THE ~~APPELLANT~~ COVERED EMPLOYEE RESIDES~~, IF THE APPELLANT IS AN INDIVIDUAL~~**; [**or**]**

(2) THE ~~APPELLANT~~ EMPLOYER HAS ITS PRINCIPAL PLACE OF BUSINESS~~, IF THE APPELLANT IS AN EMPLOYER~~; OR

[(2)**] (3) [**for the county where**]** the accidental personal injury, compensable hernia, or last injurious exposure to the hazards of the occupational disease occurred.

[(b)**] (C)** If an appeal is taken to a circuit court that does not have jurisdiction, the court shall transfer the appeal to the proper circuit court on the motion of a party.

[(c)**] (D)** If a party to an appeal suggests in writing and under oath that the party cannot obtain a fair trial in the circuit court in which the appeal is pending, the circuit court shall transfer the appeal to another circuit court.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 257

(House Bill 392)

AN ACT concerning

Labor and Employment – Workers' Compensation – Venue for Appeal

FOR the purpose of altering the venue available to certain individuals and employers appealing a certain decision of the Workers' Compensation Commission; clarifying certain language; and generally relating to the venue for appeal available in workers' compensation cases.

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 9–738
Annotated Code of Maryland
(2008 Replacement Volume and 2010 Supplement)

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

Article – Labor and Employment

9–738.

(A) THIS SUBSECTION IS NOT SUBJECT TO THE PROVISIONS SET FORTH IN § 6–201 OF THE COURTS ARTICLE.

[(a)**] (B)** To take an appeal, a person shall file an order of appeal with the circuit court **FOR THE COUNTY WHERE**:

(1) **[**that has jurisdiction over that person**] THE** ~~**APPELLANT**~~ **COVERED EMPLOYEE RESIDES**~~**, IF THE APPELLANT IS AN INDIVIDUAL**~~; **[**or**]**

(2) THE ~~APPELLANT~~ EMPLOYER HAS ITS PRINCIPAL PLACE OF BUSINESS~~, IF THE APPELLANT IS AN EMPLOYER~~; OR

[(2)**] (3) [**for the county where**]** the accidental personal injury, compensable hernia, or last injurious exposure to the hazards of the occupational disease occurred.

[(b)**] (C)** If an appeal is taken to a circuit court that does not have jurisdiction, the court shall transfer the appeal to the proper circuit court on the motion of a party.

[(c)**] (D)** If a party to an appeal suggests in writing and under oath that the party cannot obtain a fair trial in the circuit court in which the appeal is pending, the circuit court shall transfer the appeal to another circuit court.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 258

(Senate Bill 569)

AN ACT concerning

Somerset County – Smith Island Solid Waste District – Remove Limitation on Fee

FOR the purpose of repealing certain limitations on the amount of the solid waste disposal fee imposed on certain property in the Smith Island Solid Waste District in Somerset County; making this Act an emergency measure; and generally relating to the solid waste removal fee imposed in the Smith Island Solid Waste District in Somerset County.

BY repealing and reenacting, with amendments,
The Public Local Laws of Somerset County
Section 8–201
Article 20 – Public Local Laws of Maryland
(2003 Edition and 2009 Supplement, as amended)

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

Article 20 – Somerset County

8–201.

(a) The County Commissioners by ordinance may designate that part of Smith Island in Somerset County as a solid waste district for the sole purpose of imposing an annual fee on improved property on Smith Island to offset the cost of removing solid waste, including ash and other residue from the County's incinerator, from Smith Island.

(b) **[**(1)**]** A fee imposed by ordinance under this section shall be compatible to the costs incurred by other property owners in Somerset County for disposal of solid waste.

[(2) The annual fee imposed under this section may not exceed:

(i) $50 for improved, residential property; or

(ii) $100 for other improved property.**]**

(c) (1) The County Commissioners may:

(i) Include the fee as a separate item on the County tax bill; or

(ii) Mail a separate bill to the owner of the property as shown on County tax rolls.

(2) A fee imposed under this section shall constitute a lien on the property and may be collected in the same manner as property taxes may be collected.

(3) A fee not paid by the date set by the County Commissioners and indicated on the bill shall be subject to interest charges at the same rate of interest as overdue property taxes.

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 10, 2011.

Chapter 259

(Senate Bill 571)

AN ACT concerning

Insurance – Delivery of Notices by Electronic Means – Authorized

FOR the purpose of authorizing any notice to an applicant, insured, or policyholder required to be given by an insurer under certain provisions of law governing insurance policy cancellations, nonrenewals, premium increases, and reductions of coverage to be delivered by certain electronic means under certain circumstances; providing that delivery of a notice by electronic means shall be considered equivalent to the delivery method required under certain provisions of law; ~~requiring this Act to be construed in a manner consistent with a certain federal law;~~ establishing certain requirements, procedures, and conditions for the delivery of a notice by electronic means; requiring an insurer to give certain notices to a party under certain circumstances; providing that an oral communication or a recording of an oral communication may qualify as a notice delivered by electronic means under certain circumstances; specifying the manner in which certain requirements relating to a signature or record may be satisfied; providing for the effect, construction, and application of this Act; defining ~~a certain term~~ certain terms; and generally relating to delivery of notices to applicants, insureds, and policyholders.

BY adding to
Article – Insurance
Section 27–601.2
Annotated Code of Maryland
(2006 Replacement Volume and 2010 Supplement)

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

Article – Insurance

27–601.2.

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

(2) "~~DELIVERED~~ DELIVERED BY ELECTRONIC MEANS" INCLUDES:

~~(1)~~ (I) DELIVERY TO AN ELECTRONIC MAIL ADDRESS AT WHICH ~~AN INSURED OR A POLICYHOLDER~~ A PARTY HAS CONSENTED TO RECEIVE NOTICE; AND

~~(2)~~ (II) POSTING ON AN ELECTRONIC NETWORK, TOGETHER WITH SEPARATE NOTICE TO ~~AN INSURED OR A POLICYHOLDER~~ A PARTY

DIRECTED TO THE ELECTRONIC MAIL ADDRESS AT WHICH THE ~~INSURED OR POLICYHOLDER~~ PARTY HAS CONSENTED TO RECEIVE NOTICE OF THE POSTING.

(3) "PARTY" MEANS AN APPLICANT, AN INSURED, OR A POLICYHOLDER.

(B) SUBJECT TO SUBSECTION (D) OF THIS SECTION, ANY NOTICE TO ~~AN INSURED OR POLICYHOLDER~~ A PARTY REQUIRED UNDER THIS SUBTITLE MAY BE DELIVERED BY ELECTRONIC MEANS PROVIDED THE PROCESS USED TO OBTAIN CONSENT OF THE ~~INSURED OR POLICYHOLDER~~ PARTY TO HAVE NOTICE DELIVERED BY ELECTRONIC MEANS MEETS THE REQUIREMENTS OF TITLE 21, SUBTITLE 1 OF THE COMMERCIAL LAW ARTICLE.

(C) DELIVERY OF A NOTICE IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION SHALL BE CONSIDERED EQUIVALENT TO ANY DELIVERY METHOD REQUIRED UNDER THIS SUBTITLE, INCLUDING DELIVERY BY FIRST–CLASS MAIL, CERTIFIED MAIL, CERTIFICATE OF MAIL, OR CERTIFICATE OF MAILING.

(D) ~~THIS SECTION SHALL BE CONSTRUED IN A MANNER CONSISTENT WITH THE FEDERAL ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT~~ A NOTICE MAY BE DELIVERED BY ELECTRONIC MEANS BY AN INSURER TO A PARTY UNDER THIS SECTION IF:

(1) THE PARTY HAS AFFIRMATIVELY CONSENTED TO THAT METHOD OF DELIVERY AND HAS NOT WITHDRAWN THE CONSENT;

(2) THE PARTY, BEFORE GIVING CONSENT, IS PROVIDED WITH A CLEAR AND CONSPICUOUS STATEMENT:

(I) INFORMING THE PARTY OF:

1. ANY RIGHT OR OPTION OF THE PARTY TO HAVE THE NOTICE PROVIDED OR MADE AVAILABLE IN PAPER OR ANOTHER NONELECTRONIC FORM;

2. THE RIGHT OF THE PARTY TO WITHDRAW CONSENT TO HAVE NOTICE DELIVERED BY ELECTRONIC MEANS AND ANY FEES, CONDITIONS, OR CONSEQUENCES IMPOSED IN THE EVENT CONSENT IS WITHDRAWN;

3. WHETHER THE PARTY'S CONSENT APPLIES:

A. ONLY TO THE PARTICULAR TRANSACTION AS TO WHICH THE NOTICE MUST BE GIVEN; OR

B. TO IDENTIFIED CATEGORIES OF NOTICES THAT MAY BE DELIVERED BY ELECTRONIC MEANS DURING THE COURSE OF THE PARTIES' RELATIONSHIP;

4. A. HOW, AFTER CONSENT IS GIVEN, THE PARTY MAY OBTAIN A PAPER COPY OF A NOTICE DELIVERED BY ELECTRONIC MEANS; AND

B. THE FEE, IF ANY, FOR THE PAPER COPY; AND

5. THE PROCEDURES THE PARTY MUST USE TO WITHDRAW CONSENT TO HAVE NOTICE DELIVERED BY ELECTRONIC MEANS AND TO UPDATE INFORMATION NEEDED TO CONTACT THE PARTY ELECTRONICALLY;

(3) THE PARTY:

(I) BEFORE GIVING CONSENT, IS PROVIDED WITH A STATEMENT OF THE HARDWARE AND SOFTWARE REQUIREMENTS FOR ACCESS TO AND RETENTION OF A NOTICE DELIVERED BY ELECTRONIC MEANS; AND

(II) CONSENTS ELECTRONICALLY, OR CONFIRMS CONSENT ELECTRONICALLY, IN A MANNER THAT REASONABLY DEMONSTRATES THAT THE PARTY CAN ACCESS INFORMATION IN THE ELECTRONIC FORM THAT WILL BE USED FOR NOTICES DELIVERED BY ELECTRONIC MEANS AS TO WHICH THE PARTY HAS GIVEN CONSENT; AND

(4) AFTER CONSENT OF THE PARTY IS GIVEN, THE INSURER, IN THE EVENT A CHANGE IN THE HARDWARE OR SOFTWARE REQUIREMENTS NEEDED TO ACCESS OR RETAIN A NOTICE DELIVERED BY ELECTRONIC MEANS CREATES A MATERIAL RISK THAT THE PARTY WILL NOT BE ABLE TO ACCESS OR RETAIN A SUBSEQUENT NOTICE TO WHICH THE CONSENT APPLIES:

(I) PROVIDES THE PARTY WITH A STATEMENT OF:

1. THE REVISED HARDWARE AND SOFTWARE REQUIREMENTS FOR ACCESS TO AND RETENTION OF A NOTICE DELIVERED BY ELECTRONIC MEANS; AND

2. THE RIGHT OF THE PARTY TO WITHDRAW CONSENT WITHOUT THE IMPOSITION OF ANY FEE, CONDITION, OR CONSEQUENCE THAT WAS NOT DISCLOSED UNDER ITEM (2)(I)2 OF THIS SUBSECTION; AND

(II) COMPLIES WITH ITEM (2) OF THIS SUBSECTION.

(E) THIS SECTION DOES NOT AFFECT THE CONTENT OR TIMING OF ANY NOTICE REQUIRED UNDER THIS SUBTITLE.

(F) IF A PROVISION OF THIS SUBTITLE REQUIRING NOTICE TO BE PROVIDED TO A PARTY EXPRESSLY REQUIRES VERIFICATION OR ACKNOWLEDGMENT OF RECEIPT OF THE NOTICE, THE NOTICE MAY BE DELIVERED BY ELECTRONIC MEANS ONLY IF THE METHOD USED PROVIDES FOR VERIFICATION OR ACKNOWLEDGMENT OF RECEIPT.

(G) THE LEGAL EFFECTIVENESS, VALIDITY, OR ENFORCEABILITY OF ANY CONTRACT OR POLICY OF INSURANCE EXECUTED BY A PARTY MAY NOT BE DENIED SOLELY BECAUSE OF THE FAILURE TO OBTAIN ELECTRONIC CONSENT OR CONFIRMATION OF CONSENT OF THE PARTY IN ACCORDANCE WITH SUBSECTION (D)(3)(II) OF THIS SECTION.

(H) (1) A WITHDRAWAL OF CONSENT BY A PARTY DOES NOT AFFECT THE LEGAL EFFECTIVENESS, VALIDITY, OR ENFORCEABILITY OF A NOTICE DELIVERED BY ELECTRONIC MEANS TO THE PARTY BEFORE THE WITHDRAWAL OF CONSENT IS EFFECTIVE.

(2) A WITHDRAWAL OF CONSENT BY A PARTY IS EFFECTIVE WITHIN A REASONABLE PERIOD OF TIME AFTER RECEIPT OF THE WITHDRAWAL BY THE INSURER.

(3) FAILURE TO COMPLY WITH SUBSECTION (D)(4) OF THIS SECTION MAY BE TREATED, AT THE ELECTION OF THE PARTY, AS A WITHDRAWAL OF CONSENT FOR PURPOSES OF THIS SECTION.

(I) THIS SECTION DOES NOT APPLY TO A NOTICE DELIVERED BY AN INSURER IN AN ELECTRONIC FORM BEFORE OCTOBER 1, 2011, TO A PARTY WHO, BEFORE OCTOBER 1, 2011, HAS CONSENTED TO RECEIVE NOTICE IN AN ELECTRONIC FORM OTHERWISE ALLOWED BY LAW.

(J) IF THE CONSENT OF A PARTY TO RECEIVE NOTICE IN AN ELECTRONIC FORM IS ON FILE WITH AN INSURER BEFORE OCTOBER 1, 2011, THE INSURER SHALL NOTIFY THE PARTY OF:

(1) THE NOTICES THAT MAY BE DELIVERED BY ELECTRONIC MEANS UNDER THIS SECTION; AND

(2) THE PARTY'S RIGHT TO WITHDRAW CONSENT TO HAVE NOTICES DELIVERED BY ELECTRONIC MEANS.

(K) (1) EXCEPT AS OTHERWISE PROVIDED BY LAW, IF AN ORAL COMMUNICATION OR A RECORDING OF AN ORAL COMMUNICATION CAN BE RELIABLY STORED AND REPRODUCED BY AN INSURER, THE ORAL COMMUNICATION OR RECORDING MAY QUALIFY AS A NOTICE DELIVERED BY ELECTRONIC MEANS FOR PURPOSES OF THIS SECTION.

(2) IF A PROVISION OF THIS SUBTITLE REQUIRES A SIGNATURE OR RECORD TO BE NOTARIZED, ACKNOWLEDGED, VERIFIED, OR MADE UNDER OATH, THE REQUIREMENT IS SATISFIED IF THE ELECTRONIC SIGNATURE OF THE PERSON AUTHORIZED TO PERFORM THOSE ACTS, TOGETHER WITH ALL OTHER INFORMATION REQUIRED TO BE INCLUDED BY THE PROVISION, IS ATTACHED TO OR LOGICALLY ASSOCIATED WITH THE SIGNATURE OR RECORD.

(L) THIS SECTION MAY NOT BE CONSTRUED TO MODIFY, LIMIT, OR SUPERSEDE THE PROVISIONS OF THE FEDERAL ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT RELATING TO THE USE OF AN ELECTRONIC RECORD TO PROVIDE OR MAKE AVAILABLE INFORMATION THAT IS REQUIRED TO BE PROVIDED OR MADE AVAILABLE IN WRITING TO A PARTY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 260

(House Bill 763)

AN ACT concerning

Insurance – Delivery of Notices by Electronic Means – Authorized

FOR the purpose of authorizing any notice to an applicant, insured, or policyholder required to be given by an insurer under certain provisions of law governing insurance policy cancellations, nonrenewals, premium increases, and reductions of coverage to be delivered by certain electronic means under certain circumstances; providing that delivery of a notice by electronic means shall be considered equivalent to the delivery method required under certain provisions of law; ~~requiring this Act to be construed in a manner consistent with a certain federal law;~~ establishing certain requirements, procedures, and conditions for the delivery of a notice by electronic means; requiring an insurer to give certain notices to a party under certain circumstances; providing that an oral

communication or a recording of an oral communication may qualify as a notice delivered by electronic means under certain circumstances; specifying the manner in which certain requirements relating to a signature or record may be satisfied; providing for the effect, construction, and application of this Act; defining ~~a certain term~~ certain terms; and generally relating to delivery of notices to applicants, insureds, and policyholders.

BY adding to
Article – Insurance
Section 27–601.2
Annotated Code of Maryland
(2006 Replacement Volume and 2010 Supplement)

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

Article – Insurance

27–601.2.

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

(2) "~~DELIVERED~~ DELIVERED BY ELECTRONIC MEANS" INCLUDES:

~~(1)~~ (I) DELIVERY TO AN ELECTRONIC MAIL ADDRESS AT WHICH ~~AN INSURED OR A POLICYHOLDER~~ A PARTY HAS CONSENTED TO RECEIVE NOTICE; AND

~~(2)~~ (II) POSTING ON AN ELECTRONIC NETWORK, TOGETHER WITH SEPARATE NOTICE TO ~~AN INSURED OR A POLICYHOLDER~~ A PARTY DIRECTED TO THE ELECTRONIC MAIL ADDRESS AT WHICH THE ~~INSURED OR POLICYHOLDER~~ PARTY HAS CONSENTED TO RECEIVE NOTICE OF THE POSTING.

(3) "PARTY" MEANS AN APPLICANT, AN INSURED, OR A POLICYHOLDER.

(B) SUBJECT TO SUBSECTION (D) OF THIS SECTION, ANY NOTICE TO ~~AN INSURED OR POLICYHOLDER~~ A PARTY REQUIRED UNDER THIS SUBTITLE MAY BE DELIVERED BY ELECTRONIC MEANS PROVIDED THE PROCESS USED TO OBTAIN CONSENT OF THE ~~INSURED OR POLICYHOLDER~~ PARTY TO HAVE NOTICE DELIVERED BY ELECTRONIC MEANS MEETS THE REQUIREMENTS OF TITLE 21, SUBTITLE 1 OF THE COMMERCIAL LAW ARTICLE.

(C) DELIVERY OF A NOTICE IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION SHALL BE CONSIDERED EQUIVALENT TO ANY DELIVERY METHOD REQUIRED UNDER THIS SUBTITLE, INCLUDING DELIVERY BY FIRST–CLASS MAIL, CERTIFIED MAIL, CERTIFICATE OF MAIL, OR CERTIFICATE OF MAILING.

(D) ~~THIS SECTION SHALL BE CONSTRUED IN A MANNER CONSISTENT WITH THE FEDERAL ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT~~ A NOTICE MAY BE DELIVERED BY ELECTRONIC MEANS BY AN INSURER TO A PARTY UNDER THIS SECTION IF:

(1) THE PARTY HAS AFFIRMATIVELY CONSENTED TO THAT METHOD OF DELIVERY AND HAS NOT WITHDRAWN THE CONSENT;

(2) THE PARTY, BEFORE GIVING CONSENT, IS PROVIDED WITH A CLEAR AND CONSPICUOUS STATEMENT:

(I) INFORMING THE PARTY OF:

1. ANY RIGHT OR OPTION OF THE PARTY TO HAVE THE NOTICE PROVIDED OR MADE AVAILABLE IN PAPER OR ANOTHER NONELECTRONIC FORM;

2. THE RIGHT OF THE PARTY TO WITHDRAW CONSENT TO HAVE NOTICE DELIVERED BY ELECTRONIC MEANS AND ANY FEES, CONDITIONS, OR CONSEQUENCES IMPOSED IN THE EVENT CONSENT IS WITHDRAWN;

3. WHETHER THE PARTY'S CONSENT APPLIES:

A. ONLY TO THE PARTICULAR TRANSACTION AS TO WHICH THE NOTICE MUST BE GIVEN; OR

B. TO IDENTIFIED CATEGORIES OF NOTICES THAT MAY BE DELIVERED BY ELECTRONIC MEANS DURING THE COURSE OF THE PARTIES' RELATIONSHIP;

4. A. HOW, AFTER CONSENT IS GIVEN, THE PARTY MAY OBTAIN A PAPER COPY OF A NOTICE DELIVERED BY ELECTRONIC MEANS; AND

B. THE FEE, IF ANY, FOR THE PAPER COPY; AND

5. THE PROCEDURES THE PARTY MUST USE TO WITHDRAW CONSENT TO HAVE NOTICE DELIVERED BY ELECTRONIC MEANS AND TO UPDATE INFORMATION NEEDED TO CONTACT THE PARTY ELECTRONICALLY;

(3) THE PARTY:

(I) BEFORE GIVING CONSENT, IS PROVIDED WITH A STATEMENT OF THE HARDWARE AND SOFTWARE REQUIREMENTS FOR ACCESS TO AND RETENTION OF A NOTICE DELIVERED BY ELECTRONIC MEANS; AND

(II) CONSENTS ELECTRONICALLY, OR CONFIRMS CONSENT ELECTRONICALLY, IN A MANNER THAT REASONABLY DEMONSTRATES THAT THE PARTY CAN ACCESS INFORMATION IN THE ELECTRONIC FORM THAT WILL BE USED FOR NOTICES DELIVERED BY ELECTRONIC MEANS AS TO WHICH THE PARTY HAS GIVEN CONSENT; AND

(4) AFTER CONSENT OF THE PARTY IS GIVEN, THE INSURER, IN THE EVENT A CHANGE IN THE HARDWARE OR SOFTWARE REQUIREMENTS NEEDED TO ACCESS OR RETAIN A NOTICE DELIVERED BY ELECTRONIC MEANS CREATES A MATERIAL RISK THAT THE PARTY WILL NOT BE ABLE TO ACCESS OR RETAIN A SUBSEQUENT NOTICE TO WHICH THE CONSENT APPLIES:

(I) PROVIDES THE PARTY WITH A STATEMENT OF:

1. THE REVISED HARDWARE AND SOFTWARE REQUIREMENTS FOR ACCESS TO AND RETENTION OF A NOTICE DELIVERED BY ELECTRONIC MEANS; AND

2. THE RIGHT OF THE PARTY TO WITHDRAW CONSENT WITHOUT THE IMPOSITION OF ANY FEE, CONDITION, OR CONSEQUENCE THAT WAS NOT DISCLOSED UNDER ITEM (2)(I)2 OF THIS SUBSECTION; AND

(II) COMPLIES WITH ITEM (2) OF THIS SUBSECTION.

(E) THIS SECTION DOES NOT AFFECT THE CONTENT OR TIMING OF ANY NOTICE REQUIRED UNDER THIS SUBTITLE.

(F) IF A PROVISION OF THIS SUBTITLE REQUIRING NOTICE TO BE PROVIDED TO A PARTY EXPRESSLY REQUIRES VERIFICATION OR ACKNOWLEDGMENT OF RECEIPT OF THE NOTICE, THE NOTICE MAY BE DELIVERED BY ELECTRONIC MEANS ONLY IF THE METHOD USED PROVIDES FOR VERIFICATION OR ACKNOWLEDGMENT OF RECEIPT.

(G) THE LEGAL EFFECTIVENESS, VALIDITY, OR ENFORCEABILITY OF ANY CONTRACT OR POLICY OF INSURANCE EXECUTED BY A PARTY MAY NOT BE DENIED SOLELY BECAUSE OF THE FAILURE TO OBTAIN ELECTRONIC CONSENT OR CONFIRMATION OF CONSENT OF THE PARTY IN ACCORDANCE WITH SUBSECTION (D)(3)(II) OF THIS SECTION.

(H) (1) A WITHDRAWAL OF CONSENT BY A PARTY DOES NOT AFFECT THE LEGAL EFFECTIVENESS, VALIDITY, OR ENFORCEABILITY OF A NOTICE DELIVERED BY ELECTRONIC MEANS TO THE PARTY BEFORE THE WITHDRAWAL OF CONSENT IS EFFECTIVE.

(2) A WITHDRAWAL OF CONSENT BY A PARTY IS EFFECTIVE WITHIN A REASONABLE PERIOD OF TIME AFTER RECEIPT OF THE WITHDRAWAL BY THE INSURER.

(3) FAILURE TO COMPLY WITH SUBSECTION (D)(4) OF THIS SECTION MAY BE TREATED, AT THE ELECTION OF THE PARTY, AS A WITHDRAWAL OF CONSENT FOR PURPOSES OF THIS SECTION.

(I) THIS SECTION DOES NOT APPLY TO A NOTICE DELIVERED BY AN INSURER IN AN ELECTRONIC FORM BEFORE OCTOBER 1, 2011, TO A PARTY WHO, BEFORE OCTOBER 1, 2011, HAS CONSENTED TO RECEIVE NOTICE IN AN ELECTRONIC FORM OTHERWISE ALLOWED BY LAW.

(J) IF THE CONSENT OF A PARTY TO RECEIVE NOTICE IN AN ELECTRONIC FORM IS ON FILE WITH AN INSURER BEFORE OCTOBER 1, 2011, THE INSURER SHALL NOTIFY THE PARTY OF:

(1) THE NOTICES THAT MAY BE DELIVERED BY ELECTRONIC MEANS UNDER THIS SECTION; AND

(2) THE PARTY'S RIGHT TO WITHDRAW CONSENT TO HAVE NOTICES DELIVERED BY ELECTRONIC MEANS.

(K) (1) EXCEPT AS OTHERWISE PROVIDED BY LAW, IF AN ORAL COMMUNICATION OR A RECORDING OF AN ORAL COMMUNICATION CAN BE RELIABLY STORED AND REPRODUCED BY AN INSURER, THE ORAL COMMUNICATION OR RECORDING MAY QUALIFY AS A NOTICE DELIVERED BY ELECTRONIC MEANS FOR PURPOSES OF THIS SECTION.

(2) IF A PROVISION OF THIS SUBTITLE REQUIRES A SIGNATURE OR RECORD TO BE NOTARIZED, ACKNOWLEDGED, VERIFIED, OR MADE UNDER OATH, THE REQUIREMENT IS SATISFIED IF THE ELECTRONIC SIGNATURE OF THE PERSON AUTHORIZED TO PERFORM THOSE ACTS, TOGETHER WITH ALL

OTHER INFORMATION REQUIRED TO BE INCLUDED BY THE PROVISION, IS ATTACHED TO OR LOGICALLY ASSOCIATED WITH THE SIGNATURE OR RECORD.

(L) THIS SECTION MAY NOT BE CONSTRUED TO MODIFY, LIMIT, OR SUPERSEDE THE PROVISIONS OF THE FEDERAL ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT RELATING TO THE USE OF AN ELECTRONIC RECORD TO PROVIDE OR MAKE AVAILABLE INFORMATION THAT IS REQUIRED TO BE PROVIDED OR MADE AVAILABLE IN WRITING TO A PARTY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 261

(Senate Bill 607)

AN ACT concerning

Agriculture – Waste Kitchen Grease

FOR the purpose of requiring, with certain exceptions, a person to register annually with the Department of Agriculture before transporting waste kitchen grease; requiring a certain person to submit a certain application to the Department in a form required by the Department; requiring the application to include certain information and fees; requiring the Department to register certain applicants and issue each registrant certain items; requiring ~~the Department to require~~ each registrant to carry a certain certificate when transporting waste kitchen grease and display certain information in a certain manner on certain vehicles; establishing certain record–keeping requirements; ~~authorizing the Department to suspend or revoke a person's registration if the person has taken certain actions;~~ prohibiting a person from knowingly taking certain actions relating to waste kitchen grease; establishing a Waste Kitchen Grease Fund; requiring the Department to administer the Fund; providing that the Fund is a special, nonlapsing fund; requiring the Treasurer to hold the Fund and the Comptroller to account for the Fund; providing for the sources of funding for the Fund; providing for the use of the Fund; requiring the Treasurer to invest and reinvest the money of the Fund in a certain manner; requiring that any investment earnings of the Fund be paid into the Fund; ~~prohibiting a person from accepting waste kitchen grease from certain unregistered transporters unless the person keeps certain records and makes the records available to the Department on request; establishing certain restrictions on the taking or carrying away of waste kitchen grease in a container with a certain label and on labeling~~

~~containers of waste kitchen grease for a certain purpose;~~ providing for certain criminal ~~and civil~~ penalties; ~~providing for certain appeals;~~ providing for ~~delayed~~ enforcement of this Act ~~against a certain person under a certain circumstance~~, expressing the intent of the General Assembly that the Department of Agriculture has no enforcement authority under certain provisions; defining certain terms; and generally relating to the regulation of waste kitchen grease.

BY adding to
Article – Agriculture
Section 10–1801 through ~~10–1810~~ 10–1809 to be under the new subtitle "Subtitle 18. Waste Kitchen Grease"
Annotated Code of Maryland
(2007 Replacement Volume and 2010 Supplement)

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

Article – Agriculture

SUBTITLE 18. WASTE KITCHEN GREASE.

10–1801.

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

(B) "FOOD ESTABLISHMENT" MEANS:

(1) A FOOD SERVICE FACILITY; OR

(2) A FOOD PROCESSING PLANT.

(C) (1) "REGISTRANT" MEANS A PERSON WHO HAS REGISTERED WITH THE DEPARTMENT AS A TRANSPORTER OF WASTE KITCHEN GREASE UNDER THIS SUBTITLE.

(2) "REGISTRANT" INCLUDES A PERSON WHO HOLDS AN EQUITY, OWNERSHIP, OR DEBT LIABILITY INTEREST EXCEEDING 5% IN:

(I) A VEHICLE USED BY A REGISTRANT TO TRANSPORT WASTE KITCHEN GREASE; OR

(II) A REGISTRANT THAT IS A BUSINESS OR CORPORATION.

(D) "RENDERER" MEANS A PERSON THAT COOKS ANIMAL CARCASSES, OR PARTS OR PRODUCTS OF CARCASSES, WASTE ANIMAL BY–PRODUCTS, AND WASTE KITCHEN GREASE INTO USABLE END PRODUCTS.

(E) (1) "WASTE KITCHEN GREASE" MEANS ANIMAL FATS OR VEGETABLE OILS USED IN COOKING OR GENERATED BY A FOOD ESTABLISHMENT THAT WILL NOT BE CONSUMED OR REUSED AS FOOD.

(2) "WASTE KITCHEN GREASE" INCLUDES ANIMAL FATS OR VEGETABLE OILS ~~REMOVED FROM A GREASE TRAP~~ THAT ARE PRINCIPALLY DERIVED FROM FOOD PREPARATION AND PROCESSING AND HAVE NOT BEEN PROCESSED BY A RENDERER.

10–1802.

(A) ~~(1)~~ EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A PERSON SHALL REGISTER ANNUALLY WITH THE DEPARTMENT BEFORE TRANSPORTING WASTE KITCHEN GREASE.

(B) (1) A PERSON MAY TRANSPORT WASTE KITCHEN GREASE TO PROPERTY OWNED BY THE PERSON TO CONVERT THE WASTE KITCHEN GREASE TO BIOFUEL FOR THE PERSON'S OWN USE PROVIDED THAT THE PERSON:

(I) TRANSPORTS ONLY 275 GALLONS OF WASTE KITCHEN GREASE IN A SINGLE VEHICLE;

(II) POSSESSES OR CONTROLS NO MORE THAN A TOTAL OF 1,320 GALLONS OF WASTE KITCHEN GREASE, BIOFUEL FEEDSTOCK DERIVED FROM WASTE KITCHEN GREASE, OR BIOFUEL STOCK; AND

(III) HAS NOT OBTAINED ANY OF THE WASTE KITCHEN GREASE THAT WILL BE TRANSPORTED FROM :

1. A CONTAINER OWNED BY A REGISTRANT OR A COMMERCIAL RENDERER; OR

2. A FOOD ESTABLISHMENT UNDER CONTRACT WITH A REGISTRANT.

(2) A PERSON MAY TRANSPORT WASTE KITCHEN GREASE TO A FACILITY TO CONVERT THE WASTE KITCHEN GREASE TO BIOFUEL PROVIDED THAT:

(I) THE PERSON:

1. MEETS ALL OF THE REQUIREMENTS OF PARAGRAPH (1) OF THIS SUBSECTION; AND

2. OTHER THAN TO A PROPERTY OWNED BY THE PERSON, WILL TRANSPORT THE WASTE KITCHEN GREASE TO ONLY ONE FACILITY DURING A SINGLE 24–HOUR PERIOD; AND

(II) THE RECEIVING FACILITY:

1. HAS A PRODUCTION CAPACITY NOT EXCEEDING 500 GALLONS OF BIOFUEL A DAY; AND

2. POSSESSES OR CONTROLS NO MORE THAN A TOTAL OF 1,320 GALLONS OF WASTE KITCHEN GREASE, BIOFUEL FEEDSTOCK DERIVED FROM WASTE KITCHEN GREASE, OR BIOFUEL.

(3) BIOFUEL USED TO POWER THE VEHICLE TRANSPORTING THE WASTE KITCHEN GREASE IS EXCLUDED FOR THE PURPOSES OF PARAGRAPHS (1) AND (2) OF THIS SUBSECTION.

10–1803.

(A) A PERSON REQUIRED TO REGISTER <u>ANNUALLY</u> WITH THE DEPARTMENT UNDER THIS SUBTITLE AS A TRANSPORTER OF WASTE KITCHEN GREASE SHALL SUBMIT AN APPLICATION FOR REGISTRATION IN THE FORM REQUIRED BY THE DEPARTMENT.

(B) AN APPLICATION TO REGISTER UNDER SUBSECTION (A) OF THIS SECTION SHALL INCLUDE:

(1) THE APPLICANT'S NAME AND ADDRESS;

(2) THE MAKE, MODEL, LICENSE NUMBER, AND VEHICLE IDENTIFICATION NUMBER OF ANY VEHICLE THAT THE APPLICANT WILL USE TO TRANSPORT WASTE KITCHEN GREASE;

(3) A DESCRIPTION OF THE OPERATIONS TO BE PERFORMED BY THE APPLICANT; AND

(4) PROOF OF VEHICLE INSURANCE WITH PERSONAL INJURY AND PROPERTY DAMAGE <u>COMBINED SINGLE LIMIT</u> LIABILITY LIMITS OF AT LEAST $1,000,000.

(C) EACH APPLICATION UNDER THIS SECTION SHALL BE ACCOMPANIED BY:

(1) A $100 APPLICATION FEE; AND

(2) A VEHICLE REGISTRATION FEE OF $100 FOR EACH VEHICLE THAT THE APPLICANT WILL USE TO TRANSPORT WASTE KITCHEN GREASE.

(D) THE REGISTRATION REQUIRED UNDER THIS SECTION SHALL BE RENEWED ANNUALLY ON THE PAYMENT OF THE FEES REQUIRED UNDER SUBSECTION (C) OF THIS SECTION.

10–1804.

(A) THE DEPARTMENT SHALL REGISTER EACH APPLICANT WHO SUBMITS AN APPLICATION IN ACCORDANCE WITH § 10–1803 OF THIS SUBTITLE AND ISSUE EACH REGISTRANT A UNIQUE REGISTRATION NUMBER AND A CERTIFICATE CONFIRMING REGISTRATION.

(B) THE DEPARTMENT SHALL REQUIRE EACH REGISTRANT TO:

(1) CARRY THE REGISTRATION CERTIFICATE CONTAINING THE UNIQUE REGISTRATION NUMBER WHEN TRANSPORTING WASTE KITCHEN GREASE; AND

(2) CONSPICUOUSLY DISPLAY THE REGISTRANT'S NAME ~~AND REGISTRATION NUMBER IN A FONT THAT IS AT LEAST 3 INCHES HIGH~~ ON ANY VEHICLE USED TO TRANSPORT WASTE KITCHEN GREASE.

10–1805.

(A) ~~THE DEPARTMENT SHALL REQUIRE EACH~~ EACH REGISTRANT ~~TO~~ SHALL KEEP A RECORD OF THE SOURCE, DESTINATION, DATE, AND VOLUME OF WASTE KITCHEN GREASE HAULED.

(B) THE REGISTRANT SHALL KEEP THE RECORDS MAINTAINED UNDER SUBSECTION (A) OF THIS SECTION FOR 2 YEARS AND MAKE THE RECORDS AVAILABLE FOR INSPECTION BY THE ~~DEPARTMENT~~ STATE'S ATTORNEY ON REQUEST.

10–1806.

~~THE DEPARTMENT MAY SUSPEND OR REVOKE A PERSON'S REGISTRATION ISSUED UNDER § 10–1804 OF THIS SUBTITLE, IF THE PERSON HAS~~ IT SHALL BE A VIOLATION OF THIS SUBTITLE FOR ANY PERSON TO KNOWINGLY:

(1) ~~KNOWINGLY SOLD OR OFFERED~~ SELL OR OFFER FOR SALE WASTE KITCHEN GREASE TO AN UNREGISTERED PERSON FOR TRANSPORT IN VIOLATION OF THIS SUBTITLE;

(2) REMOVE WASTE KITCHEN GREASE FROM A CONTAINER OWNED BY ANOTHER PERSON;

~~(2) STOLEN, CONTAMINATED, OR KNOWINGLY DAMAGED CONTAINERS OF OR FOR WASTE KITCHEN GREASE; OR~~

(3) STEAL OR DAMAGE A WASTE KITCHEN GREASE CONTAINER OWNED BY ANOTHER PERSON, OR PLACE A LABEL ON A CONTAINER OWNED BY ANOTHER PERSON TO ASSERT OWNERSHIP OVER THE CONTAINER; OR

~~(3)~~ (4) ~~TAKEN~~ TAKE POSSESSION OF WASTE KITCHEN GREASE THAT WAS STOLEN OR TRANSPORTED IN VIOLATION OF THIS SUBTITLE.

10–1807.

(A) THERE IS A WASTE KITCHEN GREASE FUND.

(B) THE DEPARTMENT SHALL ADMINISTER THE FUND.

(C) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7–302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

(D) THE FUND CONSISTS OF:

(1) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;

(2) MONEY RECEIVED FROM ANY PUBLIC OR PRIVATE SOURCE;

(3) INTEREST AND INVESTMENT EARNINGS ON THE FUND; AND

(4) FEES ~~AND PENALTIES~~ COLLECTED UNDER THIS SUBTITLE.

(E) THE FUND MAY BE USED ONLY TO IMPLEMENT THIS SUBTITLE.

(F) (1) THE STATE TREASURER SHALL INVEST AND REINVEST THE MONEY OF THE FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

(2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE PAID INTO THE FUND.

~~10–1808.~~

~~A PERSON MAY NOT ACCEPT DELIVERY OR POSSESS MORE THAN 55 GALLONS OF WASTE KITCHEN GREASE FROM AN UNREGISTERED TRANSPORTER REQUIRED TO BE REGISTERED UNDER § 10–1802 OF THIS SUBTITLE UNLESS THE PERSON:~~

~~(1) MAINTAINS A RECORD FOR 2 YEARS OF:~~

~~(I) THE NAME AND ADDRESS OF THE UNREGISTERED TRANSPORTER;~~

~~(II) THE DATE THAT THE PERSON RECEIVED THE WASTE KITCHEN GREASE;~~

~~(III) THE QUANTITY OF WASTE KITCHEN GREASE THAT WAS DELIVERED; AND~~

~~(IV) THE LICENSE NUMBER AND ISSUING STATE ON THE LICENSE PLATE OF THE VEHICLE USED BY THE UNREGISTERED TRANSPORTER TO DELIVER THE WASTE KITCHEN GREASE; AND~~

~~(2) MAKES THE RECORD REQUIRED UNDER PARAGRAPH (1) OF THIS SECTION AVAILABLE TO THE DEPARTMENT FOR INSPECTION ON REQUEST.~~

~~10–1809.~~

~~(A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A PERSON OTHER THAN THE CONTAINER OWNER, OR THE CONTAINER OWNER'S AUTHORIZED AGENT, MAY NOT TAKE AND CARRY AWAY OR AID IN THE TAKING OR CARRYING AWAY OF WASTE KITCHEN GREASE THAT IS IN A CONTAINER THAT BEARS A NOTICE THAT UNAUTHORIZED REMOVAL IS PROHIBITED WITHOUT WRITTEN CONSENT FROM THE CONTAINER OWNER.~~

~~(2) THE OWNER OR LESSEE OF A PROPERTY WHERE A CONTAINER OF WASTE KITCHEN GREASE HAS BEEN LAWFULLY PLACED MAY REMOVE THE CONTAINER IF:~~

~~(I) THE OWNER OR LESSEE OF THE PROPERTY NOTIFIES THE CONTAINER OWNER BY CERTIFIED MAIL THAT THE OWNER OR LESSEE OF THE PROPERTY WOULD LIKE THE CONTAINER TO BE REMOVED; AND~~

~~(II) 30 DAYS AFTER THE DATE THAT THE NOTICE UNDER ITEM (I) OF THIS PARAGRAPH WAS SENT, THE CONTAINER OWNER HAS NOT REMOVED THE CONTAINER.~~

~~(B) A PERSON MAY NOT PLACE A LABEL ON A CONTAINER OF KITCHEN WASTE GREASE OWNED BY ANOTHER PERSON IN ORDER TO ASSERT OWNERSHIP OVER THE CONTAINER.~~

~~10–1810.~~ **10–1808.**

~~(A)~~ **A PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND, ON CONVICTION, IS SUBJECT TO:**

(1) FOR A FIRST OFFENSE, A FINE NOT EXCEEDING $1,000 FOR EACH VIOLATION AND COURT COSTS; AND

(2) FOR A SECOND OFFENSE, A FINE NOT EXCEEDING $10,000, IMPRISONMENT NOT EXCEEDING 1 YEAR, OR BOTH.

~~(B) IN ADDITION TO THE PENALTIES UNDER SUBSECTION (A) OF THIS SECTION, THE SECRETARY MAY ASSESS A CIVIL PENALTY NOT EXCEEDING $5,000 FOR ANY VIOLATION OF THIS SUBTITLE.~~

~~(C) A PERSON MAY APPEAL THE SUSPENSION OR REVOCATION OF REGISTRATION, OR THE IMPOSITION OF A CIVIL PENALTY, IN ACCORDANCE WITH THE CONTESTED CASE PROVISIONS OF THE ADMINISTRATIVE PROCEDURE ACT.~~

10–1809.

THE STATE'S ATTORNEY OF A COUNTY SHALL ENFORCE THE PROVISIONS OF THIS SUBTITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That ~~before October 31, 2011, the Department of Agriculture may not take enforcement action under Title 10, Subtitle 18 of the Agricultural Article, as enacted by Section 1 of this Act, against a person who, on or before October 1, 2011, has submitted an application for registration in accordance with Section 10–803 of the Agriculture Article, as enacted by Section 1 of this Act~~ it is the intent of the General Assembly that the Department of Agriculture has no enforcement responsibilities under the provisions of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 262

(House Bill 881)

AN ACT concerning

Agriculture – Waste Kitchen Grease

FOR the purpose of requiring, with certain exceptions, a person to register annually with the Department of Agriculture before transporting waste kitchen grease; requiring a certain person to submit a certain application to the Department in a form required by the Department; requiring the application to include certain information and fees; requiring the Department to register certain applicants and issue each registrant certain items; requiring ~~the Department to require~~ each registrant to carry a certain certificate when transporting waste kitchen grease and display certain information in a certain manner on certain vehicles; establishing certain record–keeping requirements; ~~authorizing the Department to suspend or revoke a person's registration if the person has taken certain actions;~~ prohibiting a person from knowingly taking certain actions relating to waste kitchen grease; establishing a Waste Kitchen Grease Fund; requiring the Department to administer the Fund; providing that the Fund is a special, nonlapsing fund; requiring the Treasurer to hold the Fund and the Comptroller to account for the Fund; providing for the sources of funding for the Fund; providing for the use of the Fund; requiring the Treasurer to invest and reinvest the money of the Fund in a certain manner; requiring that any investment earnings of the Fund be paid into the Fund; ~~prohibiting a person from accepting waste kitchen grease from certain unregistered transporters unless the person keeps certain records and makes the records available to the Department on request; establishing certain restrictions on the taking or carrying away of waste kitchen grease in a container with a certain label and on labeling containers of waste kitchen grease for a certain purpose;~~ providing for certain criminal ~~and civil~~ penalties; ~~providing for certain appeals;~~ providing for ~~delayed~~ enforcement of this Act ~~against a certain person under a certain circumstance~~, expressing the intent of the General Assembly that the Department of Agriculture has no enforcement authority under certain provisions; defining certain terms; and generally relating to the regulation of waste kitchen grease.

BY adding to
Article – Agriculture

Section 10–1801 through ~~10–1810~~ 10–1809 to be under the new subtitle "Subtitle 18. Waste Kitchen Grease"
Annotated Code of Maryland
(2007 Replacement Volume and 2010 Supplement)

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

Article – Agriculture

SUBTITLE 18. WASTE KITCHEN GREASE.

10–1801.

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

(B) "FOOD ESTABLISHMENT" MEANS:

(1) A FOOD SERVICE FACILITY; OR

(2) A FOOD PROCESSING PLANT.

(C) (1) "REGISTRANT" MEANS A PERSON WHO HAS REGISTERED WITH THE DEPARTMENT AS A TRANSPORTER OF WASTE KITCHEN GREASE UNDER THIS SUBTITLE.

(2) "REGISTRANT" INCLUDES A PERSON WHO HOLDS AN EQUITY, OWNERSHIP, OR DEBT LIABILITY INTEREST EXCEEDING 5% IN:

(I) A VEHICLE USED BY A REGISTRANT TO TRANSPORT WASTE KITCHEN GREASE; OR

(II) A REGISTRANT THAT IS A BUSINESS OR CORPORATION.

(D) "RENDERER" MEANS A PERSON THAT COOKS ANIMAL CARCASSES, OR PARTS OR PRODUCTS OF CARCASSES, WASTE ANIMAL BY–PRODUCTS, AND WASTE KITCHEN GREASE INTO USABLE END PRODUCTS.

(E) (1) "WASTE KITCHEN GREASE" MEANS ANIMAL FATS OR VEGETABLE OILS USED IN COOKING OR GENERATED BY A FOOD ESTABLISHMENT THAT WILL NOT BE CONSUMED OR REUSED AS FOOD.

(2) "WASTE KITCHEN GREASE" INCLUDES ANIMAL FATS OR VEGETABLE OILS ~~REMOVED FROM A GREASE TRAP~~ THAT ARE PRINCIPALLY

DERIVED FROM FOOD PREPARATION AND PROCESSING AND HAVE NOT BEEN PROCESSED BY A RENDERER.

10–1802.

(A) ~~(1)~~ EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A PERSON SHALL REGISTER ANNUALLY WITH THE DEPARTMENT BEFORE TRANSPORTING WASTE KITCHEN GREASE.

(B) (1) A PERSON MAY TRANSPORT WASTE KITCHEN GREASE TO PROPERTY OWNED BY THE PERSON TO CONVERT THE WASTE KITCHEN GREASE TO BIOFUEL FOR THE PERSON'S OWN USE PROVIDED THAT THE PERSON:

(I) TRANSPORTS ONLY 275 GALLONS OF WASTE KITCHEN GREASE IN A SINGLE VEHICLE;

(II) POSSESSES OR CONTROLS NO MORE THAN A TOTAL OF 1,320 GALLONS OF WASTE KITCHEN GREASE, BIOFUEL FEEDSTOCK DERIVED FROM WASTE KITCHEN GREASE, OR BIOFUEL STOCK; AND

(III) HAS NOT OBTAINED ANY OF THE WASTE KITCHEN GREASE THAT WILL BE TRANSPORTED FROM :

1. A CONTAINER OWNED BY A REGISTRANT OR A COMMERCIAL RENDERER; OR

2. A FOOD ESTABLISHMENT UNDER CONTRACT WITH A REGISTRANT.

(2) A PERSON MAY TRANSPORT WASTE KITCHEN GREASE TO A FACILITY TO CONVERT THE WASTE KITCHEN GREASE TO BIOFUEL PROVIDED THAT:

(I) THE PERSON:

1. MEETS ALL OF THE REQUIREMENTS OF PARAGRAPH (1) OF THIS SUBSECTION; AND

2. OTHER THAN TO A PROPERTY OWNED BY THE PERSON, WILL TRANSPORT THE WASTE KITCHEN GREASE TO ONLY ONE FACILITY DURING A SINGLE 24–HOUR PERIOD; AND

(II) THE RECEIVING FACILITY:

1. HAS A PRODUCTION CAPACITY NOT EXCEEDING 500 GALLONS OF BIOFUEL A DAY; AND

2. POSSESSES OR CONTROLS NO MORE THAN A TOTAL OF 1,320 GALLONS OF WASTE KITCHEN GREASE, BIOFUEL FEEDSTOCK DERIVED FROM WASTE KITCHEN GREASE, OR BIOFUEL.

(3) BIOFUEL USED TO POWER THE VEHICLE TRANSPORTING THE WASTE KITCHEN GREASE IS EXCLUDED FOR THE PURPOSES OF PARAGRAPHS (1) AND (2) OF THIS SUBSECTION.

10–1803.

(A) A PERSON REQUIRED TO REGISTER ANNUALLY WITH THE DEPARTMENT UNDER THIS SUBTITLE AS A TRANSPORTER OF WASTE KITCHEN GREASE SHALL SUBMIT AN APPLICATION FOR REGISTRATION IN THE FORM REQUIRED BY THE DEPARTMENT.

(B) AN APPLICATION TO REGISTER UNDER SUBSECTION (A) OF THIS SECTION SHALL INCLUDE:

(1) THE APPLICANT'S NAME AND ADDRESS;

(2) THE MAKE, MODEL, LICENSE NUMBER, AND VEHICLE IDENTIFICATION NUMBER OF ANY VEHICLE THAT THE APPLICANT WILL USE TO TRANSPORT WASTE KITCHEN GREASE;

(3) A DESCRIPTION OF THE OPERATIONS TO BE PERFORMED BY THE APPLICANT; AND

(4) PROOF OF VEHICLE INSURANCE WITH PERSONAL INJURY AND PROPERTY DAMAGE COMBINED SINGLE LIMIT LIABILITY LIMITS OF AT LEAST $1,000,000.

(C) EACH APPLICATION UNDER THIS SECTION SHALL BE ACCOMPANIED BY:

(1) A $100 APPLICATION FEE; AND

(2) A VEHICLE REGISTRATION FEE OF $100 FOR EACH VEHICLE THAT THE APPLICANT WILL USE TO TRANSPORT WASTE KITCHEN GREASE.

(D) THE REGISTRATION REQUIRED UNDER THIS SECTION SHALL BE RENEWED ANNUALLY ON THE PAYMENT OF THE FEES REQUIRED UNDER SUBSECTION (C) OF THIS SECTION.

10–1804.

(A) THE DEPARTMENT SHALL REGISTER EACH APPLICANT WHO SUBMITS AN APPLICATION IN ACCORDANCE WITH § 10–1803 OF THIS SUBTITLE AND ISSUE EACH REGISTRANT A UNIQUE REGISTRATION NUMBER AND A CERTIFICATE CONFIRMING REGISTRATION.

(B) THE DEPARTMENT SHALL REQUIRE EACH REGISTRANT TO:

(1) CARRY THE REGISTRATION CERTIFICATE CONTAINING THE UNIQUE REGISTRATION NUMBER WHEN TRANSPORTING WASTE KITCHEN GREASE; AND

(2) CONSPICUOUSLY DISPLAY THE REGISTRANT'S NAME ~~AND REGISTRATION NUMBER IN A FONT THAT IS AT LEAST 3 INCHES HIGH~~ ON ANY VEHICLE USED TO TRANSPORT WASTE KITCHEN GREASE.

10–1805.

(A) ~~THE DEPARTMENT SHALL REQUIRE EACH~~ EACH REGISTRANT ~~TO~~ SHALL KEEP A RECORD OF THE SOURCE, DESTINATION, DATE, AND VOLUME OF WASTE KITCHEN GREASE HAULED.

(B) THE REGISTRANT SHALL KEEP THE RECORDS MAINTAINED UNDER SUBSECTION (A) OF THIS SECTION FOR 2 YEARS AND MAKE THE RECORDS AVAILABLE FOR INSPECTION BY THE ~~DEPARTMENT~~ STATE'S ATTORNEY ON REQUEST.

10–1806.

~~THE DEPARTMENT MAY SUSPEND OR REVOKE A PERSON'S REGISTRATION ISSUED UNDER § 10–1804 OF THIS SUBTITLE, IF THE PERSON HAS~~ IT SHALL BE A VIOLATION OF THIS SUBTITLE FOR ANY PERSON TO KNOWINGLY:

(1) ~~KNOWINGLY SOLD OR OFFERED~~ SELL OR OFFER FOR SALE WASTE KITCHEN GREASE TO AN UNREGISTERED PERSON FOR TRANSPORT IN VIOLATION OF THIS SUBTITLE;

(2) REMOVE WASTE KITCHEN GREASE FROM A CONTAINER OWNED BY ANOTHER PERSON;

~~(2) STOLEN, CONTAMINATED, OR KNOWINGLY DAMAGED CONTAINERS OF OR FOR WASTE KITCHEN GREASE; OR~~

(3) STEAL OR DAMAGE A WASTE KITCHEN GREASE CONTAINER OWNED BY ANOTHER PERSON, OR PLACE A LABEL ON A CONTAINER OWNED BY ANOTHER PERSON TO ASSERT OWNERSHIP OVER THE CONTAINER; OR

~~(3)~~ (4) ~~TAKEN~~ TAKE POSSESSION OF WASTE KITCHEN GREASE THAT WAS STOLEN OR TRANSPORTED IN VIOLATION OF THIS SUBTITLE.

10–1807.

(A) THERE IS A WASTE KITCHEN GREASE FUND.

(B) THE DEPARTMENT SHALL ADMINISTER THE FUND.

(C) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7–302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

(D) THE FUND CONSISTS OF:

(1) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;

(2) MONEY RECEIVED FROM ANY PUBLIC OR PRIVATE SOURCE;

(3) INTEREST AND INVESTMENT EARNINGS ON THE FUND; AND

(4) FEES ~~AND PENALTIES~~ COLLECTED UNDER THIS SUBTITLE.

(E) THE FUND MAY BE USED ONLY TO IMPLEMENT THIS SUBTITLE.

(F) (1) THE STATE TREASURER SHALL INVEST AND REINVEST THE MONEY OF THE FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

(2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE PAID INTO THE FUND.

~~10–1808.~~

~~A PERSON MAY NOT ACCEPT DELIVERY OR POSSESS MORE THAN 55 GALLONS OF WASTE KITCHEN GREASE FROM AN UNREGISTERED TRANSPORTER REQUIRED TO BE REGISTERED UNDER § 10–1802 OF THIS SUBTITLE UNLESS THE PERSON:~~

~~(1) MAINTAINS A RECORD FOR 2 YEARS OF:~~

~~(I) THE NAME AND ADDRESS OF THE UNREGISTERED TRANSPORTER;~~

~~(II) THE DATE THAT THE PERSON RECEIVED THE WASTE KITCHEN GREASE;~~

~~(III) THE QUANTITY OF WASTE KITCHEN GREASE THAT WAS DELIVERED; AND~~

~~(IV) THE LICENSE NUMBER AND ISSUING STATE ON THE LICENSE PLATE OF THE VEHICLE USED BY THE UNREGISTERED TRANSPORTER TO DELIVER THE WASTE KITCHEN GREASE; AND~~

~~(2) MAKES THE RECORD REQUIRED UNDER PARAGRAPH (1) OF THIS SECTION AVAILABLE TO THE DEPARTMENT FOR INSPECTION ON REQUEST.~~

~~10–1809.~~

~~(A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A PERSON OTHER THAN THE CONTAINER OWNER, OR THE CONTAINER OWNER'S AUTHORIZED AGENT, MAY NOT TAKE AND CARRY AWAY OR AID IN THE TAKING OR CARRYING AWAY OF WASTE KITCHEN GREASE THAT IS IN A CONTAINER THAT BEARS A NOTICE THAT UNAUTHORIZED REMOVAL IS PROHIBITED WITHOUT WRITTEN CONSENT FROM THE CONTAINER OWNER.~~

~~(2) THE OWNER OR LESSEE OF A PROPERTY WHERE A CONTAINER OF WASTE KITCHEN GREASE HAS BEEN LAWFULLY PLACED MAY REMOVE THE CONTAINER IF:~~

~~(I) THE OWNER OR LESSEE OF THE PROPERTY NOTIFIES THE CONTAINER OWNER BY CERTIFIED MAIL THAT THE OWNER OR LESSEE OF THE PROPERTY WOULD LIKE THE CONTAINER TO BE REMOVED; AND~~

~~(II) 30 DAYS AFTER THE DATE THAT THE NOTICE UNDER ITEM (I) OF THIS PARAGRAPH WAS SENT, THE CONTAINER OWNER HAS NOT REMOVED THE CONTAINER.~~

~~(B) A PERSON MAY NOT PLACE A LABEL ON A CONTAINER OF KITCHEN WASTE GREASE OWNED BY ANOTHER PERSON IN ORDER TO ASSERT OWNERSHIP OVER THE CONTAINER.~~

~~10–1810.~~ 10–1808.

~~(A)~~ A PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND, ON CONVICTION, IS SUBJECT TO:

(1) FOR A FIRST OFFENSE, A FINE NOT EXCEEDING $1,000 FOR EACH VIOLATION AND COURT COSTS; AND

(2) FOR A SECOND OFFENSE, A FINE NOT EXCEEDING $10,000, IMPRISONMENT NOT EXCEEDING 1 YEAR, OR BOTH.

~~(B) IN ADDITION TO THE PENALTIES UNDER SUBSECTION (A) OF THIS SECTION, THE SECRETARY MAY ASSESS A CIVIL PENALTY NOT EXCEEDING $5,000 FOR ANY VIOLATION OF THIS SUBTITLE.~~

~~(C) A PERSON MAY APPEAL THE SUSPENSION OR REVOCATION OF REGISTRATION, OR THE IMPOSITION OF A CIVIL PENALTY, IN ACCORDANCE WITH THE CONTESTED CASE PROVISIONS OF THE ADMINISTRATIVE PROCEDURE ACT.~~

10–1809.

THE STATE'S ATTORNEY OF A COUNTY SHALL ENFORCE THE PROVISIONS OF THIS SUBTITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That ~~before October 31, 2011, the Department of Agriculture may not take enforcement action under Title 10, Subtitle 18 of the Agricultural Article, as enacted by Section 1 of this Act, against a person who, on or before October 1, 2011, has submitted an application for registration in accordance with Section 10–803 of the Agriculture Article, as enacted by Section 1 of this Act~~ it is the intent of the General Assembly that the Department of Agriculture has no enforcement responsibilities under the provisions of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 263

(Senate Bill 613)

AN ACT concerning

Board of Liquor License Commissioners for Baltimore City – Ethics, Staff Compensation, Open Meetings, and Performance Audit

FOR the purpose of prohibiting a commissioner of the Board of Liquor License Commissioners for Baltimore City or an employee of the Board from having certain interests in businesses or premises relating to the distribution of alcoholic beverages; requiring the Board to set for its appellate counsel the same compensation and benefits as are set for certain inspectors; specifying that an action of a commissioner or employee of the Board is subject to State requirements for open or public meetings; requiring the Office of Legislative Audits to conduct, during a certain period of time, performance audits of the Board to evaluate the management practices of the Board; requiring the audit to focus on certain operations of the Board; requiring the audits to occur at a certain frequency; authorizing the Office of Legislative Audits to have access to and inspect the records of the Board; requiring audit reports of the Board to be distributed to certain persons; defining a certain term; making certain stylistic and conforming changes; requiring the Office of Legislative Audits to initiate its first audit of the Board on or before a certain date; and generally relating to the Board of Liquor License Commissioners for Baltimore City and audits conducted by the Office of Legislative Audits.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 15–112(d)(1)
Annotated Code of Maryland
(2005 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 15–112(d)(2) and (10)
Annotated Code of Maryland
(2005 Replacement Volume and 2010 Supplement)

BY adding to
Article 2B – Alcoholic Beverages
Section 15–112(d)(15)
Annotated Code of Maryland
(2005 Replacement Volume and 2010 Supplement)

BY adding to
Article – State Government
Section 2–1220(f)
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,

Article – State Government
Section 2–1223(a)(3) and 2–1224
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, without amendments,
Article – State Government
Section 2–1223(b)
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

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

Article 2B – Alcoholic Beverages

15–112.

(d) (1) This subsection applies only in Baltimore City.

(2) A commissioner or employee of the Board:

(i) May not have any interest, direct or indirect, either proprietary or by means of any loan, mortgage or lien, or in any other manner, in or on any premises where alcoholic beverages are manufactured**, DISTRIBUTED,** or sold;

(ii) May not have any interest, direct or indirect, in any business wholly or partially devoted to the manufacture**, DISTRIBUTION,** or sale of alcoholic beverages; **[**or**]**

(iii) May not own any stock in any corporation which has any interest, proprietary or otherwise, direct or indirect, in any premises where alcoholic beverages are manufactured**, DISTRIBUTED,** or sold or in any business wholly or partially devoted to the manufacture**, DISTRIBUTION,** or sale of alcoholic beverages**; OR**

(IV) MAY NOT RECEIVE ANY SALARY OR OTHER COMPENSATION OR ANY OTHER THING OF VALUE FROM A BUSINESS ENGAGED IN THE MANUFACTURE, DISTRIBUTIONS, OR SALE OF ALCOHOLIC BEVERAGES.

(10) The Board shall:

(i) Employ a qualified attorney to serve as appellate counsel for the Board in actions of appeal; and

(ii) Set for appellate counsel the same compensation and benefits as are set for [full–time inspectors] **THE ASSISTANT CHIEF INSPECTOR–GRADE 097 OR THE CHIEF INSPECTOR–GRADE 099**.

(15) AN ACTION OF A COMMISSIONER OR EMPLOYEE OF THE BOARD IS SUBJECT TO STATE REQUIREMENTS FOR OPEN OR PUBLIC MEETINGS, INCLUDING REQUIREMENTS FOR OPEN SESSIONS UNDER TITLE 10, SUBTITLE 5 OF THE STATE GOVERNMENT ARTICLE.

Article – State Government

2–1220.

(F) (1) AT LEAST ONCE EVERY 3 YEARS, THE OFFICE OF LEGISLATIVE AUDITS SHALL CONDUCT A PERFORMANCE AUDIT OF THE BOARD OF LIQUOR LICENSE COMMISSIONERS FOR BALTIMORE CITY TO EVALUATE THE EFFECTIVENESS AND EFFICIENCY OF THE MANAGEMENT PRACTICES OF THE BOARD AND OF THE ECONOMY WITH WHICH THE BOARD USES RESOURCES.

(2) THE PERFORMANCE AUDIT SHALL FOCUS ON OPERATIONS RELATING TO LIQUOR INSPECTIONS, LICENSING, DISCIPLINARY PROCEDURES, AND MANAGEMENT OVERSIGHT.

2–1223.

(a) (3) The employees or authorized representatives of the Office of Legislative Audits shall have access to and may inspect the records, including those that are confidential by law, of**:**

(I) any local school system to perform the audits authorized under § 2–1220 of this subtitle or in accordance with a request for information as provided in § 5–114(d) of the Education Article**; AND**

(II) THE BOARD OF LIQUOR LICENSE COMMISSIONERS FOR BALTIMORE CITY TO PERFORM THE AUDITS AUTHORIZED UNDER § 2–1220(F) OF THIS SUBTITLE.

(b) Each officer or employee of the unit or body that is subject to examination shall provide any information that the Legislative Auditor determines to be needed for the examination of that unit or body, or of any matter under the authority of the Office of Legislative Audits, including information that otherwise would be confidential under any provision of law.

2–1224.

(A) IN THIS SECTION, "UNIT" INCLUDES THE BOARD OF LIQUOR LICENSE COMMISSIONERS FOR BALTIMORE CITY.

[(a)**] (B)** Except with the written approval of the Legislative Auditor, an employee or authorized representative of the Office of Legislative Audits shall submit any report of findings only to the Legislative Auditor.

[(b)**] (C)** (1) On the completion of each examination, the Legislative Auditor shall submit a full and detailed report to the Joint Audit Committee.

(2) A report shall include:

(i) the findings;

(ii) any appropriate recommendations for changes in record keeping or in other conduct of the unit or body that is the subject of the report; and

(iii) any response of that unit or body, subject to procedures approved by the Joint Audit Committee.

[(c)**] (D)** The Legislative Auditor shall send a copy of the report to:

(1) the President of the Senate and the Speaker of the House of Delegates;

(2) the Chairmen of the Senate Budget and Taxation and House Appropriations Committees;

(3) members of the General Assembly, subject to § 2–1246 of this subtitle;

(4) the Governor**, UNLESS THE REPORT IS OF THE BOARD OF LIQUOR LICENSE COMMISSIONERS FOR BALTIMORE CITY**;

(5) the Comptroller;

(6) the State Treasurer**, UNLESS THE REPORT IS OF THE BOARD OF LIQUOR LICENSE COMMISSIONERS FOR BALTIMORE CITY**;

(7) the Attorney General**, UNLESS THE REPORT IS OF THE BOARD OF LIQUOR LICENSE COMMISSIONERS FOR BALTIMORE CITY**;

(8) the unit or body that is the subject of the report;

(9) the Secretary of Budget and Management**, UNLESS THE REPORT IS OF THE BOARD OF LIQUOR LICENSE COMMISSIONERS FOR BALTIMORE CITY**;

(10) the Executive Director; and

(11) any other person whom the Joint Audit Committee specifies.

[(d)**] (E)** In addition to the requirements of subsection **[**(c)**] (D)** of this section, each report of**:**

(1) a local school system shall be distributed to the chair of the House Ways and Means Committee and the cochairs of the Joint Committee on the Management of Public Funds**; AND**

(2) THE BOARD OF LIQUOR LICENSE COMMISSIONERS FOR BALTIMORE CITY SHALL BE DISTRIBUTED TO THE CHAIR OF THE BALTIMORE CITY DELEGATION AND THE CHAIR OF THE BALTIMORE CITY SENATORS.

[(e)**] (F)** After the expiration of any period that the Joint Audit Committee specifies, a report of the Legislative Auditor is available to the public under §§ 10–602 and 10–611 through 10–628 of this article.

[(f)**] (G)** (1) The Legislative Auditor shall review each unit's response and advise the unit of the results of the review. The Legislative Auditor shall advise the Joint Audit Committee when:

(i) a unit does not make a response to a recommendation;

(ii) a unit does not indicate action to be taken in response to a recommendation;

(iii) a unit has not taken the action the unit indicated in its response to a recommendation;

(iv) a unit requests a waiver from a recommendation; or

(v) the response by the unit is not considered appropriate to carry out the recommendation.

(2) The Executive Director or the Joint Audit Committee may direct the Legislative Auditor to undertake a review to determine the extent to which action has been taken by a unit to implement a report recommendation.

(3) With respect to findings and recommendations of a fiscal/compliance nature, the Committee may recommend to the Governor and the Comptroller that the unit take the corrective action the unit indicates would be taken or take action to correct the findings in the report or the Committee may grant a waiver from the recommended action.

(4) Within 45 days after receipt of the recommendation the Governor shall advise the Committee as to the action taken with respect to the recommendation.

(5) Without concurrence of the Comptroller, the Committee may not waive a recommendation of the Legislative Auditor with respect to fiscal and financial record keeping, a uniform system of accounting, or the submission of fiscal and financial reports by the units.

(6) With respect to findings and recommendations of a performance nature, the Committee may make recommendations to the Governor or propose legislation after reviewing a unit's response to a recommended action.

(7) The Legislative Auditor shall review each local school system's response to an audit conducted under § 2–1220(e) of this subtitle and advise the local school system of the results of the review. The Legislative Auditor shall advise the Joint Audit Committee when a local school system:

(i) does not make a response to a recommendation;

(ii) does not indicate action to be taken in response to a recommendation;

(iii) has not taken the action the local school system indicated in its response to a recommendation; or

(iv) responds in a manner that is not considered appropriate to carry out the recommendation.

(8) The Executive Director or the Joint Audit Committee may direct the Legislative Auditor to undertake a review to determine the extent to which action has been taken by a local school system to implement a report recommendation.

(9) With respect to findings and recommendations made to a local school system, the Joint Audit Committee may make recommendations to the Governor, State Superintendent of Schools, the local school governing board, or local school officials after reviewing a local school system's response to a recommended action.

[(g)**] (H)** (1) The Governor and the Chief Judge of the Court of Appeals shall implement systems and processes to monitor the efforts of the Executive Departmental Units and the Judiciary, respectively, to correct audit findings reported by the Office of Legislative Audits.

(2) Within 9 months of the most recent audit report, any unit **[**of State government**]** that has five or more repeat audit findings shall report to the Office of Legislative Audits for each finding in that audit report:

(i) the corrective actions taken; or

(ii) a schedule for when specific corrective actions will be implemented.

(3) Each unit required to report to the Office of Legislative Audits under paragraph (2) of this subsection shall continue to report to the Office of Legislative Audits on a quarterly basis after the initial report until the actions reported by the agency indicate that satisfactory progress has been made to address all findings.

SECTION 2. AND BE IT FURTHER ENACTED, That the Office of Legislative Audits shall initiate its first audit of the Board of Liquor License Commissioners for Baltimore City under this Act on or before November 1, 2011.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 264

(Senate Bill 620)

AN ACT concerning

Real Property – Retaliatory Actions – Landlords and Mobile Home Park Owners

FOR the purpose of altering the actions that a landlord is prohibited from taking against a tenant for certain reasons; altering the reference to certain prohibited actions of a landlord; authorizing a tenant to raise a retaliatory action of a landlord in defense to an action for possession or ~~in a~~ as an affirmative claim for certain damages; ~~creating a certain rebuttable presumption in an action by or against a tenant under certain circumstances;~~ altering the judgment that a court may enter against a landlord or a tenant under certain circumstances; altering the conditions of certain relief; altering the circumstances under which certain actions by a landlord may not be deemed to be retaliatory; altering the right of a landlord or tenant to terminate or not renew a tenancy; altering the actions that a mobile home park owner is prohibited from taking against a resident for certain reasons; altering the reference to certain prohibited actions of a park owner; authorizing a resident to raise a retaliatory action of a park owner in defense to an action for possession or ~~in a~~ as an affirmative claim for certain damages; ~~creating a certain rebuttable presumption in an action by or~~

~~against a resident under certain circumstances;~~ altering the judgment that a court may enter against a park owner under certain circumstances; altering the circumstances under which certain actions by a park owner may not be deemed to be retaliatory; altering the right of a park owner or resident to terminate or not renew a rental agreement; providing that this Act shall supersede a comparable retaliatory action ordinance enacted by a county under certain circumstances; making technical and stylistic changes; and generally relating to retaliatory actions by landlords and mobile home park owners.

BY repealing and reenacting, with amendments,
Article – Real Property
Section 8–208.1 and 8A–1301
Annotated Code of Maryland
(2010 Replacement Volume and 2010 Supplement)

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

Article – Real Property

8–208.1.

(a) **(1)** **[**No**]** **FOR ANY REASON LISTED IN PARAGRAPH (2) OF THIS SUBSECTION, A** landlord **[**shall**]** **OF ANY RESIDENTIAL PROPERTY MAY NOT:**

(I) **[**evict**]** **BRING OR THREATEN TO BRING AN ACTION FOR POSSESSION AGAINST** a tenant **[**of any residential property or**];**

(II) **[**arbitrarily**]** **ARBITRARILY** increase the rent or decrease the services to which **[**the**]** **A** tenant has been entitled**; OR**

(III) ~~**REFUSE TO RENEW A TENANCY**~~ **TERMINATE A PERIODIC TENANCY.**

(2) **A LANDLORD MAY NOT TAKE AN ACTION THAT IS LISTED UNDER PARAGRAPH (1) OF THIS SUBSECTION** for any of the following reasons:

[(1)**]** **(I)** **[**Solely because**]** **BECAUSE** the tenant or the tenant's agent has **[**filed**]** ~~**MADE**~~ **PROVIDED WRITTEN OR ACTUAL NOTICE OF** a good faith **[**written**]** complaint**[**, or complaints, with**]** **ABOUT AN ALLEGED VIOLATION OF THE LEASE, VIOLATION OF LAW, OR CONDITION ON THE LEASED PREMISES THAT IS A SUBSTANTIAL THREAT TO THE HEALTH OR SAFETY OF OCCUPANTS TO:**

1. **[**the**]** **THE** landlord**;** or

2. **[**with any**]** **ANY** public agency **[**or agencies**]** against the landlord;

[(2)**]** **(II)** **[**Solely because**]** **BECAUSE** the tenant or the tenant's agent has**:**

1. **[**filed**]** **FILED** a lawsuit**[**, or lawsuits,**]** against the landlord; or

2. TESTIFIED OR PARTICIPATED IN A LAWSUIT INVOLVING THE LANDLORD; OR

[(3)**]** **(III)** **[**Solely because**]** **BECAUSE** the tenant ~~is a member or organizer of~~ **HAS PARTICIPATED IN** any tenants' organization.

(b) **(1)** **[**Evictions described in subsection (a) of this section shall be called "retaliatory evictions".**]** **A LANDLORD'S VIOLATION OF SUBSECTION (A) OF THIS SECTION IS A "RETALIATORY ACTION".**

(2) A TENANT MAY RAISE A RETALIATORY ACTION OF A LANDLORD ~~**IN**~~**:**

(I) IN DEFENSE TO AN ACTION FOR POSSESSION; OR ~~**IN A CLAIM FOR DAMAGES**~~

(II) AS AN AFFIRMATIVE CLAIM FOR DAMAGES RESULTING FROM A RETALIATORY ACTION OF A LANDLORD OCCURRING DURING A TENANCY.

~~**(C) (1) IN THIS SUBSECTION, "REBUTTABLE PRESUMPTION" MEANS THAT THE TRIER OF FACT MUST FIND THE EXISTENCE OF A FACT PRESUMED UNLESS AND UNTIL EVIDENCE IS INTRODUCED THAT WOULD SUPPORT A FINDING OF THE NONEXISTENCE OF THE FACT.**~~

~~**(2) IN AN ACTION BY OR AGAINST A TENANT:**~~

~~**(I) EVIDENCE THAT THE TENANT ENGAGED IN A PROTECTED ACTIVITY DESCRIBED IN SUBSECTION (A)(2) OF THIS SECTION WITHIN 6 MONTHS BEFORE AN ALLEGED RETALIATORY ACTION OCCURRED CREATES A REBUTTABLE PRESUMPTION THAT THE LANDLORD'S CONDUCT VIOLATED SUBSECTION (A) OF THIS SECTION; AND**~~

~~**(II) A REBUTTABLE PRESUMPTION DOES NOT ARISE IF THE TENANT ENGAGED IN A PROTECTED ACTIVITY DESCRIBED IN SUBSECTION (A)(2)**~~

~~OF THIS SECTION AFTER RECEIVING NOTICE OF A PROPOSED RENT INCREASE OR DIMINUTION OF SERVICES.~~

[(c)**]** ~~(D)~~ (1) If in any **[**eviction**]** proceeding the **[**judgment be**]** **COURT FINDS** in favor of the tenant **[**for any of the aforementioned defenses**]** **BECAUSE THE LANDLORD ENGAGED IN A RETALIATORY ACTION**, the court may enter judgment **AGAINST THE LANDLORD** for **DAMAGES** **NOT TO EXCEED THE EQUIVALENT OF 3 MONTHS' RENT,** reasonable attorney fees**,** and court costs **[**against the landlord**]**.

(2) If in any **[**eviction**]** proceeding the court finds that a tenant's assertion of a retaliatory **[**eviction defense**]** **ACTION** was in bad faith or without substantial justification, the court may enter judgment **AGAINST THE TENANT** for **DAMAGES** **NOT TO EXCEED THE EQUIVALENT OF 3 MONTHS' RENT,** reasonable attorney fees**,** and court costs **[**against the tenant**]**.

[(d) The relief provided under this section is conditioned upon:

(1) THE TENANT BEING CURRENT ON THE RENT DUE AND OWING TO THE LANDLORD AT THE TIME OF THE ALLEGED RETALIATORY ACTION, UNLESS THE TENANT WITHHOLDS RENT IN ACCORDANCE WITH THE LEASE, § 8–211 OF THIS SUBTITLE, OR A COMPARABLE LOCAL ORDINANCE; AND

(2) IF THE ALLEGED RETALIATORY ACTION IS A LANDLORD'S TERMINATION OF A PERIODIC TENANCY:

~~(1)~~ **(I)** In the case of tenancies measured by a period of one month or more, the court having not entered against the tenant more than 3 judgments of possession for rent due and unpaid in the 12–month period immediately prior to the initiation of the action by the tenant or by the landlord~~.~~**; OR**

~~(2)~~ **(II)** In the case of tenancies requiring the weekly payment of rent, the court having not entered against the tenant more than 5 judgments of possession for rent due and unpaid in the 12–month period immediately prior to the initiation of the action by the tenant or by the landlord, or, if the tenant has lived on the premises 6 months or less, the court having not entered against the tenant 3 judgments of possession for rent due and unpaid.**]**

[(e) No eviction shall be deemed to be a "retaliatory eviction" for purposes of this section upon the expiration of a period of 6 months following the determination of the merits of the initial case by a court (or administrative agency) of competent jurisdiction.**]**

(E) AN ACTION BY A LANDLORD MAY NOT BE DEEMED TO BE RETALIATORY FOR PURPOSES OF THIS SECTION IF THE ALLEGED RETALIATORY

ACTION OCCURS MORE THAN 6 MONTHS AFTER A TENANT'S ACTION THAT IS PROTECTED UNDER SUBSECTION (A)(2) OF THIS SECTION.

~~[~~(f)~~]~~ ~~(E)~~ [Nothing] **AS LONG AS A LANDLORD'S** ~~NONRENEWAL~~ **TERMINATION OF A TENANCY IS NOT THE RESULT OF A RETALIATORY ACTION, NOTHING** in this section may be interpreted to alter the landlord's or the tenant's rights to terminate or not renew a tenancy ~~governed by a written lease for a stated term of greater than 1 month at the expiration of the term or at any other time as the parties may specifically agree~~ ~~**FOR NONRETALIATORY REASONS, INCLUDING IF THE TENANT OR THE TENANT'S FAMILY OR GUESTS HAVE:**~~

~~(1) DISRUPTED OR INTERFERED WITH THE QUIET ENJOYMENT OF THE PROPERTY, OTHER RESIDENTS, THE LANDLORD, OR THE LANDLORD'S STAFF;~~

~~(2) ENGAGED IN CRIMINAL ACTIVITY, REGARDLESS OF WHETHER THE INDIVIDUAL IS CONVICTED;~~

~~(3) CREATED OR CAUSED A PUBLIC NUISANCE ON THE PROPERTY;~~

~~(4) VIOLATED A PROVISION OF A LOCAL HOUSING, ZONING, OR LIVEABILITY CODE THAT, UNDER THE CODE, IS THE RESPONSIBILITY OF THE TENANT; OR~~

~~(5) BREACHED OR OTHERWISE FAILED TO COMPLY WITH THE TERMS OF THE LEASE AGREEMENT BETWEEN THE PARTIES~~.

~~[~~(g)~~]~~ ~~(F)~~ [In the event] **IF** any county [or Baltimore City shall have] **HAS** enacted **OR ENACTS** an ordinance comparable in subject matter to this section, [that ordinance] **THIS SECTION** shall supersede the provisions of [this section] **THE ORDINANCE TO THE EXTENT THAT THE ORDINANCE PROVIDES LESS PROTECTION TO A TENANT**.

8A–1301.

(a) **(1)** [A] **FOR ANY REASON LISTED IN PARAGRAPH (2) OF THIS SUBSECTION, A** park owner may not**:**

(I) [evict] **BRING OR THREATEN TO BRING AN ACTION FOR POSSESSION AGAINST** a resident [or]**;**

(II) [arbitrarily] **ARBITRARILY** increase the rent or decrease the services to which [the] **A** resident has been entitled**; OR**

(III) ~~**REFUSE TO RENEW A RENTAL AGREEMENT**~~ **TERMINATE A PERIODIC TENANCY.**

(2) A PARK OWNER MAY NOT TAKE AN ACTION THAT IS LISTED UNDER PARAGRAPH (1) OF THIS SUBSECTION for any of the following reasons:

[(1)**] (I) [**Solely because**] BECAUSE** the resident or **[**his**] THE RESIDENT'S** agent has **[**filed**]** ~~**MADE**~~ **PROVIDED WRITTEN OR ACTUAL NOTICE OF** a **[**written**] GOOD FAITH** complaint**[**, or complaints, with**] ABOUT AN ALLEGED VIOLATION OF THE RENTAL AGREEMENT, VIOLATION OF LAW, OR CONDITION ON THE LEASED PREMISES THAT IS A SUBSTANTIAL THREAT TO THE HEALTH OR SAFETY OF OCCUPANTS TO:**

1. [the**] THE** park owner**;** or

2. [with any**] ANY** public agency **[**or agencies**]** against the park owner;

[(2)**] (II) [**Solely because**] BECAUSE** the resident or **[**his**] THE RESIDENT'S** agent has**:**

1. [filed**] FILED** a lawsuit**[**, or lawsuits,**]** against the park owner; or

2. TESTIFIED OR PARTICIPATED IN A LAWSUIT INVOLVING THE PARK OWNER; OR

[(3)**] (III) [**Solely because**] BECAUSE** the resident ~~is a member or organizer of~~ **HAS PARTICIPATED IN** any tenant's organization.

(b) **(1) [**Evictions described in subsection (a) of this section shall be called retaliatory evictions.**] A PARK OWNER'S VIOLATION OF SUBSECTION (A) OF THIS SECTION IS A "RETALIATORY ACTION".**

(2) A RESIDENT MAY RAISE A RETALIATORY ACTION OF A PARK OWNER ~~**IN**~~**:**

(I) IN DEFENSE TO AN ACTION FOR POSSESSION; OR ~~**IN A CLAIM FOR DAMAGES**~~

(II) AS AN AFFIRMATIVE CLAIM FOR DAMAGES RESULTING FROM A RETALIATORY ACTION OF A PARK OWNER OCCURRING DURING A TENANCY.

~~(C) (1) IN THIS SUBSECTION, "REBUTTABLE PRESUMPTION" MEANS THAT THE TRIER OF FACT MUST FIND THE EXISTENCE OF A FACT PRESUMED UNLESS AND UNTIL EVIDENCE IS INTRODUCED THAT WOULD SUPPORT A FINDING OF THE NONEXISTENCE OF THE FACT.~~

~~(2) IN AN ACTION BY OR AGAINST A RESIDENT:~~

~~(I) EVIDENCE THAT THE RESIDENT ENGAGED IN A PROTECTED ACTIVITY DESCRIBED IN SUBSECTION (A)(2) OF THIS SECTION WITHIN 6 MONTHS BEFORE AN ALLEGED RETALIATORY ACTION OCCURRED CREATES A REBUTTABLE PRESUMPTION THAT THE PARK OWNER'S CONDUCT VIOLATED SUBSECTION (A) OF THIS SECTION; AND~~

~~(II) A REBUTTABLE PRESUMPTION DOES NOT ARISE IF THE RESIDENT ENGAGED IN A PROTECTED ACTIVITY DESCRIBED IN SUBSECTION (A)(2) OF THIS SECTION AFTER RECEIVING NOTICE OF A PROPOSED RENT INCREASE OR DIMINUTION OF SERVICES.~~

[(c)**]** ~~(D)~~ If in any **[**eviction**]** proceeding the **[**judgment is**]** **COURT FINDS** in favor of the resident **[**for any of the aforementioned defenses**]** **BECAUSE THE PARK OWNER ENGAGED IN A RETALIATORY ACTION**, the court may enter judgment **AGAINST THE PARK OWNER** for **DAMAGES** **NOT TO EXCEED THE EQUIVALENT OF 3 MONTHS' RENT,** reasonable attorney's fees**,** and court costs **[**against the park owner**]**.

[(d) An eviction may not be deemed to be a "retaliatory eviction" for purposes of this section upon the expiration of a period of 6 months following the determination of the merits of the initial case by a court or administrative agency of competent jurisdiction.**]**

(D) AN ACTION BY A PARK OWNER MAY NOT BE DEEMED TO BE RETALIATORY FOR PURPOSES OF THIS SECTION IF THE ALLEGED RETALIATORY ACTION OCCURS MORE THAN 6 MONTHS AFTER A RESIDENT'S ACTION THAT IS PROTECTED UNDER SUBSECTION (A)(2) OF THIS SECTION.

(e) **[**Nothing**]** **AS LONG AS A PARK OWNER'S** ~~NONRENEWAL OF A RENTAL AGREEMENT~~ **TERMINATION OF A TENANCY** **IS NOT THE RESULT OF A RETALIATORY ACTION, NOTHING** in this section may be interpreted to alter the park owner's or the resident's rights arising from breach of any provision of a rental agreement or rule, or either party's right to terminate or not renew a rental agreement pursuant to the terms of the rental agreement or the provisions of other applicable law ~~FOR NONRETALIATORY REASONS, INCLUDING IF THE RESIDENT OR THE RESIDENT'S FAMILY OR GUESTS HAVE:~~

~~(1) DISRUPTED OR INTERFERED WITH THE QUIET ENJOYMENT OF THE PROPERTY, OTHER RESIDENTS, THE PARK OWNER, OR THE PARK OWNER'S STAFF;~~

~~(2) ENGAGED IN CRIMINAL ACTIVITY, REGARDLESS OF WHETHER THE INDIVIDUAL IS CONVICTED;~~

~~(3) CREATED OR CAUSED A PUBLIC NUISANCE ON THE PROPERTY;~~

~~(4) VIOLATED A PROVISION OF A LOCAL HOUSING, ZONING, OR LIVEABILITY CODE THAT, UNDER THE CODE, IS THE RESPONSIBILITY OF THE RESIDENT; OR~~

~~(5) BREACHED OR OTHERWISE FAILED TO COMPLY WITH THE TERMS OF THE RENTAL AGREEMENT BETWEEN THE PARTIES~~.

(F) IF ANY COUNTY HAS ENACTED OR ENACTS AN ORDINANCE COMPARABLE IN SUBJECT MATTER TO THIS SECTION, THIS SECTION SHALL SUPERSEDE THE PROVISIONS OF THE ORDINANCE TO THE EXTENT THAT THE ORDINANCE PROVIDES LESS PROTECTION TO A RESIDENT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 265

(House Bill 670)

AN ACT concerning

Real Property – Retaliatory Actions – Landlords and Mobile Home Park Owners

FOR the purpose of altering the actions that a landlord is prohibited from taking against a tenant for certain reasons; altering the reference to certain prohibited actions of a landlord; authorizing a tenant to raise a retaliatory action of a landlord in defense to an action for possession or ~~in a~~ as an affirmative claim for certain damages; ~~creating a certain rebuttable presumption in an action by or against a tenant under certain circumstances;~~ altering the judgment that a court may enter against a landlord or a tenant under certain circumstances; altering the conditions of certain relief; altering the circumstances under which

certain actions by a landlord may not be deemed to be retaliatory; altering the right of a landlord or tenant to terminate or not renew a tenancy; altering the actions that a mobile home park owner is prohibited from taking against a resident for certain reasons; altering the reference to certain prohibited actions of a park owner; authorizing a resident to raise a retaliatory action of a park owner in defense to an action for possession or ~~in a~~ as an affirmative claim for certain damages; ~~creating a certain rebuttable presumption in an action by or against a resident under certain circumstances;~~ altering the judgment that a court may enter against a park owner under certain circumstances; altering the circumstances under which certain actions by a park owner may not be deemed to be retaliatory; altering the right of a park owner or resident to terminate or not renew a rental agreement; providing that this Act shall supersede a comparable retaliatory action ordinance enacted by a county under certain circumstances; making technical and stylistic changes; and generally relating to retaliatory actions by landlords and mobile home park owners.

BY repealing and reenacting, with amendments,
Article – Real Property
Section 8–208.1 and 8A–1301
Annotated Code of Maryland
(2010 Replacement Volume and 2010 Supplement)

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

Article – Real Property

8–208.1.

(a) **(1)** **[**No**]** **FOR ANY REASON LISTED IN PARAGRAPH (2) OF THIS SUBSECTION, A** landlord **[**shall**]** **OF ANY RESIDENTIAL PROPERTY MAY NOT:**

(I) **[**evict**]** **BRING OR THREATEN TO BRING AN ACTION FOR POSSESSION AGAINST** a tenant **[**of any residential property or**];**

(II) **[**arbitrarily**]** **ARBITRARILY** increase the rent or decrease the services to which **[**the**]** **A** tenant has been entitled**; OR**

(III) ~~**REFUSE TO RENEW A TENANCY**~~ **TERMINATE A PERIODIC TENANCY.**

(2) **A LANDLORD MAY NOT TAKE AN ACTION THAT IS LISTED UNDER PARAGRAPH (1) OF THIS SUBSECTION** for any of the following reasons:

[(1)**]** **(I)** **[**Solely because**]** **BECAUSE** the tenant or the tenant's agent has **[**filed**]** ~~**MADE**~~ **PROVIDED WRITTEN OR ACTUAL NOTICE OF** a good faith

[written] complaint[, or complaints, with] **ABOUT AN ALLEGED VIOLATION OF THE LEASE, VIOLATION OF LAW, OR CONDITION ON THE LEASED PREMISES THAT IS A SUBSTANTIAL THREAT TO THE HEALTH OR SAFETY OF OCCUPANTS TO:**

1. [the] **THE** landlord**;** or

2. [with any] **ANY** public agency [or agencies] against the landlord;

[(2)] **(II)** [Solely because] **BECAUSE** the tenant or the tenant's agent has**:**

1. [filed] **FILED** a lawsuit[, or lawsuits,] against the landlord; or

2. TESTIFIED OR PARTICIPATED IN A LAWSUIT INVOLVING THE LANDLORD; OR

[(3)] **(III)** [Solely because] **BECAUSE** the tenant ~~is a member or organizer of~~ **HAS PARTICIPATED IN** any tenants' organization.

(b) **(1)** [Evictions described in subsection (a) of this section shall be called "retaliatory evictions".] **A LANDLORD'S VIOLATION OF SUBSECTION (A) OF THIS SECTION IS A "RETALIATORY ACTION".**

(2) A TENANT MAY RAISE A RETALIATORY ACTION OF A LANDLORD ~~**IN**~~**:**

(I) IN DEFENSE TO AN ACTION FOR POSSESSION; OR ~~**IN A CLAIM FOR DAMAGES**~~

(II) AS AN AFFIRMATIVE CLAIM FOR DAMAGES RESULTING FROM A RETALIATORY ACTION OF A LANDLORD OCCURRING DURING A TENANCY.

~~**(C) (1) IN THIS SUBSECTION, "REBUTTABLE PRESUMPTION" MEANS THAT THE TRIER OF FACT MUST FIND THE EXISTENCE OF A FACT PRESUMED UNLESS AND UNTIL EVIDENCE IS INTRODUCED THAT WOULD SUPPORT A FINDING OF THE NONEXISTENCE OF THE FACT.**~~

~~**(2) IN AN ACTION BY OR AGAINST A TENANT:**~~

~~**(I) EVIDENCE THAT THE TENANT ENGAGED IN A PROTECTED ACTIVITY DESCRIBED IN SUBSECTION (A)(2) OF THIS SECTION**~~

~~**WITHIN 6 MONTHS BEFORE AN ALLEGED RETALIATORY ACTION OCCURRED CREATES A REBUTTABLE PRESUMPTION THAT THE LANDLORD'S CONDUCT VIOLATED SUBSECTION (A) OF THIS SECTION; AND**~~

~~**(II) A REBUTTABLE PRESUMPTION DOES NOT ARISE IF THE TENANT ENGAGED IN A PROTECTED ACTIVITY DESCRIBED IN SUBSECTION (A)(2) OF THIS SECTION AFTER RECEIVING NOTICE OF A PROPOSED RENT INCREASE OR DIMINUTION OF SERVICES.**~~

[(c)**]** ~~**(D)**~~ (1) If in any **[**eviction**]** proceeding the **[**judgment be**]** **COURT FINDS** in favor of the tenant **[**for any of the aforementioned defenses**]** **BECAUSE THE LANDLORD ENGAGED IN A RETALIATORY ACTION**, the court may enter judgment **AGAINST THE LANDLORD** for **DAMAGES** **NOT TO EXCEED THE EQUIVALENT OF 3 MONTHS' RENT,** reasonable attorney fees**,** and court costs **[**against the landlord**]**.

(2) If in any **[**eviction**]** proceeding the court finds that a tenant's assertion of a retaliatory **[**eviction defense**]** **ACTION** was in bad faith or without substantial justification, the court may enter judgment **AGAINST THE TENANT** for **DAMAGES** **NOT TO EXCEED THE EQUIVALENT OF 3 MONTHS' RENT,** reasonable attorney fees**,** and court costs **[**against the tenant**]**.

[(d) The relief provided under this section is conditioned upon:

(1) THE TENANT BEING CURRENT ON THE RENT DUE AND OWING TO THE LANDLORD AT THE TIME OF THE ALLEGED RETALIATORY ACTION, UNLESS THE TENANT WITHHOLDS RENT IN ACCORDANCE WITH THE LEASE, § 8–211 OF THIS SUBTITLE, OR A COMPARABLE LOCAL ORDINANCE; AND

(2) IF THE ALLEGED RETALIATORY ACTION IS A LANDLORD'S TERMINATION OF A PERIODIC TENANCY:

~~(1)~~ **(I)** In the case of tenancies measured by a period of one month or more, the court having not entered against the tenant more than 3 judgments of possession for rent due and unpaid in the 12–month period immediately prior to the initiation of the action by the tenant or by the landlord~~.~~**; OR**

~~(2)~~ **(II)** In the case of tenancies requiring the weekly payment of rent, the court having not entered against the tenant more than 5 judgments of possession for rent due and unpaid in the 12–month period immediately prior to the initiation of the action by the tenant or by the landlord, or, if the tenant has lived on the premises 6 months or less, the court having not entered against the tenant 3 judgments of possession for rent due and unpaid.**]**

[(e) No eviction shall be deemed to be a "retaliatory eviction" for purposes of this section upon the expiration of a period of 6 months following the determination of the merits of the initial case by a court (or administrative agency) of competent jurisdiction.]

(E) AN ACTION BY A LANDLORD MAY NOT BE DEEMED TO BE RETALIATORY FOR PURPOSES OF THIS SECTION IF THE ALLEGED RETALIATORY ACTION OCCURS MORE THAN 6 MONTHS AFTER A TENANT'S ACTION THAT IS PROTECTED UNDER SUBSECTION (A)(2) OF THIS SECTION.

~~[~~(f)~~]~~ ~~(E)~~ [Nothing] **AS LONG AS A LANDLORD'S** ~~NONRENEWAL~~ **TERMINATION OF A TENANCY IS NOT THE RESULT OF A RETALIATORY ACTION, NOTHING** in this section may be interpreted to alter the landlord's or the tenant's rights to terminate or not renew a tenancy ~~governed by a written lease for a stated term of greater than 1 month at the expiration of the term or at any other time as the parties may specifically agree~~.

~~[~~(g)~~]~~ ~~(F)~~ [In the event] **IF** any county [or Baltimore City shall have] **HAS** enacted **OR ENACTS** an ordinance comparable in subject matter to this section, [that ordinance] **THIS SECTION** shall supersede the provisions of [this section] **THE ORDINANCE TO THE EXTENT THAT THE ORDINANCE PROVIDES LESS PROTECTION TO A TENANT**.

8A–1301.

(a) **(1)** [A] **FOR ANY REASON LISTED IN PARAGRAPH (2) OF THIS SUBSECTION, A** park owner may not**:**

(I) [evict] **BRING OR THREATEN TO BRING AN ACTION FOR POSSESSION AGAINST** a resident [or]**;**

(II) [arbitrarily] **ARBITRARILY** increase the rent or decrease the services to which [the] **A** resident has been entitled**; OR**

(III) ~~REFUSE TO RENEW A RENTAL AGREEMENT~~ **TERMINATE A PERIODIC TENANCY.**

(2) A PARK OWNER MAY NOT TAKE AN ACTION THAT IS LISTED UNDER PARAGRAPH (1) OF THIS SUBSECTION for any of the following reasons:

[(1)] **(I)** [Solely because] **BECAUSE** the resident or [his] **THE RESIDENT'S** agent has [filed] ~~MADE~~ **PROVIDED WRITTEN OR ACTUAL NOTICE OF** a [written] **GOOD FAITH** complaint[, or complaints, with] **ABOUT AN ALLEGED VIOLATION OF THE RENTAL AGREEMENT, VIOLATION OF LAW, OR CONDITION ON**

THE LEASED PREMISES THAT IS A SUBSTANTIAL THREAT TO THE HEALTH OR SAFETY OF OCCUPANTS TO:

1. **[**the**] THE** park owner**;** or

2. **[**with any**] ANY** public agency **[**or agencies**]** against the park owner;

[(2)**] (II)** **[**Solely because**] BECAUSE** the resident or **[**his**] THE RESIDENT'S** agent has**:**

1. **[**filed**] FILED** a lawsuit**[**, or lawsuits,**]** against the park owner; or

2. TESTIFIED OR PARTICIPATED IN A LAWSUIT INVOLVING THE PARK OWNER; OR

[(3)**] (III)** **[**Solely because**] BECAUSE** the resident ~~is a member or organizer of~~ **HAS PARTICIPATED IN** any tenant's organization.

(b) **(1)** **[**Evictions described in subsection (a) of this section shall be called retaliatory evictions.**] A PARK OWNER'S VIOLATION OF SUBSECTION (A) OF THIS SECTION IS A "RETALIATORY ACTION".**

(2) A RESIDENT MAY RAISE A RETALIATORY ACTION OF A PARK OWNER ~~IN~~**:**

(I) IN DEFENSE TO AN ACTION FOR POSSESSION; OR ~~IN A CLAIM FOR DAMAGES~~

(II) AS AN AFFIRMATIVE CLAIM FOR DAMAGES RESULTING FROM A RETALIATORY ACTION OF A PARK OWNER OCCURRING DURING A TENANCY.

~~(C) (1) IN THIS SUBSECTION, "REBUTTABLE PRESUMPTION" MEANS THAT THE TRIER OF FACT MUST FIND THE EXISTENCE OF A FACT PRESUMED UNLESS AND UNTIL EVIDENCE IS INTRODUCED THAT WOULD SUPPORT A FINDING OF THE NONEXISTENCE OF THE FACT.~~

~~(2) IN AN ACTION BY OR AGAINST A RESIDENT:~~

~~(I) EVIDENCE THAT THE RESIDENT ENGAGED IN A PROTECTED ACTIVITY DESCRIBED IN SUBSECTION (A)(2) OF THIS SECTION WITHIN 6 MONTHS BEFORE AN ALLEGED RETALIATORY ACTION OCCURRED~~

~~CREATES A REBUTTABLE PRESUMPTION THAT THE PARK OWNER'S CONDUCT VIOLATED SUBSECTION (A) OF THIS SECTION; AND~~

~~(II) A REBUTTABLE PRESUMPTION DOES NOT ARISE IF THE RESIDENT ENGAGED IN A PROTECTED ACTIVITY DESCRIBED IN SUBSECTION (A)(2) OF THIS SECTION AFTER RECEIVING NOTICE OF A PROPOSED RENT INCREASE OR DIMINUTION OF SERVICES.~~

~~[~~(c)~~]~~ ~~(D)~~ If in any [eviction] proceeding the [judgment is] **COURT FINDS** in favor of the resident [for any of the aforementioned defenses] **BECAUSE THE PARK OWNER ENGAGED IN A RETALIATORY ACTION**, the court may enter judgment **AGAINST THE PARK OWNER** for **DAMAGES NOT TO EXCEED THE EQUIVALENT OF 3 MONTHS' RENT,** reasonable attorney's fees**,** and court costs [against the park owner].

[(d) An eviction may not be deemed to be a "retaliatory eviction" for purposes of this section upon the expiration of a period of 6 months following the determination of the merits of the initial case by a court or administrative agency of competent jurisdiction.]

(D) AN ACTION BY A PARK OWNER MAY NOT BE DEEMED TO BE RETALIATORY FOR PURPOSES OF THIS SECTION IF THE ALLEGED RETALIATORY ACTION OCCURS MORE THAN 6 MONTHS AFTER A RESIDENT'S ACTION THAT IS PROTECTED UNDER SUBSECTION (A)(2) OF THIS SECTION.

(e) [Nothing] **AS LONG AS A PARK OWNER'S** ~~NONRENEWAL OF A RENTAL AGREEMENT~~ **TERMINATION OF A TENANCY IS NOT THE RESULT OF A RETALIATORY ACTION, NOTHING** in this section may be interpreted to alter the park owner's or the resident's rights arising from breach of any provision of a rental agreement or rule, or either party's right to terminate or not renew a rental agreement pursuant to the terms of the rental agreement or the provisions of other applicable law.

(F) IF ANY COUNTY HAS ENACTED OR ENACTS AN ORDINANCE COMPARABLE IN SUBJECT MATTER TO THIS SECTION, THIS SECTION SHALL SUPERSEDE THE PROVISIONS OF THE ORDINANCE TO THE EXTENT THAT THE ORDINANCE PROVIDES LESS PROTECTION TO A RESIDENT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 266

(Senate Bill 639)

AN ACT concerning

Task Force on the Establishment of a Statewide Spay/Neuter Fund

FOR the purpose of establishing a Task Force on the Establishment of a Statewide Spay/Neuter Fund; specifying the membership, chair, and staff of the Task Force; specifying that a member of the Task Force may not receive compensation, but may receive reimbursement for certain expenses; requiring the Task Force to review certain spay/neuter programs, ~~develop a certain spay/neuter program~~ collect and review certain data concerning spay/neuter services in the State, and make certain recommendations; requiring the Task Force to report its findings and recommendations to the Governor and certain committees of the General Assembly on or before a certain date; providing for the termination of this Act; and generally relating to the Task Force on the Establishment of a Statewide Spay/Neuter Fund.

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

(a) There is a Task Force on the Establishment of a Statewide Spay/Neuter Fund.

(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 Secretary of Agriculture, or the Secretary's designee; and

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

(i) one representative of the Maryland Association of Counties;

(ii) one representative of the Humane Society of the United States;

(iii) one representative of the Maryland Veterinary Medical Association;

(iv) one representative of Maryland Votes for Animals;

(v) one representative of the Howard County Animal Advocates;

(vi) one representative of the Baltimore Animal Rescue and Care Shelter;

(vii) one representative of the Professional Animal Workers of Maryland, Inc.;

(viii) one representative of the Maryland SPCA; ~~and~~

(ix) one representative of the Pet Food Institute;

(x) one representative of the Pet Industry Joint Advisory Council; *and*

~~(xi) one representative of the Maryland Dog Federation;~~

~~(xii) one representative of the Friends of Prince George's County Animals; and~~

~~(ix)~~ ~~(xiii)~~ *(xi)* two representatives of other private or public organizations with experience and interest in spay/neuter programs.

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

(d) The Department of ~~Legislative Services~~ ~~Agriculture~~ *Legislative Services* shall provide staff for the Task Force.

(e) A member of the Task Force:

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

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

(f) The Task Force shall:

(1) collect and review data on the number of spay/neuter services performed each year in the State and the unmet need for the services;

(2) review ongoing successful local spay/neuter programs in the State;

(3) review spay/neuter programs in other states and identify best practices;

(4) review and make recommendations regarding the most appropriate funding mechanism for a spay/neuter fund; and

(5) make recommendations regarding the establishment of a spay/neuter fund that best meets the needs of the State.

(g) On or before January 1, 2012, the Task Force shall report its findings and legislative recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, the Senate Education, Health, and Environmental Affairs Committee and the House ~~Health and Government Operations~~ Environmental Matters Committee.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011. It shall remain effective for a period of 1 year and, at the end of June 30, 2012, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 10, 2011.

Chapter 267

(Senate Bill 641)

AN ACT concerning

Polysomnography – Technologists ~~and Technicians – Licensing Requirements~~ Licensure

FOR the purpose of ~~establishing a polysomnographic technician license; requiring the State Board of Physicians to set certain fees regarding the licensing of polysomnographic technicians; altering the duties of the Polysomnography Professional Standards Committee; altering certain education requirements to qualify for a polysomnographic technologist license; providing for the qualifications for a polysomnographic technician license; requiring the Board to waive certain education requirements for certain applicants for a polysomnographic technologist license under certain circumstances; providing that a certain applicant who qualified for a polysomnographic technician license under certain circumstances is entitled to be licensed for a single term under certain circumstances; providing for the scope of a license to practice polysomnography as a polysomnographic technician; prohibiting the Board from renewing the license of a polysomnographic technician; prohibiting a licensed polysomnographic technician from surrendering or allowing a license to lapse under certain circumstances; defining certain terms; making certain conforming changes~~ extending the date by which an individual is required to be licensed by the State Board of Physicians before the individual may practice

polysomnography in the State; extending the date on or before which the Board is required to waive a certain education requirement for certain individuals; extending the date by which certain individuals may petition the Board for a certain extension; and generally relating to licensing requirements for polysomnographic technologists ~~and technicians~~.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section ~~14–5C–01, 14–5C–04, 14–5C–07, 14–5C–09, 14–5C–13, 14–5C–14, 14–5C–16, and 14–5C–18~~ 14–5C–08 and 14–5C–10
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

~~BY adding to~~
~~Article – Health Occupations~~
~~Section 14–5C–10.1 and 14–5C–10.2~~
~~Annotated Code of Maryland~~
~~(2009 Replacement Volume and 2010 Supplement)~~

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

Article – Health Occupations

~~14–5C–01.~~

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

~~(b) "Board" means the State Board of Physicians.~~

~~**(C) "CERTIFIED POLYSOMNOGRAPHIC TECHNICIAN" MEANS A POLYSOMNOGRAPHIC TECHNICIAN WHO IS CERTIFICATED BY THE BOARD OF REGISTERED POLYSOMNOGRAPHIC TECHNICIANS.**~~

~~**[**(c)**] (D)** "Committee" means the Polysomnography Professional Standards Committee established under § 14–5C–05 of this subtitle.~~

~~**[**(d)**] (E)** "License" means a license issued by the Board.~~

~~**(F) "LICENSED POLYSOMNOGRAPHIC TECHNICIAN" MEANS A POLYSOMNOGRAPHIC TECHNICIAN WHO IS LICENSED BY THE BOARD UNDER THIS SUBTITLE TO PRACTICE POLYSOMNOGRAPHY UNDER THE SUPERVISION OF A LICENSED POLYSOMNOGRAPHIC TECHNOLOGIST AND A LICENSED PHYSICIAN.**~~

~~[(e)] (G) "Licensed polysomnographic technologist" means a polysomnographic technologist who is licensed by the Board under this subtitle to practice polysomnography under the supervision of a licensed physician.~~

~~[(f)] (H) (1) "Practice polysomnography" means:~~

~~(i) Monitoring and recording physiologic data during sleep, including sleep–related respiratory disturbances under the supervision of a licensed physician; or~~

~~(ii) Using data collected under item (i) of this paragraph for the purposes of assisting a licensed physician in the diagnosis and treatment of sleep and wake disorders.~~

~~(2) "Practice polysomnography" includes:~~

~~(i) Providing polysomnography services that are safe, aseptic, preventive, and restorative;~~

~~(ii) Diagnosing and treating individuals who suffer from sleep disorders as a result of developmental defects, the aging process, physical injury, disease, or actual or anticipated somatic dysfunction;~~

~~(iii) Observing and monitoring physical signs and symptoms, general behavior, and general physical response to polysomnographic evaluation and determining whether initiation, modification, or discontinuation of a treatment regimen is warranted;~~

~~(iv) Using evaluation techniques that include limited cardiopulmonary function assessments, the need and effectiveness of therapeutic modalities and procedures, and the assessment and evaluation of the need for extended care; and~~

~~(v) Applying the use of techniques, equipment, and procedures involved in the evaluation of polysomnography, including:~~

~~1. Continuous positive airway pressure or bi–level positive airway pressure titration on spontaneously breathing patients;~~

~~2. Supplemental low flow oxygen therapy during polysomnogram;~~

~~3. Capnography during polysomnogram;~~

~~4. Cardiopulmonary resuscitation;~~

~~5. Pulse oximetry;~~

~~6. PH probe placement and monitoring;~~

~~7. Esophageal pressure;~~

~~8. Sleep staging including surface electroencephalography, surface electrooculography, and surface submental electromyography;~~

~~9. Surface electromyography of arms and legs;~~

~~10. Electrocardiography;~~

~~11. Respiratory effort including thoracic and abdominal;~~

~~12. Plethysmography blood flow;~~

~~13. Snore monitoring;~~

~~14. Audio or video monitoring;~~

~~15. Implementation of a written or verbal order from a licensed physician that requires the practice of polysomnography;~~

~~16. Monitoring the effects a nasal device, used to treat sleep apnea, has on sleep patterns provided that the device does not extend into the trachea; and~~

~~17. Monitoring the effects an oral device, used to treat sleep apnea, has on sleep patterns, provided that:~~

~~A. The device does not extend into the trachea;~~

~~B. A dentist has evaluated the structures of the patient's oral and maxillofacial region for purposes of fitting;~~

~~C. A dentist made or directed the making of the oral device; and~~

~~D. A dentist directs the use of the oral device.~~

~~[(g)] (I) "Student" means an individual who, in accordance with section 14–5C–09(c) of this subtitle, is:~~

~~(1) Enrolled in an accredited educational program in order to qualify for a license under this title; and~~

~~(2) Performing polysomnography services within the accredited program under the supervision of a licensed physician and without compensation.~~

~~[(h)] (J) "Registered polysomnographic technologist" means a polysomnographic technologist who is registered by the Board of Registered Polysomnographic Technicians.~~

~~[(i)] (K) "Supervision" means general or direct supervision of:~~

~~(1) [a] A LICENSED POLYSOMNOGRAPHIC TECHNICIAN BY A licensed polysomnographic technologist [by] AND a licensed physician; OR~~

~~(2) A LICENSED POLYSOMNOGRAPHIC TECHNOLOGIST BY A LICENSED PHYSICIAN.~~

~~14–5C–04.~~

~~(a) (1) The Board shall set reasonable fees for the issuance of and renewal of licenses and other services it provides to polysomnographic technologists AND POLYSOMNOGRAPHIC TECHNICIANS.~~

~~(2) The fees charged shall be set so as to produce funds to approximate the cost of maintaining the licensure program and the other services provided to polysomnographic technologists AND POLYSOMNOGRAPHIC TECHNICIANS.~~

~~(b) (1) The Board shall pay all fees collected under the provisions of this subtitle to the Comptroller.~~

~~(2) The Comptroller shall distribute all fees to the Board.~~

~~(c) The fees shall be used to cover the actual documented direct and indirect costs of fulfilling the statutory and regulatory duties of the Board as provided by the provisions of this subtitle.~~

~~14–5C–07.~~

~~In addition to the powers set forth elsewhere in this subtitle, the Committee shall:~~

~~(1) Develop and recommend to the Board regulations to carry out the provisions of this subtitle;~~

~~(2) Develop and recommend to the Board a code of ethics for the practice of polysomnography for adoption by the Board;~~

~~(3) Develop and recommend to the Board standards of care for the practice of polysomnography;~~

~~(4) Develop and recommend to the Board the requirements for licensure as a polysomnographic technologist **OR A POLYSOMNOGRAPHIC TECHNICIAN**, including:~~

~~(i) Criteria for the educational and clinical training of licensed polysomnographic technologists **AND POLYSOMNOGRAPHIC TECHNICIANS**; and~~

~~(ii) Criteria for a professional competency examination and testing of applicants for a license to practice polysomnography;~~

~~(5) Develop and recommend to the Board criteria for licensed polysomnographic technologists who are licensed in other states to practice in this State;~~

~~(6) Evaluate the accreditation status of education programs in polysomnography for approval by the Board;~~

~~(7) Evaluate the credentials of applicants and recommend licensure of applicants who fulfill the requirements for a license to practice polysomnography;~~

~~(8) Develop and recommend to the Board continuing education requirements for license renewal;~~

~~(9) Provide the Board with recommendations concerning the practice of polysomnography;~~

~~(10) Develop and recommend to the Board criteria for the direction of students in clinical education programs by licensed **POLYSOMNOGRAPHIC TECHNICIANS,** polysomnographic technologists**,** and licensed physicians;~~

~~(11) Keep a record of its proceedings; and~~

~~(12) Submit an annual report to the Board.~~

~~14–5C–09.~~

~~(a) To qualify for a license, an applicant shall be an individual who meets the requirements of this section.~~

~~(b) The applicant shall:~~

~~(1) Be of good moral character; and~~

~~(2) Be at least 18 years old.~~

~~(c) An applicant for a polysomnographic technologist license shall:~~

~~(1) Have passed the national certifying examination given by the Board of Registered Polysomnographic Technologists or another examination approved by the Board;~~

~~(2) Submit to the Board proof of certification as a registered polysomnographic technologist or other national certification approved by the Board;~~

~~(3)~~ **[**~~(i) Have graduated from a polysomnographic educational program that is accredited by the Commission on Accreditation of Allied Health Education Programs;~~

~~(ii) 1. Have graduated from a respiratory care educational program that is accredited by the Commission on Accreditation of Allied Health Education Programs; and~~

~~2. Have completed the Committee on Accreditation for Respiratory Care's curriculum for a polysomnography certificate that is accredited by the Commission on Accreditation of Allied Health Education Programs; or~~

~~(iii) 1. Have graduated from an electroneuro–diagnostic educational program that is accredited by the Commission on Accreditation of Allied Health Education Programs; and~~

~~2. Have completed additional units, modules, and courses of instruction focused on polysomnographic technology that are accredited by the Commission on Accreditation of Allied Health Education Programs~~**]** ~~**MEET THE EDUCATION REQUIREMENTS:**~~

~~**(I) ESTABLISHED BY THE COMMITTEE AND APPROVED BY THE BOARD; OR**~~

~~**(II) ESTABLISHED BY THE BOARD OF REGISTERED POLYSOMNOGRAPHIC TECHNOLOGISTS OR THE AMERICAN ACADEMY OF SLEEP MEDICINE AND APPROVED BY THE BOARD**; and~~

~~(4) Meet any other educational or clinical requirements established by the Committee and approved by the Board.~~

~~**(D) AN APPLICANT FOR A POLYSOMNOGRAPHIC TECHNICIAN LICENSE SHALL:**~~

~~(1) QUALIFY TO TAKE OR HAVE PASSED THE NATIONAL EXAMINATION FOR CERTIFIED POLYSOMNOGRAPHIC TECHNICIANS GIVEN BY THE BOARD OF REGISTERED POLYSOMNOGRAPHIC TECHNOLOGISTS;~~

~~(2) SUBMIT TO THE BOARD PROOF OF CERTIFICATION AS A CERTIFIED POLYSOMNOGRAPHIC TECHNICIAN OR OF ELIGIBILITY TO TAKE THE EXAMINATION UNDER PARAGRAPH (1) OF THIS SUBSECTION; AND~~

~~(3) MEET ANY EDUCATIONAL OR CLINICAL REQUIREMENTS ESTABLISHED BY THE COMMITTEE AND APPROVED BY THE BOARD.~~

~~14–5C–10.1.~~

~~(A) SUBJECT TO THE PROVISIONS OF THIS SECTION, THE BOARD SHALL WAIVE THE EDUCATION REQUIREMENTS OF § 14–5C–09(C)(3) OF THIS SUBTITLE FOR AN APPLICANT FOR A POLYSOMNOGRAPHIC TECHNOLOGIST LICENSE WHO:~~

~~(1) RESIDES IN ANOTHER STATE;~~

~~(2) PASSED THE NATIONAL CERTIFYING EXAMINATION ADMINISTERED BY THE BOARD OF REGISTERED POLYSOMNOGRAPHIC TECHNOLOGISTS; AND~~

~~(3) WAS CERTIFIED BY THE BOARD OF REGISTERED POLYSOMNOGRAPHIC TECHNOLOGISTS AS A REGISTERED POLYSOMNOGRAPHIC TECHNOLOGIST ON OR BEFORE OCTOBER 1, 2011.~~

~~(B) THE BOARD SHALL GRANT A WAIVER UNDER THIS SECTION ONLY IF THE APPLICANT:~~

~~(1) IS OF GOOD MORAL CHARACTER;~~

~~(2) PAYS THE APPLICATION FEE REQUIRED BY THE BOARD UNDER § 14–5C–11 OF THIS SUBTITLE; AND~~

~~(3) PROVIDES ADEQUATE EVIDENCE OF MEETING THE REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION.~~

~~14–5C–10.2.~~

~~AN APPLICANT WHO IS OTHERWISE QUALIFIED FOR A LICENSE UNDER § 14–5C–09(D) OF THIS SUBTITLE IS ENTITLED TO BE LICENSED FOR A SINGLE TERM DURING WHICH THE INDIVIDUAL IS REQUIRED TO WORK TOWARDS QUALIFYING FOR THE NATIONAL CERTIFYING EXAMINATION FOR REGISTERED~~

~~POLYSOMNOGRAPHIC TECHNOLOGISTS GIVEN BY THE BOARD OF REGISTERED POLYSOMNOGRAPHIC TECHNOLOGISTS.~~

~~14–5C–13.~~

~~(a) (1) A license authorizes a polysomnographic technologist to practice polysomnography in this State while the license is effective.~~

~~(2) A LICENSE AUTHORIZES A POLYSOMNOGRAPHIC TECHNICIAN TO PRACTICE POLYSOMNOGRAPHY UNDER SUPERVISION IN THIS STATE WHILE THE LICENSE IS EFFECTIVE.~~

~~(b) A licensed polysomnographic technologist AND A LICENSED POLYSOMNOGRAPHIC TECHNICIAN may practice polysomnography in:~~

~~(1) A hospital sleep laboratory; or~~

~~(2) A stand–alone sleep center.~~

~~14–5C–14.~~

~~(a) A license expires on a date set by the Board, unless the license is renewed for an additional term as provided in this section.~~

~~(b) At least 1 month before a license expires, the Board shall send to the licensed polysomnographic technologist, by first–class mail to the last known address of the licensed polysomnographic technologist, a renewal notice that states:~~

~~(1) The date on which the current license expires;~~

~~(2) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the license expires; and~~

~~(3) The amount of the renewal fee.~~

~~(c) Except as otherwise provided in this subtitle, before a license expires, the licensed polysomnographic technologist periodically may renew it for an additional term, if the licensee:~~

~~(1) Otherwise is entitled to be licensed;~~

~~(2) Pays to the Board a renewal fee set by the Board; and~~

~~(3) Submits to the Board:~~

~~(i) A renewal application on the form that the Board requires; and~~

~~(ii) Satisfactory evidence of compliance with any continuing education or competency requirements and other requirements set under this section for license renewal.~~

~~(d) In addition to any other qualifications and requirements established by the Board, the Board may establish continuing education or competency requirements as a condition of the renewal of a license under this section.~~

~~(e)~~ ~~**(1)**~~ ~~The Board shall renew the license of each~~ **[**~~licensee~~**]** ~~**LICENSED POLYSOMNOGRAPHIC TECHNOLOGIST**~~ ~~who meets the requirements of this section.~~

~~**(2) THE BOARD MAY NOT RENEW THE LICENSE OF A LICENSED POLYSOMNOGRAPHIC TECHNICIAN.**~~

~~(f) The Board shall reinstate the license of a polysomnographic technologist who has not placed the license on an inactive status and who has failed to renew the license for any reason if the polysomnographic technologist:~~

~~(1) Applies for reinstatement within 30 days after the date the license expires;~~

~~(2) Meets the renewal requirements of this section; and~~

~~(3) Pays to the Board the reinstatement fee set by the Board.~~

~~14–5C–16.~~

~~Unless the Board agrees to accept the surrender of a license, a licensed polysomnographic technologist~~ ~~**OR POLYSOMNOGRAPHIC TECHNICIAN**~~ ~~may not surrender the license nor may the license lapse by operation of law while the licensee is under investigation or while charges are pending against the licensee.~~

~~14–5C–18.~~

~~(a) Except as provided in subsections (b) and (d) of this section, hospitals, related institutions, alternative health systems as defined in § 1–401 of this article, and employers shall file with the Board a report that the hospital, related institution, alternative health system, or employer limited, reduced, otherwise changed, or terminated any licensed polysomnographic technologist~~ ~~**OR LICENSED POLYSOMNOGRAPHIC TECHNICIAN**~~ ~~for any reason that might be grounds for disciplinary action under § 14–5C–17 of this subtitle.~~

~~(b) A hospital, related institution, alternative health system, or employer that has reason to know that a licensed polysomnographic technologist **OR LICENSED POLYSOMNOGRAPHIC TECHNICIAN** has committed an action or has a condition that might be grounds for reprimand or probation of the licensed polysomnographic technologist **OR LICENSED POLYSOMNOGRAPHIC TECHNICIAN** or suspension or revocation of the license because the licensed polysomnographic technologist **OR LICENSED POLYSOMNOGRAPHIC TECHNICIAN** is alcohol impaired or drug impaired is not required to report the technologist **OR TECHNICIAN** to the Board if:~~

~~(1) The hospital, related institution, alternative health system, or employer knows that the licensed polysomnographic technologist **OR LICENSED POLYSOMNOGRAPHIC TECHNICIAN** is:~~

~~(i) In an alcohol or drug treatment program that is accredited by the Joint Commission on Accreditation of Healthcare Organizations or is certified by the Department; or~~

~~(ii) Under the care of a health care practitioner who is competent and capable of dealing with alcoholism and drug abuse; and~~

~~(2) (i) The hospital, related institution, alternative health system, or employer is able to verify that the licensed polysomnographic technologist **OR LICENSED POLYSOMNOGRAPHIC TECHNICIAN** remains in the treatment program until discharge; and~~

~~(ii) The action or condition of the licensed polysomnographic technologist **OR LICENSED POLYSOMNOGRAPHIC TECHNICIAN** has not caused injury to any person while the technologist **OR TECHNICIAN** is practicing as a licensed polysomnographic technologist **OR A LICENSED POLYSOMNOGRAPHIC TECHNICIAN**.~~

~~(c) (1) If the licensed polysomnographic technologist **OR LICENSED POLYSOMNOGRAPHIC TECHNICIAN** enters, or is considering entering, an alcohol or drug treatment program that is accredited by the Joint Commission on Accreditation of Healthcare Organizations or that is certified by the Department, the licensed polysomnographic technologist **OR LICENSED POLYSOMNOGRAPHIC TECHNICIAN** shall notify the hospital, related institution, alternative health system, or employer of the licensed polysomnographic technologist's **OR LICENSED POLYSOMNOGRAPHIC TECHNICIAN'S** decision to enter the treatment program.~~

~~(2) If the licensed polysomnographic technologist **OR LICENSED POLYSOMNOGRAPHIC TECHNICIAN** fails to provide the notice required under paragraph (1) of this subsection, and the hospital, related institution, alternative health system, or employer learns that the licensed polysomnographic technologist **OR LICENSED POLYSOMNOGRAPHIC TECHNICIAN** has entered a treatment program, the hospital, related institution, alternative health system, or employer shall report to~~

~~the Board that the licensed polysomnographic technologist **OR LICENSED POLYSOMNOGRAPHIC TECHNICIAN** has entered a treatment program and has failed to provide the required notice.~~

~~(3) If the licensed polysomnographic technologist **OR LICENSED POLYSOMNOGRAPHIC TECHNICIAN** is found to be noncompliant with the treatment program's policies and procedures while in the treatment program, the treatment program shall notify the hospital, related institution, alternative health system, or employer of the licensed polysomnographic technologist's **OR LICENSED POLYSOMNOGRAPHIC TECHNICIAN'S** noncompliance.~~

~~(4) On receipt of the notification required under paragraph (3) of this subsection, the hospital, related institution, alternative health system, or employer of the licensed polysomnographic technologist **OR LICENSED POLYSOMNOGRAPHIC TECHNICIAN** shall report the licensed polysomnographic technologist's **OR LICENSED POLYSOMNOGRAPHIC TECHNICIAN'S** noncompliance to the Board.~~

~~(d) A person is not required under this section to make any report that would be in violation of any federal or state law, rule, or regulation concerning the confidentiality of alcohol and drug abuse patient records.~~

~~(e) The hospital, related institution, alternative health system, or employer shall submit the report within 10 days of any action described in this section.~~

~~(f) A report made under this section is not subject to subpoena or discovery in any civil action other than a proceeding arising out of a hearing and decision of the Board under this title.~~

~~(g) (1) The Board may impose a civil penalty of up to $1,000 for failure to report under this section.~~

~~(2) The Board shall remit any penalty collected under this subsection into the General Fund of the State.~~

14–5C–08.

(a) Except as otherwise provided in this subtitle, on or after October 1, **[**2011**] 2013**, an individual shall be licensed by the Board before the individual may practice polysomnography in this State.

(b) This section does not apply to a student enrolled in an education program under § 14–5C–09(c)(3) of this subtitle while practicing polysomnography in that program.

14–5C–10.

(a) The Board shall waive the education requirement under § 14–5C–09(c)(3) of this subtitle if on or before September 30, **[**2011**] 2013**, an individual:

(1) Has passed the national certifying examination by the Board of Registered Polysomnographic Technologists;

(2) Is certified by the Board of Registered Polysomnographic Technologists as a registered polysomnographic technologist;

(3) Has submitted an application for licensure to the Board; and

(4) Meets all of the requirements under § 14–5C–09(b) and (c)(1) and (2) of this subtitle.

(b) (1) If an individual has not satisfied the requirements under subsection (a) of this section on or before September 30, **[**2011**] 2013**, the individual may petition the Board for an extension.

(2) The Board shall determine whether to grant an extension under this subsection on a case–by–case basis.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 268

(House Bill 560)

AN ACT concerning

Polysomnography – Technologists ~~and Technicians – Licensing Requirements~~ Licensure

FOR the purpose of ~~establishing a polysomnographic technician license; requiring the State Board of Physicians to set certain fees regarding the licensing of polysomnographic technicians; altering the duties of the Polysomnography Professional Standards Committee; altering certain education requirements to qualify for a polysomnographic technologist license; providing for the qualifications for a polysomnographic technician license; requiring the Board to waive certain education requirements for certain applicants for a polysomnographic technologist license under certain circumstances; providing that a certain applicant who qualified for a polysomnographic technician license under certain circumstances is entitled to be licensed for a single term under~~

~~certain circumstances; providing for the scope of a license to practice polysomnography as a polysomnographic technician; prohibiting the Board from renewing the license of a polysomnographic technician; prohibiting a licensed polysomnographic technician from surrendering or allowing a license to lapse under certain circumstances; defining certain terms; making certain conforming changes~~ extending the date by which an individual is required to be licensed by the State Board of Physicians before the individual may practice polysomnography in the State; extending the date on or before which the Board is required to waive a certain education requirement for certain individuals; extending the date by which certain individuals may petition the Board for a certain extension; and generally relating to licensing requirements for polysomnographic technologists ~~and technicians~~.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section ~~14–5C–01, 14–5C–04, 14–5C–07, 14–5C–09, 14–5C–13, 14–5C–14, 14–5C–16, and 14–5C–18~~ 14–5C–08 and 14–5C–10
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

~~BY adding to~~
~~Article – Health Occupations~~
~~Section 14–5C–10.1 and 14–5C–10.2~~
~~Annotated Code of Maryland~~
~~(2009 Replacement Volume and 2010 Supplement)~~

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

Article – Health Occupations

~~14–5C–01.~~

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

~~(b) "Board" means the State Board of Physicians.~~

~~**(C) "CERTIFIED POLYSOMNOGRAPHIC TECHNICIAN" MEANS A POLYSOMNOGRAPHIC TECHNICIAN WHO IS CERTIFICATED BY THE BOARD OF REGISTERED POLYSOMNOGRAPHIC TECHNICIANS.**~~

~~**[**(c)**] (D)** "Committee" means the Polysomnography Professional Standards Committee established under § 14–5C–05 of this subtitle.~~

~~**[**(d)**] (E)** "License" means a license issued by the Board.~~

~~**(F) "LICENSED POLYSOMNOGRAPHIC TECHNICIAN" MEANS A POLYSOMNOGRAPHIC TECHNICIAN WHO IS LICENSED BY THE BOARD UNDER THIS SUBTITLE TO PRACTICE POLYSOMNOGRAPHY UNDER THE SUPERVISION OF A LICENSED POLYSOMNOGRAPHIC TECHNOLOGIST AND A LICENSED PHYSICIAN.**~~

~~**[**(e)**] (G)** "Licensed polysomnographic technologist" means a polysomnographic technologist who is licensed by the Board under this subtitle to practice polysomnography under the supervision of a licensed physician.~~

~~**[**(f)**] (H)** (1) "Practice polysomnography" means:~~

~~(i) Monitoring and recording physiologic data during sleep, including sleep-related respiratory disturbances under the supervision of a licensed physician; or~~

~~(ii) Using data collected under item (i) of this paragraph for the purposes of assisting a licensed physician in the diagnosis and treatment of sleep and wake disorders.~~

~~(2) "Practice polysomnography" includes:~~

~~(i) Providing polysomnography services that are safe, aseptic, preventive, and restorative;~~

~~(ii) Diagnosing and treating individuals who suffer from sleep disorders as a result of developmental defects, the aging process, physical injury, disease, or actual or anticipated somatic dysfunction;~~

~~(iii) Observing and monitoring physical signs and symptoms, general behavior, and general physical response to polysomnographic evaluation and determining whether initiation, modification, or discontinuation of a treatment regimen is warranted;~~

~~(iv) Using evaluation techniques that include limited cardiopulmonary function assessments, the need and effectiveness of therapeutic modalities and procedures, and the assessment and evaluation of the need for extended care; and~~

~~(v) Applying the use of techniques, equipment, and procedures involved in the evaluation of polysomnography, including:~~

~~1. Continuous positive airway pressure or bi-level positive airway pressure titration on spontaneously breathing patients;~~

~~2. Supplemental low flow oxygen therapy during polysomnogram;~~

~~3. Capnography during polysomnogram;~~

~~4. Cardiopulmonary resuscitation;~~

~~5. Pulse oximetry;~~

~~6. PH probe placement and monitoring;~~

~~7. Esophageal pressure;~~

~~8. Sleep staging including surface electroencephalography, surface electrooculography, and surface submental electromyography;~~

~~9. Surface electromyography of arms and legs;~~

~~10. Electrocardiography;~~

~~11. Respiratory effort including thoracic and abdominal;~~

~~12. Plethysmography blood flow;~~

~~13. Snore monitoring;~~

~~14. Audio or video monitoring;~~

~~15. Implementation of a written or verbal order from a licensed physician that requires the practice of polysomnography;~~

~~16. Monitoring the effects a nasal device, used to treat sleep apnea, has on sleep patterns provided that the device does not extend into the trachea; and~~

~~17. Monitoring the effects an oral device, used to treat sleep apnea, has on sleep patterns, provided that:~~

~~A. The device does not extend into the trachea;~~

~~B. A dentist has evaluated the structures of the patient's oral and maxillofacial region for purposes of fitting;~~

~~C. A dentist made or directed the making of the oral device; and~~

~~D. A dentist directs the use of the oral device.~~

~~[(g)] (I) "Student" means an individual who, in accordance with section 14–5C–09(c) of this subtitle, is:~~

~~(1) Enrolled in an accredited educational program in order to qualify for a license under this title; and~~

~~(2) Performing polysomnography services within the accredited program under the supervision of a licensed physician and without compensation.~~

~~[(h)] (J) "Registered polysomnographic technologist" means a polysomnographic technologist who is registered by the Board of Registered Polysomnographic Technicians.~~

~~[(i)] (K) "Supervision" means general or direct supervision of:~~

~~(1) [a] A LICENSED POLYSOMNOGRAPHIC TECHNICIAN BY A licensed polysomnographic technologist [by] AND a licensed physician; OR~~

~~(2) A LICENSED POLYSOMNOGRAPHIC TECHNOLOGIST BY A LICENSED PHYSICIAN.~~

~~14–5C–04.~~

~~(a) (1) The Board shall set reasonable fees for the issuance of and renewal of licenses and other services it provides to polysomnographic technologists AND POLYSOMNOGRAPHIC TECHNICIANS.~~

~~(2) The fees charged shall be set so as to produce funds to approximate the cost of maintaining the licensure program and the other services provided to polysomnographic technologists AND POLYSOMNOGRAPHIC TECHNICIANS.~~

~~(b) (1) The Board shall pay all fees collected under the provisions of this subtitle to the Comptroller.~~

~~(2) The Comptroller shall distribute all fees to the Board.~~

~~(c) The fees shall be used to cover the actual documented direct and indirect costs of fulfilling the statutory and regulatory duties of the Board as provided by the provisions of this subtitle.~~

~~14–5C–07.~~

~~In addition to the powers set forth elsewhere in this subtitle, the Committee shall:~~

~~(1) Develop and recommend to the Board regulations to carry out the provisions of this subtitle;~~

~~(2) Develop and recommend to the Board a code of ethics for the practice of polysomnography for adoption by the Board;~~

~~(3) Develop and recommend to the Board standards of care for the practice of polysomnography;~~

~~(4) Develop and recommend to the Board the requirements for licensure as a polysomnographic technologist **OR A POLYSOMNOGRAPHIC TECHNICIAN**, including:~~

~~(i) Criteria for the educational and clinical training of licensed polysomnographic technologists **AND POLYSOMNOGRAPHIC TECHNICIANS**; and~~

~~(ii) Criteria for a professional competency examination and testing of applicants for a license to practice polysomnography;~~

~~(5) Develop and recommend to the Board criteria for licensed polysomnographic technologists who are licensed in other states to practice in this State;~~

~~(6) Evaluate the accreditation status of education programs in polysomnography for approval by the Board;~~

~~(7) Evaluate the credentials of applicants and recommend licensure of applicants who fulfill the requirements for a license to practice polysomnography;~~

~~(8) Develop and recommend to the Board continuing education requirements for license renewal;~~

~~(9) Provide the Board with recommendations concerning the practice of polysomnography;~~

~~(10) Develop and recommend to the Board criteria for the direction of students in clinical education programs by licensed **POLYSOMNOGRAPHIC TECHNICIANS,** polysomnographic technologists, and licensed physicians;~~

~~(11) Keep a record of its proceedings; and~~

~~(12) Submit an annual report to the Board.~~

~~14–5C–09.~~

~~(a) To qualify for a license, an applicant shall be an individual who meets the requirements of this section.~~

~~(b) The applicant shall:~~

~~(1) Be of good moral character; and~~

~~(2) Be at least 18 years old.~~

~~(c) An applicant for a polysomnographic technologist license shall:~~

~~(1) Have passed the national certifying examination given by the Board of Registered Polysomnographic Technologists or another examination approved by the Board;~~

~~(2) Submit to the Board proof of certification as a registered polysomnographic technologist or other national certification approved by the Board;~~

~~(3)~~ **[**~~(i) Have graduated from a polysomnographic educational program that is accredited by the Commission on Accreditation of Allied Health Education Programs;~~

~~(ii) 1. Have graduated from a respiratory care educational program that is accredited by the Commission on Accreditation of Allied Health Education Programs; and~~

~~2. Have completed the Committee on Accreditation for Respiratory Care's curriculum for a polysomnography certificate that is accredited by the Commission on Accreditation of Allied Health Education Programs; or~~

~~(iii) 1. Have graduated from an electroneuro–diagnostic educational program that is accredited by the Commission on Accreditation of Allied Health Education Programs; and~~

~~2. Have completed additional units, modules, and courses of instruction focused on polysomnographic technology that are accredited by the Commission on Accreditation of Allied Health Education Programs~~**]** ~~**MEET THE EDUCATION REQUIREMENTS:**~~

~~**(I) ESTABLISHED BY THE COMMITTEE AND APPROVED BY THE BOARD; OR**~~

~~**(II) ESTABLISHED BY THE BOARD OF REGISTERED POLYSOMNOGRAPHIC TECHNOLOGISTS OR THE AMERICAN ACADEMY OF SLEEP MEDICINE AND APPROVED BY THE BOARD**; and~~

~~(4) Meet any other educational or clinical requirements established by the Committee and approved by the Board.~~

~~(D) AN APPLICANT FOR A POLYSOMNOGRAPHIC TECHNICIAN LICENSE SHALL:~~

~~(1) QUALIFY TO TAKE OR HAVE PASSED THE NATIONAL EXAMINATION FOR CERTIFIED POLYSOMNOGRAPHIC TECHNICIANS GIVEN BY THE BOARD OF REGISTERED POLYSOMNOGRAPHIC TECHNOLOGISTS;~~

~~(2) SUBMIT TO THE BOARD PROOF OF CERTIFICATION AS A CERTIFIED POLYSOMNOGRAPHIC TECHNICIAN OR OF ELIGIBILITY TO TAKE THE EXAMINATION UNDER PARAGRAPH (1) OF THIS SUBSECTION; AND~~

~~(3) MEET ANY EDUCATIONAL OR CLINICAL REQUIREMENTS ESTABLISHED BY THE COMMITTEE AND APPROVED BY THE BOARD.~~

~~14–5C–10.1.~~

~~(A) SUBJECT TO THE PROVISIONS OF THIS SECTION, THE BOARD SHALL WAIVE THE EDUCATION REQUIREMENTS OF § 14–5C–09(C)(3) OF THIS SUBTITLE FOR AN APPLICANT FOR A POLYSOMNOGRAPHIC TECHNOLOGIST LICENSE WHO:~~

~~(1) RESIDES IN ANOTHER STATE;~~

~~(2) PASSED THE NATIONAL CERTIFYING EXAMINATION ADMINISTERED BY THE BOARD OF REGISTERED POLYSOMNOGRAPHIC TECHNOLOGISTS; AND~~

~~(3) WAS CERTIFIED BY THE BOARD OF REGISTERED POLYSOMNOGRAPHIC TECHNOLOGISTS AS A REGISTERED POLYSOMNOGRAPHIC TECHNOLOGIST ON OR BEFORE OCTOBER 1, 2011.~~

~~(B) THE BOARD SHALL GRANT A WAIVER UNDER THIS SECTION ONLY IF THE APPLICANT:~~

~~(1) IS OF GOOD MORAL CHARACTER;~~

~~(2) PAYS THE APPLICATION FEE REQUIRED BY THE BOARD UNDER § 14–5C–11 OF THIS SUBTITLE; AND~~

~~(3) PROVIDES ADEQUATE EVIDENCE OF MEETING THE REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION.~~

~~**14–5C–10.2.**~~

~~**AN APPLICANT WHO IS OTHERWISE QUALIFIED FOR A LICENSE UNDER § 14–5C–09(D) OF THIS SUBTITLE IS ENTITLED TO BE LICENSED FOR A SINGLE TERM DURING WHICH THE INDIVIDUAL IS REQUIRED TO WORK TOWARDS QUALIFYING FOR THE NATIONAL CERTIFYING EXAMINATION FOR REGISTERED POLYSOMNOGRAPHIC TECHNOLOGISTS GIVEN BY THE BOARD OF REGISTERED POLYSOMNOGRAPHIC TECHNOLOGISTS.**~~

~~14–5C–13.~~

~~(a)~~ ~~**(1)**~~ ~~A license authorizes a polysomnographic technologist to practice polysomnography in this State while the license is effective.~~

~~**(2)**~~ ~~**A LICENSE AUTHORIZES A POLYSOMNOGRAPHIC TECHNICIAN TO PRACTICE POLYSOMNOGRAPHY UNDER SUPERVISION IN THIS STATE WHILE THE LICENSE IS EFFECTIVE.**~~

~~(b)~~ ~~A licensed polysomnographic technologist~~ ~~**AND A LICENSED POLYSOMNOGRAPHIC TECHNICIAN**~~ ~~may practice polysomnography in:~~

~~(1)~~ ~~A hospital sleep laboratory; or~~

~~(2)~~ ~~A stand–alone sleep center.~~

~~14–5C–14.~~

~~(a)~~ ~~A license expires on a date set by the Board, unless the license is renewed for an additional term as provided in this section.~~

~~(b)~~ ~~At least 1 month before a license expires, the Board shall send to the licensed polysomnographic technologist, by first–class mail to the last known address of the licensed polysomnographic technologist, a renewal notice that states:~~

~~(1)~~ ~~The date on which the current license expires;~~

~~(2)~~ ~~The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the license expires; and~~

~~(3)~~ ~~The amount of the renewal fee.~~

~~(c)~~ ~~Except as otherwise provided in this subtitle, before a license expires, the licensed polysomnographic technologist periodically may renew it for an additional term, if the licensee:~~

~~(1)~~ ~~Otherwise is entitled to be licensed;~~

~~(2) Pays to the Board a renewal fee set by the Board; and~~

~~(3) Submits to the Board:~~

~~(i) A renewal application on the form that the Board requires; and~~

~~(ii) Satisfactory evidence of compliance with any continuing education or competency requirements and other requirements set under this section for license renewal.~~

~~(d) In addition to any other qualifications and requirements established by the Board, the Board may establish continuing education or competency requirements as a condition of the renewal of a license under this section.~~

~~(e)~~ ~~**(1)**~~ ~~The Board shall renew the license of each~~ **[**~~licensee~~**]** ~~**LICENSED POLYSOMNOGRAPHIC TECHNOLOGIST**~~ ~~who meets the requirements of this section.~~

~~**(2) THE BOARD MAY NOT RENEW THE LICENSE OF A LICENSED POLYSOMNOGRAPHIC TECHNICIAN.**~~

~~(f) The Board shall reinstate the license of a polysomnographic technologist who has not placed the license on an inactive status and who has failed to renew the license for any reason if the polysomnographic technologist:~~

~~(1) Applies for reinstatement within 30 days after the date the license expires;~~

~~(2) Meets the renewal requirements of this section; and~~

~~(3) Pays to the Board the reinstatement fee set by the Board.~~

~~14–5C–16.~~

~~Unless the Board agrees to accept the surrender of a license, a licensed polysomnographic technologist~~ ~~**OR POLYSOMNOGRAPHIC TECHNICIAN**~~ ~~may not surrender the license nor may the license lapse by operation of law while the licensee is under investigation or while charges are pending against the licensee.~~

~~14–5C–18.~~

~~(a) Except as provided in subsections (b) and (d) of this section, hospitals, related institutions, alternative health systems as defined in § 1–401 of this article, and employers shall file with the Board a report that the hospital, related institution, alternative health system, or employer limited, reduced, otherwise changed, or~~

~~terminated any licensed polysomnographic technologist **OR LICENSED POLYSOMNOGRAPHIC TECHNICIAN** for any reason that might be grounds for disciplinary action under § 14–5C–17 of this subtitle.~~

~~(b) A hospital, related institution, alternative health system, or employer that has reason to know that a licensed polysomnographic technologist **OR LICENSED POLYSOMNOGRAPHIC TECHNICIAN** has committed an action or has a condition that might be grounds for reprimand or probation of the licensed polysomnographic technologist **OR LICENSED POLYSOMNOGRAPHIC TECHNICIAN** or suspension or revocation of the license because the licensed polysomnographic technologist **OR LICENSED POLYSOMNOGRAPHIC TECHNICIAN** is alcohol impaired or drug impaired is not required to report the technologist **OR TECHNICIAN** to the Board if:~~

~~(1) The hospital, related institution, alternative health system, or employer knows that the licensed polysomnographic technologist **OR LICENSED POLYSOMNOGRAPHIC TECHNICIAN** is:~~

~~(i) In an alcohol or drug treatment program that is accredited by the Joint Commission on Accreditation of Healthcare Organizations or is certified by the Department; or~~

~~(ii) Under the care of a health care practitioner who is competent and capable of dealing with alcoholism and drug abuse; and~~

~~(2) (i) The hospital, related institution, alternative health system, or employer is able to verify that the licensed polysomnographic technologist **OR LICENSED POLYSOMNOGRAPHIC TECHNICIAN** remains in the treatment program until discharge; and~~

~~(ii) The action or condition of the licensed polysomnographic technologist **OR LICENSED POLYSOMNOGRAPHIC TECHNICIAN** has not caused injury to any person while the technologist **OR TECHNICIAN** is practicing as a licensed polysomnographic technologist **OR A LICENSED POLYSOMNOGRAPHIC TECHNICIAN**.~~

~~(c) (1) If the licensed polysomnographic technologist **OR LICENSED POLYSOMNOGRAPHIC TECHNICIAN** enters, or is considering entering, an alcohol or drug treatment program that is accredited by the Joint Commission on Accreditation of Healthcare Organizations or that is certified by the Department, the licensed polysomnographic technologist **OR LICENSED POLYSOMNOGRAPHIC TECHNICIAN** shall notify the hospital, related institution, alternative health system, or employer of the licensed polysomnographic technologist's **OR LICENSED POLYSOMNOGRAPHIC TECHNICIAN'S** decision to enter the treatment program.~~

~~(2) If the licensed polysomnographic technologist **OR LICENSED POLYSOMNOGRAPHIC TECHNICIAN** fails to provide the notice required under~~

~~paragraph (1) of this subsection, and the hospital, related institution, alternative health system, or employer learns that the licensed polysomnographic technologist **OR LICENSED POLYSOMNOGRAPHIC TECHNICIAN** has entered a treatment program, the hospital, related institution, alternative health system, or employer shall report to the Board that the licensed polysomnographic technologist **OR LICENSED POLYSOMNOGRAPHIC TECHNICIAN** has entered a treatment program and has failed to provide the required notice.~~

~~(3) If the licensed polysomnographic technologist **OR LICENSED POLYSOMNOGRAPHIC TECHNICIAN** is found to be noncompliant with the treatment program's policies and procedures while in the treatment program, the treatment program shall notify the hospital, related institution, alternative health system, or employer of the licensed polysomnographic technologist's **OR LICENSED POLYSOMNOGRAPHIC TECHNICIAN'S** noncompliance.~~

~~(4) On receipt of the notification required under paragraph (3) of this subsection, the hospital, related institution, alternative health system, or employer of the licensed polysomnographic technologist **OR LICENSED POLYSOMNOGRAPHIC TECHNICIAN** shall report the licensed polysomnographic technologist's **OR LICENSED POLYSOMNOGRAPHIC TECHNICIAN'S** noncompliance to the Board.~~

~~(d) A person is not required under this section to make any report that would be in violation of any federal or state law, rule, or regulation concerning the confidentiality of alcohol and drug abuse patient records.~~

~~(e) The hospital, related institution, alternative health system, or employer shall submit the report within 10 days of any action described in this section.~~

~~(f) A report made under this section is not subject to subpoena or discovery in any civil action other than a proceeding arising out of a hearing and decision of the Board under this title.~~

~~(g) (1) The Board may impose a civil penalty of up to $1,000 for failure to report under this section.~~

~~(2) The Board shall remit any penalty collected under this subsection into the General Fund of the State.~~

14–5C–08.

(a) Except as otherwise provided in this subtitle, on or after October 1, **[**2011**] 2013**, an individual shall be licensed by the Board before the individual may practice polysomnography in this State.

(b) This section does not apply to a student enrolled in an education program under § 14–5C–09(c)(3) of this subtitle while practicing polysomnography in that program.

14–5C–10.

(a) The Board shall waive the education requirement under § 14–5C–09(c)(3) of this subtitle if on or before September 30, **[**2011**] 2013**, an individual:

(1) Has passed the national certifying examination by the Board of Registered Polysomnographic Technologists;

(2) Is certified by the Board of Registered Polysomnographic Technologists as a registered polysomnographic technologist;

(3) Has submitted an application for licensure to the Board; and

(4) Meets all of the requirements under § 14–5C–09(b) and (c)(1) and (2) of this subtitle.

(b) (1) If an individual has not satisfied the requirements under subsection (a) of this section on or before September 30, **[**2011**] 2013**, the individual may petition the Board for an extension.

(2) The Board shall determine whether to grant an extension under this subsection on a case–by–case basis.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 269

(Senate Bill 658)

AN ACT concerning

~~**Real Estate Appraisal Management Companies – Registration and Regulation**~~

State Commission of Real Estate Appraisers and Home Inspectors – Special Fund and Registration and Regulation of Real Estate Appraisal Management Companies

FOR the purpose of requiring certain persons to register as appraisal management companies with the State Commission of Real Estate Appraisers and Home Inspectors; requiring an appraisal management company's registration to include certain information in a certain form; establishing that a registration is valid for a certain period of time; requiring the Commission to collect a certain national registry fee from appraisal management companies; requiring a person applying for registration to complete a certain consent to service of process; requiring the Commission to set certain fees by regulation; requiring the Commission to publish a certain fee schedule; requiring the Commission to pay certain fees to the Comptroller; requiring the Comptroller to distribute certain fees to a certain fund; prohibiting a person applying for registration from being owned by certain persons; requiring the owner of an appraisal management company to meet certain requirements; requiring a certain individual to serve as a main contact for communication between the Commission and an appraisal management company; prohibiting an appraisal management company from engaging in certain activities relating to employees; requiring an appraisal management company to verify that an appraiser is a competent appraiser before assigning certain work; requiring certain individuals that perform an appraisal review to hold a certain license or certificate; prohibiting an appraisal management company from entering into certain agreements with an appraiser in conjunction with federally related transactions unless the company verifies certain qualifications; requiring a person applying for registration to make a certain certification concerning its record keeping; requiring an appraisal management company to retain certain records for a certain period of time; prohibiting an appraisal management company from handling certain fees and certain compensation in a certain manner; requiring an appraisal management company to ensure that appraisals are conducted in a certain manner; prohibiting an individual working on behalf of an appraisal management company from engaging in certain activities; requiring an appraisal management company to inform the Commission when the company has a reasonable basis to believe that an appraiser is behaving in a certain manner; designating certain conduct as unprofessional; requiring an appraisal management company to pay an appraiser for certain work within a certain period of time under certain circumstances; prohibiting an appraisal management company from changing a completed appraisal report in a certain manner; establishing guidelines for the use of an appraiser's digital signature or seal; requiring the Commission to issue certain registration numbers; requiring the Commission to publish an annual list of appraisal management companies; requiring an appraisal management company to disclose certain registration information in a certain manner; prohibiting an appraisal management company from taking certain actions relative to an appraiser under certain circumstances without providing certain notice and opportunity to respond; authorizing an appraiser that is removed from an appraisal panel for certain reasons to file a certain complaint with the Commission for certain review; requiring the Commission to adjudicate a complaint within a certain period of time; establishing certain grounds for denying a registration or reprimanding, suspending, or revoking the registration of an appraisal management company;

establishing certain penalties; altering provisions relating to commencement of Commission proceedings and hearings; authorizing the Commission to adopt certain regulations; altering the membership of the State Commission of Real Estate Appraisers and Home Inspectors; establishing an appraisal management company hearing board; *requiring the referral of certain matters to the appraisal management company hearing board;* requiring that a certain evaluation of the law and regulations concerning the registration and regulation of real estate appraisal management companies be performed on or before a certain date; establishing the ~~Appraisal Management Company~~ State Commission of Real Estate Appraisers and Home Inspectors Fund as a special, nonlapsing fund in the Department of Labor, Licensing, and Regulation; requiring that the Fund be used for certain purposes; providing for an audit of the Fund; requiring the Secretary of Labor, Licensing, and Regulation, or a designee of the Secretary, to administer the Fund; requiring the Secretary, in consultation with the Commission, to calculate annually certain costs; ~~requiring~~ authorizing the Commission to set certain fees, based on certain calculations, beginning on a certain date; prohibiting certain fees from increasing more than a certain amount each year; requiring the Commission to publish a certain fee schedule; repealing a provision of law requiring the Commission to pay certain money into the General Fund of the State; requiring the Commission to pay certain fees to the Comptroller beginning on a certain date; requiring the Comptroller to distribute certain fees to the Fund; requiring any unspent *and unencumbered* portion of the Fund in excess of a certain amount to revert to the General Fund at the end of each fiscal year; crediting certain earnings to the General Fund; altering, establishing, and specifying the use of certain fees; requiring that certain fees in effect on a certain date shall remain in full force and effect until certain other fees are adopted and made effective; requiring certain fees to approximate the cost of regulating certain professions; defining certain terms; and generally relating to the registration and regulation of real estate appraisal management companies and the State Commission of Real Estate Appraisers and Home Inspectors.

BY adding to
Article – Business Occupations and Professions
Section 16–210.2 and 16–217; 16–5B–01 through ~~16–5B–19~~ *16–5B–18* to be under the new subtitle "Subtitle 5B. Real Estate Appraisal Management Companies"; and 16–701.2
Annotated Code of Maryland
(2010 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section ~~16–601~~ 16–202, *16–211(a)*, 16–303(a)(2), 16–308(c)(2), 16–310(3), 16–3A–03, 16–3A–05(2), 16–3A–07(c)(2), 16–3A–08(a)(3), 16–505(2), 16–510(c)(2), 16–512(3), 16–5A–01(b)(5), 16–5A–04(b)(1)(ii), 16–601, and 16–602
Annotated Code of Maryland

(2010 Replacement Volume)

BY repealing
Article – Business Occupations and Professions
Section 16–217
Annotated Code of Maryland
(2010 Replacement Volume)

BY adding to
Article – Business Regulation
Section 2–106.7 and 2–106.8
Annotated Code of Maryland
(2010 Replacement Volume and 2010 Supplement)

~~BY repealing and reenacting, with amendments,~~
~~Article – State Government~~
~~Section 8–403(b)~~
~~Annotated Code of Maryland~~
~~(2009 Replacement Volume and 2010 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

16–202.

(a) (1) The Commission consists of 15 members.

(2) Of the 15 members of the Commission:

(i) at least 2 shall be certified general real estate appraisers;

(ii) 2 shall be certified general real estate appraisers, certified residential real estate appraisers, or licensed real estate appraisers;

(iii) 2 shall be representatives of a financial institution who are not certified or licensed real estate appraisers or home inspectors;

(iv) 1 shall be a licensed home inspector who is a member of the American Society of Home Inspectors (ASHI);

(v) 1 shall be a licensed home inspector who is a member of the National Association of Home Inspectors;

(vi) 2 shall be licensed home inspectors without regard to affiliation with or membership in any society or association; **[**and**]**

(vii) **[5]** **4** shall be consumer members**; AND**

(VIII) 1 SHALL BE A REPRESENTATIVE OF AN APPRAISAL MANAGEMENT COMPANY REGISTERED UNDER SUBTITLE 5B OF THIS TITLE.

(3) The Governor shall:

(i) appoint the members with the advice of the Secretary and with the advice and consent of the Senate; and

(ii) consider demographic and geographic diversity when making appointments to the Commission.

(b) Each member of the Commission shall be a citizen of the State.

(c) (1) Each consumer member of the Commission:

(i) shall be a member of the general public;

(ii) may not be a licensee, holder of a certificate, or otherwise be subject to regulation by the Commission;

(iii) may not be required to meet the qualifications for the professional members of the Commission; and

(iv) may not, within 1 year before appointment, have had a financial interest in or have received compensation from a person regulated by the Commission.

(2) While a member of the Commission, a consumer member may not:

(i) have a financial interest in or receive compensation from a person regulated by the Commission; or

(ii) grade any examination given by or for the Commission.

(d) Before taking office, each appointee to the Commission shall take the oath required by Article I, § 9 of the Maryland Constitution.

(e) (1) The term of a member is 3 years.

(2) The terms of members are staggered as required by the terms provided for members of the Commission on January 1, 1991.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(5) A member may not serve for more than 2 consecutive 3–year terms.

(f) The Governor may remove a member for incompetence or misconduct.

16–210.2.

(A) THE COMMISSION SHALL ESTABLISH AN APPRAISAL MANAGEMENT COMPANY HEARING BOARD.

(B) (1) THE HEARING BOARD CONSISTS OF THREE MEMBERS OF THE COMMISSION, APPOINTED BY THE COMMISSION.

(2) OF THE THREE POSITIONS ON THE APPRAISAL MANAGEMENT COMPANY HEARING BOARD:

(I) ONE SHALL BE A REPRESENTATIVE OF A FINANCIAL INSTITUTION;

(II) ONE SHALL BE A CONSUMER MEMBER; AND

(III) ONE SHALL BE A REPRESENTATIVE OF AN APPRAISAL MANAGEMENT COMPANY.

(C) FROM AMONG THE MEMBERS OF THE HEARING BOARD, THE COMMISSION SHALL DESIGNATE A CHAIR.

16–211.

(a) The Commission shall refer to the Hearing Board for a hearing any matter for which a hearing may be required under § 16–701, ***[****or****]*** *§ 16–701.1,* ***OR § 16–701.2*** *of this title.*

[16–217.

Except as otherwise provided by law, the Commission shall pay all money collected under this title into the General Fund of the State.**]**

16–217.

(A) (1) BEGINNING ON JULY 1, 2011, THE COMMISSION MAY SET BY REGULATION REASONABLE FEES FOR ITS SERVICES.

(2) THE FEES CHARGED SHALL BE:

(I) SET SO AS TO PRODUCE FUNDS TO APPROXIMATE THE COST OF MAINTAINING THE COMMISSION; AND

(II) BASED ON THE CALCULATIONS PERFORMED BY THE SECRETARY OF LABOR, LICENSING, AND REGULATION UNDER § 2–106.8 OF THE BUSINESS REGULATION ARTICLE.

(B) THE COMMISSION SHALL PUBLISH THE FEE SCHEDULE SET BY THE COMMISSION.

(C) (1) BEGINNING ON JULY 1, 2011, THE COMMISSION SHALL PAY ALL FEES COLLECTED UNDER THIS TITLE TO THE COMPTROLLER.

(2) THE COMPTROLLER SHALL DISTRIBUTE THE FEES TO THE STATE COMMISSION OF REAL ESTATE APPRAISERS AND HOME INSPECTORS FUND ESTABLISHED IN § 2–106.7 OF THE BUSINESS REGULATION ARTICLE.

16–303.

(a) An applicant for a license shall:

(2) pay to the Commission **[**an application**]** **A** fee **[**of $75**]** **SET BY THE COMMISSION**.

16–308.

(c) Before a license expires, the licensee periodically may renew it for an additional 3–year term, if the licensee:

(2) pays to the Commission a renewal fee **[**of $125**]** **SET BY THE COMMISSION**; and

16–310.

The Commission shall reinstate the license of a real estate appraiser who has failed to renew the license, if the real estate appraiser:

(3) in addition to the renewal fee required under § 16–308 of this subtitle, pays to the Commission a reinstatement fee **[**of $25**]** **SET BY THE COMMISSION**.

16–3A–03.

[Effective July 1, 2002, an] **AN** applicant for a home inspector license shall:

(1) have completed a minimum of 72 hours of an on–site training course approved by a national home inspection organization and the Commission that at a minimum requires successful completion of the National Home Inspector Examination or its equivalent as determined by the Commission;

(2) have a high school diploma or its equivalent;

(3) have insurance as required under § 16–4A–04 of this title;

(4) submit to the Commission an application on the form that the Commission provides; and

(5) pay to the Commission an application fee [of $50] **SET BY THE COMMISSION**.

16–3A–05.

If an applicant qualifies for a home inspector license under this title, the Commission shall send the applicant a notice that states:

(2) the Commission will issue the home inspector license to an applicant upon receipt of a license fee [not to exceed $400] **SET BY THE COMMISSION**.

16–3A–07.

(c) Before a license expires, the licensee may renew it for an additional 2–year term, if the licensee:

(2) pays to the Commission a renewal fee [not to exceed $400] **SET BY THE COMMISSION**;

16–3A–08.

(a) The Commission shall reinstate the license of an individual who has failed to renew a license for any reason if the individual:

(3) in addition to the renewal fee required under § 16–3A–07 of this subtitle, pays to the Commission a reinstatement fee [of $50] **SET BY THE COMMISSION**.

16–505.

An applicant for a certificate shall:

(2) pay to the Commission an application fee **[**of $100**] SET BY THE COMMISSION**.

16–510.

(c) Not earlier than 120 days and not later than 30 days before a certificate expires, the certificate holder may renew it for an additional 3–year term, if the certificate holder:

(2) pays to the Commission a renewal fee **[**of $125**] SET BY THE COMMISSION**; and

16–512.

The Commission shall reinstate the certificate of a real estate appraiser who has failed to renew the certificate during the regular term of the certificate or the grace period, if the real estate appraiser:

(3) in addition to the renewal fee required under § 16–511 of this subtitle, pays to the Commission a reinstatement fee **[**of $25**] SET BY THE COMMISSION**.

16–5A–01.

(b) An applicant for a real estate appraiser trainee license shall:

(5) pay to the Commission an application fee **[**of $75**] SET BY THE COMMISSION**.

16–5A–04.

(b) (1) Before a real estate appraiser trainee license expires, the licensee may renew the license for one additional 3–year term if the licensee:

(ii) pays to the Commission a renewal fee **[**of $75**] SET BY THE COMMISSION**; and

SUBTITLE 5B. REAL ESTATE APPRAISAL MANAGEMENT COMPANIES.

16–5B–01.

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

(B) "APPRAISAL MANAGEMENT COMPANY" MEANS A THIRD PARTY AUTHORIZED BY A CREDITOR OF A CONSUMER CREDIT TRANSACTION SECURED BY A CONSUMER'S PRINCIPAL DWELLING, OR BY AN UNDERWRITER OF OR OTHER PRINCIPAL IN THE SECONDARY MORTGAGE MARKETS, THAT DIRECTLY OR INDIRECTLY PROVIDES APPRAISAL MANAGEMENT SERVICES IN CONNECTION WITH VALUING PROPERTIES COLLATERALIZING MORTGAGE LOANS OR MORTGAGES INCORPORATED IN A SECURITIZATION.

(C) "APPRAISER" MEANS A LICENSED REAL ESTATE APPRAISER OR A CERTIFIED REAL ESTATE APPRAISER.

(D) "APPRAISER PANEL" MEANS A NETWORK OF LICENSED OR CERTIFIED APPRAISERS WHO ARE INDEPENDENT CONTRACTORS TO THE APPRAISAL MANAGEMENT COMPANY.

(E) (1) "APPRAISAL REVIEW" MEANS THE ACT OF DEVELOPING AND COMMUNICATING AN OPINION ABOUT THE QUALITY OF ANOTHER APPRAISER'S WORK THAT WAS PERFORMED AS PART OF AN APPRAISER ASSIGNMENT.

(2) "APPRAISAL REVIEW" DOES NOT INCLUDE AN EXAMINATION OF AN APPRAISAL FOR GRAMMATICAL, TYPOGRAPHICAL, OR OTHER SIMILAR ERRORS THAT DO NOT MAKE A SUBSTANTIVE VALUATION CHANGE.

(F) "COMPETENT APPRAISER" MEANS AN APPRAISER THAT SATISFIES EACH PROVISION OF THE COMPETENCY RULE OF THE UNIFORM STANDARDS OF PROFESSIONAL PRACTICE FOR A SPECIFIC APPRAISAL ASSIGNMENT THAT THE APPRAISER HAS RECEIVED, OR MAY RECEIVE, FROM AN APPRAISAL MANAGEMENT COMPANY.

(G) "CONTROLLING PERSON" MEANS:

(1) AN OWNER, OFFICER, OR DIRECTOR OF AN APPRAISAL MANAGEMENT COMPANY;

(2) AN INDIVIDUAL EMPLOYED, APPOINTED, OR AUTHORIZED BY AN APPRAISAL MANAGEMENT COMPANY THAT HAS THE AUTHORITY TO ENTER INTO:

(I) A CONTRACTUAL RELATIONSHIP WITH OTHER PERSONS FOR THE PERFORMANCE OF APPRAISAL MANAGEMENT SERVICES; AND

(II) AGREEMENTS WITH APPRAISERS FOR THE PERFORMANCE OF APPRAISALS; OR

(3) AN INDIVIDUAL WHO POSSESSES THE POWER TO DIRECT OR CAUSE THE DIRECTION OF THE MANAGEMENT OR POLICIES OF AN APPRAISAL MANAGEMENT COMPANY.

(H) "PROVIDE APPRAISAL MANAGEMENT SERVICES" MEANS TO, DIRECTLY OR INDIRECTLY, ON BEHALF OF A LENDER, FINANCIAL INSTITUTION, CLIENT, OR OTHER PERSON IN CONJUNCTION WITH A CONSUMER CREDIT TRANSACTION THAT IS SECURED BY A CONSUMER'S PRIMARY DWELLING:

(1) ADMINISTER AN APPRAISAL PANEL;

(2) RECRUIT, RETAIN, OR SELECT APPRAISERS;

(3) VERIFY LICENSING OR CERTIFICATION, NEGOTIATE FEES AND SERVICE LEVEL EXPECTATIONS, AND REVIEW THE QUALIFICATIONS OF PERSONS WHO ARE PART OF, OR WHO WISH TO BECOME PART OF, AN APPRAISER PANEL;

(4) CONTRACT WITH APPRAISERS TO PERFORM APPRAISAL ASSIGNMENTS;

(5) RECEIVE AN ORDER FOR AN APPRAISAL FROM ONE PERSON, AND DELIVER THE ORDER FOR THE APPRAISAL TO AN APPRAISER THAT IS PART OF AN APPRAISER PANEL FOR COMPLETION;

(6) MANAGE THE PROCESS OF HAVING AN APPRAISAL PERFORMED, INCLUDING THE FOLLOWING ADMINISTRATIVE DUTIES:

(I) RECEIVING APPRAISAL ORDERS AND REPORTS;

(II) SUBMITTING COMPLETED APPRAISAL REPORTS TO CREDITORS AND UNDERWRITERS;

(III) COLLECTING FEES FROM CREDITORS AND UNDERWRITERS FOR SERVICES PROVIDED; AND

(IV) REIMBURSING APPRAISERS FOR SERVICES PERFORMED;

(7) TRACK AND DETERMINE THE STATUS OF ORDERS FOR APPRAISALS;

(8) CONDUCT QUALITY CONTROL OF A COMPLETED APPRAISAL PRIOR TO THE DELIVERY OF THE APPRAISAL TO THE PERSON THAT ORDERED THE APPRAISAL; OR

(9) PROVIDE A COMPLETED APPRAISAL PERFORMED BY AN APPRAISER TO A CLIENT.

16–5B–02.

THIS SUBTITLE DOES NOT APPLY TO:

(1) A PERSON THAT EXCLUSIVELY EMPLOYS APPRAISERS ON AN EMPLOYER–EMPLOYEE BASIS FOR THE PERFORMANCE OF APPRAISALS; OR

(2) AN ENTITY THAT IS A SUBSIDIARY OWNED AND CONTROLLED BY A FINANCIAL INSTITUTION AND REGULATED BY A FEDERAL FINANCIAL INSTITUTION REGULATORY AGENCY.

16–5B–03.

(A) A PERSON SHALL REGISTER WITH THE COMMISSION BEFORE THE PERSON:

(1) ENGAGES OR ATTEMPTS TO ENGAGE IN BUSINESS AS AN APPRAISAL MANAGEMENT COMPANY;

(2) PROVIDES OR ATTEMPTS TO PROVIDE APPRAISAL MANAGEMENT SERVICES; OR

(3) ADVERTISES OR REPRESENTS THE PERSON TO BE AN APPRAISAL MANAGEMENT COMPANY.

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

(1) THE NAME OF THE PERSON SEEKING REGISTRATION;

(2) THE BUSINESS ADDRESS OF THE PERSON SEEKING REGISTRATION;

(3) THE PHONE CONTACT INFORMATION OF THE PERSON SEEKING REGISTRATION;

(4) IF THE PERSON SEEKING REGISTRATION IS NOT A CORPORATION THAT IS DOMICILED IN THE STATE, THE NAME AND CONTACT INFORMATION FOR THE COMPANY'S AGENT FOR SERVICE OF PROCESS IN THIS STATE;

(5) THE NAME, ADDRESS, AND CONTACT INFORMATION OF ANY INDIVIDUAL OR ANY CORPORATION, PARTNERSHIP, OR OTHER BUSINESS ENTITY THAT OWNS 10% OR MORE OF THE PERSON SEEKING REGISTRATION;

(6) A CERTIFICATION THAT THE PERSON SEEKING REGISTRATION WILL VERIFY THAT A PERSON BEING ADDED TO THE APPRAISER PANEL OF THE APPRAISAL MANAGEMENT COMPANY HOLDS ~~A~~ AN APPROPRIATE LICENSE OR CERTIFICATION IN GOOD STANDING IN THE STATE UNDER THIS SUBTITLE FOR THE PURPOSE OF PERFORMING REAL ESTATE APPRAISALS;

(7) A CERTIFICATION THAT THE PERSON SEEKING REGISTRATION REQUIRES APPRAISERS COMPLETING APPRAISALS AT ITS REQUEST TO COMPLY WITH THE UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE, INCLUDING THE REQUIREMENTS FOR GEOGRAPHIC AND PRODUCT COMPETENCE;

(8) A CERTIFICATION THAT THE PERSON SEEKING REGISTRATION WILL REQUIRE APPRAISALS TO BE CONDUCTED INDEPENDENTLY AS REQUIRED BY THE APPRAISAL INDEPENDENCE STANDARDS UNDER SECTION 129E OF THE TRUTH IN LENDING ACT, INCLUDING THE REQUIREMENTS OF PAYMENT OF A REASONABLE AND CUSTOMARY FEE TO APPRAISERS WHEN THE APPRAISAL MANAGEMENT COMPANY IS PROVIDING SERVICES FOR A CONSUMER CREDIT TRANSACTION SECURED BY THE PRINCIPAL DWELLING OF A CONSUMER;

(9) A CERTIFICATION THAT THE PERSON SEEKING REGISTRATION MAINTAINS A DETAILED RECORD OF EACH SERVICE REQUEST THAT IT RECEIVES AND THE APPRAISER THAT PERFORMS THE RESIDENTIAL REAL ESTATE APPRAISAL SERVICES FOR THE PERSON UNDER § 16–5B–09 OF THIS SUBTITLE;

(10) AN IRREVOCABLE UNIFORM CONSENT TO SERVICE OF PROCESS IN ACCORDANCE WITH § 16–5B–04(C) OF THIS SUBTITLE; AND

(11) ANY OTHER INFORMATION THAT THE COMMISSION REASONABLY REQUIRES TO IMPLEMENT THIS SUBTITLE.

(C) IF THE REGISTRATION PROCESS REQUIRED UNDER SUBSECTION (A) OF THIS SECTION HAS NOT BEEN ESTABLISHED AS OF THE EFFECTIVE DATE OF THIS SUBTITLE, AN APPRAISAL MANAGEMENT COMPANY MAY, WITHOUT BEING REGISTERED UNDER THIS SUBTITLE, CONTINUE TO PROVIDE APPRAISAL

MANAGEMENT SERVICES IN ACCORDANCE WITH THIS SUBTITLE FOR 120 DAYS AFTER A REGISTRATION PROCESS BECOMES AVAILABLE.

(D) AN APPRAISAL MANAGEMENT COMPANY THAT HAS SUBMITTED A COMPLETE APPLICATION FOR REGISTRATION UNDER SUBSECTION (B) OF THIS SECTION MAY CONTINUE TO PROVIDE APPRAISAL MANAGEMENT SERVICES IN ACCORDANCE WITH THIS SUBTITLE UNTIL THE COMMISSION MAKES A FINAL DECISION TO APPROVE OR DENY THE COMPANY'S APPLICATION FOR REGISTRATION UNDER THIS SUBTITLE.

16–5B–04.

(A) AN APPLICANT FOR REGISTRATION AS AN APPRAISAL MANAGEMENT COMPANY SHALL SUBMIT TO THE COMMISSION AN APPLICATION ON A FORM REQUIRED BY THE COMMISSION.

(B) A REGISTRATION ISSUED UNDER THIS SUBTITLE IS VALID FOR 1 YEAR.

(C) A PERSON APPLYING FOR REGISTRATION AS AN APPRAISAL MANAGEMENT COMPANY SHALL COMPLETE AN IRREVOCABLE UNIFORM CONSENT TO SERVICE OF PROCESS, AS REQUIRED BY THE COMMISSION.

~~(D) THE COMMISSION SHALL COLLECT FROM EACH APPRAISAL MANAGEMENT COMPANY THE AMOUNT DETERMINED BY THE APPRAISAL SUBCOMMITTEE TO BE A NATIONAL REGISTRY FEE FOR EACH APPRAISER ON THE APPRAISER PANEL OF AN APPRAISAL MANAGEMENT COMPANY UNDER SECTION 1109(A)(4) OF THE FEDERAL FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989, AS AMENDED BY THE DODD–FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT OF 2010.~~

~~(E)~~ ~~(1)~~ (D) THE COMMISSION MAY SET BY REGULATION REASONABLE FEES FOR REGISTERING APPRAISAL MANAGEMENT COMPANIES UNDER THIS SUBTITLE.

~~(2) THE FEES SHALL BE:~~

~~(I) SET SO AS TO PRODUCE FUNDS TO APPROXIMATE THE COST OF ADMINISTERING THIS SUBTITLE; AND~~

~~(II) BASED ON CALCULATIONS PERFORMED BY THE SECRETARY OF LABOR, LICENSING, AND REGULATION UNDER § 2–106.8 OF THE BUSINESS REGULATION ARTICLE.~~

~~(3) THE COMMISSION SHALL PUBLISH THE FEE SCHEDULE SET BY THE COMMISSION UNDER THIS SECTION.~~

~~(4) (I) THE COMMISSION SHALL PAY ALL FEES COLLECTED UNDER THIS SUBTITLE TO THE COMPTROLLER.~~

~~(II) THE COMPTROLLER SHALL DISTRIBUTE THE FEES TO THE APPRAISAL MANAGEMENT COMPANY FUND ESTABLISHED IN § 2–106.7 OF THE BUSINESS REGULATION ARTICLE.~~

16–5B–05.

(A) A PERSON APPLYING FOR REGISTRATION AS AN APPRAISAL MANAGEMENT COMPANY MAY NOT BE OWNED IN WHOLE OR IN PART, DIRECTLY OR INDIRECTLY, BY:

(1) A PERSON WHO HAS HAD A LICENSE OR CERTIFICATE TO ACT AS AN APPRAISER REFUSED, DENIED, CANCELED, REVOKED, OR SURRENDERED IN ANY STATE; OR

(2) ANOTHER ENTITY THAT IS OWNED BY A PERSON WHO HAS HAD A LICENSE OR CERTIFICATE TO ACT AS AN APPRAISER REFUSED, DENIED, CANCELED, REVOKED, OR SURRENDERED IN ANY STATE.

(B) THE OWNER OF AN APPRAISAL MANAGEMENT COMPANY SHALL:

(1) BE OF GOOD ~~MORAL CHARACTER~~ CHARACTER AND REPUTATION, AS DETERMINED BY THE COMMISSION; AND

(2) SUBMIT TO A BACKGROUND INVESTIGATION, AS DETERMINED BY THE COMMISSION.

(C) A PERSON APPLYING FOR REGISTRATION AS AN APPRAISAL MANAGEMENT COMPANY SHALL CERTIFY TO THE COMMISSION THAT IT HAS REVIEWED EACH ENTITY THAT OWNS THE PERSON AND THAT NO OTHER ENTITY THAT OWNS THE PERSON IS DIRECTLY OWNED BY A PERSON THAT HAS HAD A LICENSE OR CERTIFICATE TO ACT AS AN APPRAISER REFUSED, DENIED, CANCELED, REVOKED, OR SURRENDERED IN ANY STATE.

16–5B–06.

(A) A PERSON APPLYING FOR REGISTRATION AS AN APPRAISAL MANAGEMENT COMPANY SHALL DESIGNATE AN INDIVIDUAL TO SERVE AS A

CONTROLLING PERSON THAT WILL BE THE MAIN CONTACT FOR ALL COMMUNICATION BETWEEN THE COMMISSION AND THE APPRAISAL MANAGEMENT COMPANY.

(B) THE CONTROLLING PERSON DESIGNATED UNDER SUBSECTION (A) OF THIS SECTION SHALL:

(1) HAVE NEVER HAD A LICENSE OR CERTIFICATE TO ACT AS AN APPRAISER REFUSED, DENIED, CANCELED, REVOKED, OR SURRENDERED IN ANY STATE, UNLESS THE LICENSE OR CERTIFICATE WAS SUBSEQUENTLY GRANTED OR REINSTATED;

(2) BE OF GOOD ~~MORAL CHARACTER~~ CHARACTER AND REPUTATION, AS DETERMINED BY THE COMMISSION; AND

(3) SUBMIT TO A BACKGROUND INVESTIGATION, AS DETERMINED BY THE COMMISSION.

16–5B–07.

AN APPRAISAL MANAGEMENT COMPANY MAY NOT:

(1) KNOWINGLY EMPLOY A PERSON IN A POSITION IN WHICH THE PERSON HAS THE RESPONSIBILITY TO ORDER APPRAISALS OR TO REVIEW COMPLETED APPRAISALS WHO HAS HAD A LICENSE OR CERTIFICATE TO ACT AS AN APPRAISER REFUSED, DENIED, CANCELED, REVOKED, OR SURRENDERED IN ANY STATE, UNLESS THE LICENSE OR CERTIFICATE WAS SUBSEQUENTLY GRANTED OR REINSTATED;

(2) KNOWINGLY ENTER INTO AN INDEPENDENT CONTRACTOR ARRANGEMENT FOR REAL ESTATE APPRAISAL SERVICES WITH A PERSON WHO HAS HAD A LICENSE OR CERTIFICATE TO ACT AS AN APPRAISER REFUSED, DENIED, CANCELED, REVOKED, OR SURRENDERED IN ANY STATE, UNLESS THE LICENSE OR CERTIFICATE WAS SUBSEQUENTLY GRANTED OR REINSTATED; OR

(3) KNOWINGLY ENTER INTO A CONTRACT, AN AGREEMENT, OR ANY OTHER BUSINESS RELATIONSHIP, FOR THE PURPOSE OF OBTAINING REAL ESTATE APPRAISAL SERVICES, WITH AN ENTITY THAT EMPLOYS, HAS ENTERED INTO AN INDEPENDENT CONTRACT ARRANGEMENT WITH, OR HAS ENTERED INTO A CONTRACT, AN AGREEMENT, OR ANY OTHER BUSINESS RELATIONSHIP WITH A PERSON WHO HAS EVER HAD A LICENSE OR CERTIFICATE TO ACT AS AN APPRAISER REFUSED, DENIED, CANCELED, REVOKED, OR SURRENDERED IN ANY STATE, UNLESS THE LICENSE OR CERTIFICATE WAS SUBSEQUENTLY GRANTED OR REINSTATED.

16–5B–08.

(A) ~~BEFORE PLACING AN ASSIGNMENT WITH AN APPRAISER ON THE APPRAISER PANEL OF AN APPRAISAL MANAGEMENT COMPANY, THE~~ AN APPRAISAL MANAGEMENT COMPANY SHALL ~~VERIFY~~ REQUIRE THAT AN APPRAISER CONFIRM IN WRITING OR VIA ELECTRONIC MEANS THAT ~~THE~~ AN APPRAISER RECEIVING THE ASSIGNMENT IS A COMPETENT APPRAISER FOR THE PERFORMANCE OF THE APPRAISAL BEING ASSIGNED.

(B) AN APPRAISAL MANAGEMENT COMPANY THAT HAS COMPLIED WITH SUBSECTION (A) OF THIS SECTION IN RELATION TO AN ASSIGNMENT MAY NOT BE HELD LIABLE FOR A VIOLATION OF THIS SUBTITLE IN RELATION TO THAT ASSIGNMENT IF THE COMMISSION SUBSEQUENTLY DETERMINES THAT THE APPRAISER COMPLETING THE ASSIGNMENT VIOLATED THE COMPETENCY RULE OF THE UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE.

~~(B)~~ (C) AN EMPLOYEE OF OR INDEPENDENT CONTRACTOR TO THE APPRAISAL MANAGEMENT COMPANY THAT PERFORMS AN APPRAISAL REVIEW ON A PROPERTY LOCATED IN THE STATE SHALL BE AN APPRAISER LICENSED OR CERTIFIED IN THE ~~STATE IN WHICH THE PROPERTY THAT IS THE SUBJECT OF THE APPRAISAL IS LOCATED~~ STATE.

~~(C)~~ (D) AN APPRAISAL MANAGEMENT COMPANY MAY NOT ENTER INTO ANY AGREEMENTS WITH AN APPRAISER FOR THE PERFORMANCE OF APPRAISALS IN CONJUNCTION WITH FEDERALLY RELATED TRANSACTIONS UNLESS IT VERIFIES THAT THE APPRAISER IS LICENSED OR CERTIFIED TO PERFORM THE APPRAISAL UNDER THIS SUBTITLE.

16–5B–09.

(A) A PERSON APPLYING FOR REGISTRATION AS AN APPRAISAL MANAGEMENT COMPANY SHALL CERTIFY TO THE COMMISSION ON AN ANNUAL BASIS THAT IT WILL MAINTAIN A DETAILED RECORD OF:

(1) EACH SERVICE REQUEST THAT IT RECEIVES; AND

(2) EACH APPRAISER THAT PERFORMS THE APPRAISAL FOR THE APPRAISAL MANAGEMENT COMPANY.

(B) AN APPRAISAL MANAGEMENT COMPANY SHALL RETAIN THE RECORDS REQUIRED UNDER SUBSECTION (A) OF THIS SECTION FOR 5 YEARS AFTER AN APPRAISAL IS COMPLETED, OR 2 YEARS AFTER FINAL DISPOSITION OF

A JUDICIAL PROCEEDING RELATED TO THE ASSIGNMENT, WHICHEVER PERIOD EXPIRES LATER.

16–5B–10.

(A) AN APPRAISAL MANAGEMENT COMPANY MAY NOT:

(1) ~~KNOWINGLY FAIL TO COMPENSATE AN APPRAISER AT A RATE THAT IS REASONABLE AND CUSTOMARY FOR APPRAISALS BEING PERFORMED WITHOUT THE SERVICES OF AN APPRAISAL MANAGEMENT COMPANY IN THE MARKET AREA OF THE PROPERTY BEING APPRAISED;~~

~~(2) KNOWINGLY INCLUDE ANY FEES FOR PROVIDING APPRAISAL MANAGEMENT SERVICES IN THE AMOUNT THAT IT CHARGES A LENDER, CLIENT, OR OTHER PERSON FOR THE COMPLETION OF AN APPRAISAL BY AN APPRAISER THAT IS PART OF THE APPRAISER PANEL OF THE APPRAISAL MANAGEMENT COMPANY;~~

~~(3)~~ KNOWINGLY FAIL TO SEPARATE AND DISCLOSE ANY FEES CHARGED TO A CLIENT BY THE APPRAISAL MANAGEMENT COMPANY FOR THE COMPLETION OF AN APPRAISAL BY AN APPRAISER FROM THE FEES CHARGED TO A LENDER, CLIENT, OR ANY OTHER PERSON BY AN APPRAISAL MANAGEMENT COMPANY FOR PROVIDING APPRAISAL MANAGEMENT SERVICES; OR

~~(4)~~ (2) KNOWINGLY PROHIBIT AN APPRAISER FROM RECORDING THE FEE THAT THE APPRAISER WAS PAID BY THE APPRAISAL MANAGEMENT COMPANY FOR ~~THE PERFORMANCE OF THE APPRAISAL~~ THE PROVISION OF REAL ESTATE SERVICES WITHIN THE APPRAISAL REPORT THAT IS SUBMITTED BY THE APPRAISER TO THE APPRAISAL MANAGEMENT COMPANY~~; OR~~

~~(5) KNOWINGLY FAIL TO SEPARATELY STATE THE FEES PAID TO AN APPRAISER FOR APPRAISAL SERVICES AND THE FEES CHARGED BY THE APPRAISAL MANAGEMENT COMPANY FOR SERVICES ASSOCIATED WITH THE MANAGEMENT OF THE APPRAISAL PROCESS TO A CLIENT, BORROWER, OR OTHER PAYER~~.

(B) THE COMMISSION MAY NOT BRING DISCIPLINARY ACTION UNDER § 16–702.2 OF THIS TITLE OR RECOMMEND CRIMINAL SANCTIONS UNDER § 16–706 OF THIS TITLE BASED SOLELY ON SUBSECTION (A) OF THIS SECTION.

16–5B–11.

(A) (1) EACH APPRAISAL MANAGEMENT COMPANY SHALL ENSURE THAT ~~APPRAISALS ARE CONDUCTED~~ REAL ESTATE APPRAISAL SERVICES ARE

PROVIDED INDEPENDENTLY AND FREE FROM INAPPROPRIATE INFLUENCE AND COERCION UNDER THE APPRAISAL INDEPENDENCE STANDARDS ESTABLISHED UNDER SECTION 129E OF THE TRUTH IN LENDING ACT.

(2) (I) AN APPRAISAL MANAGEMENT COMPANY SHALL PAY AN APPRAISER REASONABLE AND CUSTOMARY FEES CONSISTENT WITH THE PRESUMPTIONS OF COMPLIANCE DEFINED UNDER FEDERAL LAW.

(II) THE COMMISSION MAY NOT BRING DISCIPLINARY ACTION UNDER § 16–702.2 OF THIS TITLE OR RECOMMEND CRIMINAL SANCTIONS UNDER § 16–706 OF THIS TITLE BASED SOLELY ON SUBPARAGRAPH (I) OF THIS PARAGRAPH.

(B) ~~NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, AN EMPLOYEE, A DIRECTOR, AN OFFICER, OR AN AGENT OF AN APPRAISAL MANAGEMENT COMPANY MAY NOT~~ AN EMPLOYEE, PARTNER, DIRECTOR, OFFICER, OR AGENT OF AN APPRAISAL MANAGEMENT COMPANY MAY NOT INFLUENCE OR ATTEMPT TO INFLUENCE THE DEVELOPMENT, REPORTING, RESULT, OR REVIEW OF AN APPRAISAL THROUGH COERCION, EXTORTION, COLLUSION, COMPENSATION, INDUCEMENT, INTIMIDATION, BRIBERY, OR ANY OTHER MEANS, INCLUDING:

(1) ~~COMPENSATE, COLLUDE, OR INFLUENCE, OR ATTEMPT~~ COMPENSATING, COLLUDING, OR INFLUENCING, OR ATTEMPTING TO COMPENSATE, COLLUDE, OR INFLUENCE A PERSON INVOLVED IN AN APPRAISAL FOR THE PURPOSE OF CAUSING THE APPRAISED VALUE ASSIGNED UNDER THE APPRAISAL TO THE PROPERTY TO BE BASED ON A FACTOR OTHER THAN THE INDEPENDENT JUDGMENT OF THE APPRAISER;

(2) ~~MISCHARACTERIZE, OR SUBORN~~ MISCHARACTERIZING, OR SUBORNING ANY MISCHARACTERIZATION OF, THE APPRAISED VALUE OF A PROPERTY IN CONJUNCTION WITH A CONSUMER CREDIT TRANSACTION;

(3) ~~SEEK~~ SEEKING TO INFLUENCE AN APPRAISER OR OTHERWISE ~~ENCOURAGE~~ ENCOURAGING A TARGETED VALUE IN ORDER TO FACILITATE THE MAKING OR PRICING OF A CONSUMER CREDIT TRANSACTION;

(4) ~~WITHHOLD OR THREATEN~~ WITHHOLDING OR THREATENING TO WITHHOLD TIMELY PAYMENT FOR AN APPRAISAL REPORT OR FOR ~~APPRAISAL SERVICES RENDERED~~ THE PROVISION OF REAL ESTATE APPRAISAL SERVICES WHEN THE APPRAISAL REPORT OR SERVICES ARE PROVIDED IN ACCORDANCE WITH A CONTRACT BETWEEN THE PARTIES;

(5) ~~WITHHOLD OR THREATEN~~ WITHHOLDING OR THREATENING TO WITHHOLD FUTURE BUSINESS FROM AN APPRAISER;

(6) ~~DEMOTE OR TERMINATE OR THREATEN~~ DEMOTING OR TERMINATING OR THREATENING TO DEMOTE OR TERMINATE AN APPRAISER;

(7) EXPRESSLY OR IMPLIEDLY ~~PROMISE~~ PROMISING FUTURE BUSINESS, PROMOTIONS, OR INCREASED COMPENSATION FOR AN APPRAISER;

(8) ~~REQUIRE~~ REQUIRING AN APPRAISER TO INDEMNIFY AN APPRAISAL MANAGEMENT COMPANY OR HOLD AN APPRAISAL MANAGEMENT COMPANY HARMLESS FOR ANY LIABILITY, DAMAGE, LOSSES, OR CLAIMS ARISING OUT OF THE SERVICES PROVIDED BY THE APPRAISAL MANAGEMENT COMPANY, AND NOT THE SERVICES PERFORMED BY THE APPRAISER;

(9) ~~CONDITION~~ CONDITIONING A REQUEST FOR AN APPRAISAL OR THE PAYMENT OF AN APPRAISAL FEE OR SALARY OR BONUS ON:

(I) AN OPINION, A CONCLUSION, OR A VALUATION TO BE REACHED; OR

(II) ~~ON~~ A PRELIMINARY ESTIMATE OR OPINION REQUESTED FROM AN APPRAISER;

(10) ~~REQUEST~~ REQUESTING THAT AN APPRAISER PROVIDE:

(I) AN ESTIMATED, PREDETERMINED, OR DESIRED VALUATION IN AN APPRAISAL REPORT; OR

(II) ESTIMATED VALUES OR COMPARABLE SALES AT ANY TIME BEFORE THE APPRAISER'S COMPLETION OF AN APPRAISAL;

(11) EXCEPT FOR A COPY OF THE SALES CONTRACT FOR PURCHASE TRANSACTIONS, ~~PROVIDE~~ PROVIDING TO AN APPRAISER AN ANTICIPATED, ESTIMATED, ENCOURAGED, OR DESIRED VALUE FOR A SUBJECT PROPERTY OR A PROPOSED OR TARGET AMOUNT TO BE LOANED TO THE BORROWER;

(12) ~~PROVIDE~~ PROVIDING TO AN APPRAISER, OR A PERSON RELATED TO THE APPRAISER, STOCK OR OTHER FINANCIAL OR NONFINANCIAL BENEFITS;

(13) ~~ALLOW~~ ALLOWING THE REMOVAL OF AN APPRAISER FROM AN APPRAISER PANEL WITHOUT PRIOR WRITTEN NOTICE TO THE APPRAISER;

(14) ~~OBTAIN, USE, OR PAY~~ OBTAINING, USING, OR PAYING FOR A SECOND OR SUBSEQUENT APPRAISAL, OR ~~ORDER~~ ORDERING AN AUTOMATED VALUATION MODEL, IN CONNECTION WITH A MORTGAGE FINANCING TRANSACTION UNLESS:

(I) THERE IS A REASONABLE BASIS TO BELIEVE THAT THE INITIAL APPRAISAL WAS FLAWED AND THE BASIS IS CLEARLY AND APPROPRIATELY NOTED IN THE LOAN FILE; ~~OR~~

(II) THE SUBSEQUENT APPRAISAL OR AUTOMATED VALUATION MODEL IS DONE UNDER A BONA FIDE PREFUNDING OR POSTFUNDING APPRAISAL REVIEW OR QUALITY CONTROL PROCESS;

(III) A SECOND APPRAISAL IS REQUIRED UNDER STATE OR FEDERAL LAW; OR

(IV) THE SECOND APPRAISAL OR AUTOMATED VALUATION MODEL IS ORDERED BY AN APPRAISAL MANAGEMENT COMPANY IN RESPONSE TO A REQUEST BY A CLIENT IN ORDER TO SATISFY CLIENT VALUATION POLICIES FOR THE PROPERTY BEING APPRAISED AND THE SECOND APPRAISAL OR AUTOMATED VALUATION MODEL IS ORDERED BY THE CLIENT PRIOR TO THE COMPLETION OF THE FIRST APPRAISAL; OR

(15) ANY OTHER ACT ~~THAT IMPAIRS OR ATTEMPTS~~ IMPAIRING OR ATTEMPTING TO IMPAIR AN APPRAISER'S INDEPENDENCE OR IMPARTIALITY.

(C) NOTHING IN SUBSECTION (A) OR (B) OF THIS SECTION MAY BE CONSTRUED TO PROHIBIT AN APPRAISAL MANAGEMENT COMPANY FROM ASKING AN APPRAISER TO:

(1) CONSIDER ADDITIONAL APPROPRIATE PROPERTY INFORMATION, INCLUDING THE CONSIDERATION OF ADDITIONAL COMPARABLE PROPERTIES TO MAKE OR SUPPORT AN APPRAISAL;

(2) PROVIDE FURTHER DETAIL, SUBSTANTIATION, OR EXPLANATION FOR AN APPRAISER'S VALUE CONCLUSION; OR

(3) CORRECT ERRORS IN AN APPRAISAL REPORT.

16–5B–12.

AN APPRAISAL MANAGEMENT COMPANY SHALL INFORM THE COMMISSION WHEN THE APPRAISAL MANAGEMENT COMPANY HAS A REASONABLE BASIS TO BELIEVE THAT:

(1) AN APPRAISER HAS:

~~(1)~~ (I) ~~IS FAILING~~ FAILED TO COMPLY WITH THE UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE;

~~(2)~~ (II) ~~IS VIOLATING~~ VIOLATED APPLICABLE LAWS; OR

~~(3)~~ (III) ~~IS ENGAGING~~ ENGAGED IN UNETHICAL OR UNPROFESSIONAL CONDUCT; AND

(2) THE APPRAISER'S CONDUCT UNDER ITEM (1) OF THIS SECTION IS LIKELY TO AFFECT THE VALUE ASSIGNED TO THE CONSUMER'S PRINCIPAL DWELLING.

16–5B–13.

AN APPRAISAL MANAGEMENT COMPANY COMMITS UNPROFESSIONAL CONDUCT IF THE APPRAISAL MANAGEMENT COMPANY:

(1) REQUIRES AN APPRAISER TO MODIFY AN ASPECT OF AN APPRAISAL REPORT AND THE MODIFICATION REQUESTED IS NOT RELATED TO SUBSTANDARD PERFORMANCE OR NONCOMPLIANCE WITH THE TERMS OF ENGAGEMENT;

(2) REQUIRES AN APPRAISER TO PREPARE AN APPRAISAL REPORT IF THE APPRAISER HAS NOTIFIED THE APPRAISAL MANAGEMENT COMPANY THAT, IN THE APPRAISER'S OWN PROFESSIONAL JUDGMENT, THE APPRAISER BELIEVES THE APPRAISER DOES NOT HAVE THE NECESSARY EXPERTISE FOR THE SPECIFIC GEOGRAPHIC AREA;

(3) REQUIRES AN APPRAISER TO PREPARE AN APPRAISAL REPORT UNDER A TIME FRAME THAT THE APPRAISER HAS NOTIFIED THE APPRAISAL MANAGEMENT COMPANY THAT, IN THE APPRAISER'S OWN PROFESSIONAL JUDGMENT, THE APPRAISER BELIEVES DOES NOT AFFORD THE APPRAISER THE ABILITY TO MEET ALL THE RELEVANT LEGAL AND PROFESSIONAL OBLIGATIONS;

(4) PROHIBITS OR INHIBITS COMMUNICATION BETWEEN AN APPRAISER AND A LENDER, A REAL ESTATE LICENSEE, OR ANY OTHER PERSON FROM WHOM THE APPRAISER, IN THE APPRAISER'S OWN PROFESSIONAL JUDGMENT, BELIEVES INFORMATION WOULD BE RELEVANT;

(5) REQUIRES THE APPRAISER TO DO ANYTHING THAT DOES NOT COMPLY WITH:

(I) THE UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE; OR

(II) ANY ASSIGNMENT CONDITIONS AND CERTIFICATIONS REQUIRED BY THE CLIENT; OR

(6) MAKES ANY PORTION OF THE APPRAISER'S FEE OR THE APPRAISAL MANAGEMENT COMPANY'S FEE CONTINGENT ON A FAVORABLE OUTCOME, INCLUDING:

(I) A LOAN CLOSING; OR

(II) A SPECIFIC DOLLAR AMOUNT BEING ACHIEVED BY THE APPRAISER IN THE APPRAISAL REPORT~~; OR~~

~~(7) REQUESTS, FOR THE PURPOSE OF FACILITATING A MORTGAGE LOAN TRANSACTION:~~

~~(I) A BROKER PRICE OPINION; OR~~

~~(II) ANY OTHER REAL PROPERTY PRICE OR VALUE ESTIMATION THAT DOES NOT QUALIFY AS AN APPRAISAL~~.

16–5B–14.

(A) EXCEPT IN CASES OF BREACH OF CONTRACT OR SUBSTANDARD PERFORMANCE OF SERVICES, AN APPRAISAL MANAGEMENT COMPANY SHALL PAY AN APPRAISER FOR THE COMPLETION OF AN APPRAISAL OR VALUATION ASSIGNMENT WITHIN 60 DAYS AFTER THE APPRAISER PROVIDES THE COMPLETED APPRAISAL OR VALUATION STUDY TO THE APPRAISAL MANAGEMENT COMPANY OR ITS ASSIGNEE.

(B) THE COMMISSION MAY NOT BRING DISCIPLINARY ACTION UNDER § 16–702.2 OF THIS TITLE OR RECOMMEND CRIMINAL SANCTIONS UNDER § 16–706 OF THIS TITLE BASED SOLELY ON SUBSECTION (A) OF THIS SECTION.

16–5B–15.

(A) AN APPRAISAL MANAGEMENT COMPANY MAY NOT CHANGE A COMPLETED APPRAISAL REPORT SUBMITTED BY AN APPRAISER BY:

(1) PERMANENTLY REMOVING THE APPRAISER'S SIGNATURE OR SEAL; OR

(2) ADDING INFORMATION TO, OR REMOVING INFORMATION FROM, THE APPRAISAL REPORT WITH AN INTENT TO CHANGE THE VALUATION CONCLUSION.

(B) (1) AN APPRAISAL MANAGEMENT COMPANY MAY NOT REQUIRE AN APPRAISER TO PROVIDE THE APPRAISAL MANAGEMENT COMPANY WITH THE APPRAISER'S DIGITAL SIGNATURE OR SEAL.

(2) SUBJECT TO THE RESTRICTIONS IN THE UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE, AN APPRAISER MAY VOLUNTARILY PROVIDE THE APPRAISER'S DIGITAL SIGNATURE TO ANOTHER PERSON.

16–5B–16.

(A) THE COMMISSION SHALL ISSUE A UNIQUE REGISTRATION NUMBER TO EACH APPRAISAL MANAGEMENT COMPANY THAT IS REGISTERED IN THIS STATE.

(B) THE COMMISSION SHALL PUBLISH ANNUALLY A LIST OF APPRAISAL MANAGEMENT COMPANIES.

(C) AN APPRAISAL MANAGEMENT COMPANY SHALL DISCLOSE THE COMPANY'S REGISTRATION NUMBER ON ~~ALL PRINT AND ELECTRONIC ADVERTISING, INCLUDING ANY ELECTRONIC ADVERTISING OR COMMUNICATION VIA THE INTERNET~~ ANY INSTRUMENT UTILIZED BY THE APPRAISAL MANAGEMENT COMPANY TO PROCURE APPRAISAL SERVICES IN THIS STATE.

16–5B–17.

(A) EXCEPT WITHIN 30 DAYS AFTER AN APPRAISER IS FIRST ADDED TO THE APPRAISER PANEL OF AN APPRAISAL MANAGEMENT COMPANY, AN APPRAISAL MANAGEMENT COMPANY MAY NOT REMOVE AN APPRAISER FROM ITS APPRAISER PANEL, OR OTHERWISE REFUSE TO ASSIGN REQUESTS FOR REAL ESTATE APPRAISAL SERVICES TO AN APPRAISER, WITHOUT:

(1) NOTIFYING THE APPRAISER IN WRITING OF THE REASONS WHY THE APPRAISER IS BEING REMOVED FROM THE APPRAISER PANEL OF THE APPRAISAL MANAGEMENT COMPANY;

(2) IDENTIFYING THE ILLEGAL CONDUCT, VIOLATION OF THE UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE, ~~OR~~ VIOLATION OF STATE LICENSING STANDARDS, OR SUBSTANDARD PERFORMANCE OR VIOLATIONS OF CONTRACTUAL TERMS BETWEEN THE APPRAISER AND THE APPRAISAL MANAGEMENT COMPANY THAT THE APPRAISAL MANAGEMENT COMPANY HAS A REASONABLE BASIS TO BELIEVE THAT THE APPRAISER HAS ENGAGED IN; AND

(3) PROVIDING AN OPPORTUNITY FOR THE APPRAISER TO RESPOND.

(B) (1) AN APPRAISER THAT IS REMOVED FROM THE APPRAISER PANEL OF AN APPRAISAL MANAGEMENT COMPANY FOR ALLEGED ILLEGAL CONDUCT, A VIOLATION OF THE UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE, OR A VIOLATION OF STATE LICENSING STANDARDS MAY FILE A COMPLAINT WITH THE COMMISSION FOR A REVIEW OF THE DECISION OF THE APPRAISAL MANAGEMENT COMPANY.

(2) THE COMMISSION'S REVIEW UNDER PARAGRAPH (1) OF THIS SUBSECTION IS LIMITED TO DETERMINING WHETHER:

(I) THE APPRAISAL MANAGEMENT COMPANY HAS COMPLIED WITH SUBSECTION (A) OF THIS SECTION; AND

(II) THE APPRAISER HAS COMMITTED A VIOLATION OF:

1. STATE LAW; OR

2. THE UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE.

(C) (1) IF AN APPRAISER FILES A COMPLAINT AGAINST AN APPRAISAL MANAGEMENT COMPANY UNDER SUBSECTION (B) OF THIS SECTION, THE COMMISSION SHALL ~~ADJUDICATE THE COMPLAINT WITHIN 180 DAYS~~ SCHEDULE A HEARING WITHIN A REASONABLE TIME, NOT EXCEEDING 1 YEAR, AFTER THE COMPLAINT IS FILED.

(2) THE TIME SPECIFIED UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY BE EXTENDED FOR GOOD CAUSE BY THE COMMISSION ON WRITTEN NOTICE TO THE PARTIES.

(D) IF AFTER OPPORTUNITY FOR HEARING AND REVIEW, THE COMMISSION DETERMINES THAT AN APPRAISAL MANAGEMENT COMPANY ACTED IMPROPERLY IN REMOVING AN APPRAISER FROM THE APPRAISER

PANEL, OR THAT AN APPRAISER DID NOT COMMIT A VIOLATION OF STATE LAW OR A VIOLATION OF THE UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE, THE COMMISSION SHALL ORDER THAT AN APPRAISER BE RESTORED TO THE APPRAISER PANEL OF THE APPRAISAL MANAGEMENT COMPANY THAT WAS THE SUBJECT OF THE COMPLAINT.

(E) IF THE COMMISSION FINDS THAT THE APPRAISAL MANAGEMENT COMPANY ACTED IMPROPERLY IN REMOVING THE APPRAISER FROM THE APPRAISER PANEL, AN APPRAISAL MANAGEMENT COMPANY MAY NOT:

(1) REDUCE THE NUMBER OF REAL ESTATE APPRAISAL ASSIGNMENTS THE COMPANY GIVES TO AN APPRAISER; OR

(2) PENALIZE THE APPRAISER IN ANY OTHER MANNER.

16–5B–18.

THE COMMISSION MAY ADOPT REGULATIONS NECESSARY TO IMPLEMENT, ADMINISTER, AND ENFORCE THIS SUBTITLE.

~~**16–5B–19.**~~

~~**SUBJECT TO THE EVALUATION AND REESTABLISHMENT PROVISIONS OF THE MARYLAND PROGRAM EVALUATION ACT, THE SUBTITLE AND ALL REGULATIONS ADOPTED UNDER THIS SUBTITLE SHALL TERMINATE AND BE OF NO EFFECT AFTER JULY 1, 2022.**~~

16–601.

(a) Subject to the provisions of this section, the Commission shall start proceedings under § 16–701 **[**or**]**, § 16–701.1**, OR § 16–701.2** of this title on a complaint made to the Commission by any person.

(b) (1) A complaint shall:

(i) be in writing; and

(ii) state specifically the facts on which the complaint is based.

(2) If a complaint is made by any person other than the Commission, the complaint shall be made under oath by the person who submits the complaint.

(3) A complaint may be accompanied by documentary or other evidence.

(c) The Commission shall investigate each complaint submitted to the Commission if the complaint:

(1) alleges facts that establish a prima facie case that is grounds for disciplinary action under § 16–701 **[**or**],** § 16–701.1**, OR § 16–701.2** of this title; and

(2) meets the requirements of this section.

(d) (1) On conclusion of the investigation, the Commission shall determine if there is a reasonable basis to believe that there are grounds for disciplinary action under § 16–701 **[**or**],** § 16–701.1**, OR § 16–701.2** of this title against an applicant or licensee.

(2) (i) If the Commission finds a reasonable basis as provided under paragraph (1) of this subsection, the Commission shall act on the complaint as provided under § 16–602 of this subtitle.

(ii) If the Commission does not find a reasonable basis as provided under paragraph (1) of this subsection, the Commission shall dismiss the complaint.

16–602.

(a) Except as otherwise provided in § 10–226 of the State Government Article, before the Commission takes any final action under § 16–701 **[**or**],** § 16–701.1**, OR § 16–701.2** of this title, it shall give the individual against whom the action is contemplated an opportunity for a hearing before:

(1) the Commission; or

(2) the Hearing Board for proceedings under § 16–211 of this title.

(b) The Commission shall give notice and hold the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(c) The Commission may administer oaths in connection with any proceeding under this section.

(d) The hearing notice to be given to the individual shall be sent by certified mail to the last known address of the individual at least 10 days before the hearing.

(e) The individual may be represented at the hearing by counsel.

(f) (1) The Commission may issue subpoenas in connection with any proceeding under this section.

(2) If a person fails to comply with a subpoena issued under this subsection, on petition of the Commission, a circuit court may compel compliance with the subpoena.

(g) If, after due notice, the individual against whom the action is contemplated fails or refuses to appear, nevertheless the Commission may hear and determine the matter.

16–701.2.

(A) SUBJECT TO THE HEARING PROVISIONS OF § 16–602 OF THIS TITLE, THE COMMISSION MAY DENY REGISTRATION TO ANY APPLICANT FOR REGISTRATION AS AN APPRAISAL MANAGEMENT COMPANY, REPRIMAND ANY REGISTERED APPRAISAL MANAGEMENT COMPANY, OR SUSPEND OR REVOKE THE REGISTRATION OF AN APPRAISAL MANAGEMENT COMPANY IF THE APPLICANT OR REGISTRANT:

(1) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO OBTAIN REGISTRATION FOR THE APPLICANT OR REGISTRANT OR FOR ANOTHER;

(2) FRAUDULENTLY OR DECEPTIVELY USES A REGISTRATION;

(3) UNDER THE LAWS OF THE UNITED STATES OR ANY STATE IS CONVICTED OF:

(I) A FELONY; OR

(II) A MISDEMEANOR THAT IS DIRECTLY RELATED TO THE FITNESS AND QUALIFICATIONS OF THE REGISTRANT TO PROVIDE APPRAISAL MANAGEMENT SERVICES;

~~(3)~~ (4) VIOLATES OR ATTEMPTS TO VIOLATE ANY PROVISION OF THIS TITLE; ~~OR~~

~~(4)~~ (5) VIOLATES OR ATTEMPTS TO VIOLATE ANY REGULATION ADOPTED UNDER THIS TITLE; OR

(6) VIOLATES § 14–127 OF THE REAL PROPERTY ARTICLE.

(B) (1) INSTEAD OF OR IN ADDITION TO REPRIMANDING A REGISTRANT OR SUSPENDING OR REVOKING A REGISTRATION UNDER THIS SECTION, THE COMMISSION MAY IMPOSE A PENALTY NOT EXCEEDING $25,000 FOR EACH VIOLATION.

(2) TO DETERMINE THE AMOUNT OF THE PENALTY IMPOSED, THE COMMISSION SHALL CONSIDER:

(I) THE SERIOUSNESS OF THE VIOLATION;

(II) THE HARM CAUSED BY THE VIOLATION;

(III) THE GOOD FAITH OF THE REGISTRANT; AND

(IV) ANY HISTORY OF PREVIOUS VIOLATIONS BY THE REGISTRANT.

(3) THE COMMISSION SHALL PAY ANY PENALTY COLLECTED UNDER THIS SUBSECTION INTO THE GENERAL FUND OF THE STATE.

(C) THE COMMISSION SHALL CONSIDER THE FOLLOWING FACTS IN THE GRANTING, DENIAL, RENEWAL, SUSPENSION, OR REVOCATION OF A REGISTRATION OR THE REPRIMAND OF A REGISTRANT WHEN AN APPLICANT OR REGISTRANT IS CONVICTED OF A FELONY OR A MISDEMEANOR DESCRIBED IN SUBSECTION (A)(3) OF THIS SECTION:

(1) THE NATURE OF THE CRIME;

(2) THE RELATIONSHIP OF THE CRIME TO THE ACTIVITIES AUTHORIZED BY THE REGISTRATION;

(3) WITH RESPECT TO A FELONY, THE RELEVANCE OF THE CONVICTION TO THE FITNESS AND QUALIFICATION OF THE APPLICANT OR REGISTRANT TO PROVIDE APPRAISAL MANAGEMENT SERVICES;

(4) THE LENGTH OF TIME SINCE THE CONVICTION; AND

(5) THE BEHAVIOR AND ACTIVITIES OF THE APPLICANT OR REGISTRANT BEFORE AND AFTER THE CONVICTION.

Article – Business Regulation

2–106.7.

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

(2) "COMMISSION" MEANS THE STATE COMMISSION OF REAL ESTATE APPRAISERS AND HOME INSPECTORS.

(3) "FUND" MEANS THE ~~APPRAISAL MANAGEMENT COMPANY~~ STATE COMMISSION OF REAL ESTATE APPRAISERS AND HOME INSPECTORS FUND.

(B) (1) THERE IS ~~AN APPRAISAL MANAGEMENT COMPANY~~ A STATE COMMISSION OF REAL ESTATE APPRAISERS AND HOME INSPECTORS FUND IN THE DEPARTMENT.

(2) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7–302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(C) THE FUND CONSISTS OF FEES COLLECTED BY THE COMMISSION AND DISTRIBUTED TO THE FUND UNDER ~~§ 16–5B–04~~ TITLE 16 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE.

(D) THE FUND SHALL BE USED TO COVER THE COMMISSION'S ACTUAL DOCUMENTED DIRECT AND INDIRECT COSTS OF ~~REGISTERING AND REGULATING APPRAISAL MANAGEMENT COMPANIES UNDER TITLE 16, SUBTITLE 5B OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE~~ FULFILLING THE STATUTORY AND REGULATORY DUTIES OF THE COMMISSION.

(E) THE SECRETARY OR A DESIGNEE OF THE SECRETARY SHALL ADMINISTER THE FUND.

(F) THE LEGISLATIVE AUDITOR SHALL AUDIT THE ACCOUNTS AND TRANSACTIONS OF THE FUND AS PROVIDED IN § 2–1220 OF THE STATE GOVERNMENT ARTICLE.

(G) AT THE END OF EACH FISCAL YEAR, ANY UNSPENT *AND UNENCUMBERED* PORTION OF THE FUND IN EXCESS OF $100,000 SHALL REVERT TO THE GENERAL FUND OF THE STATE.

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

2–106.8.

(A) IN THIS SECTION, "COMMISSION" MEANS THE STATE COMMISSION OF REAL ESTATE APPRAISERS AND HOME INSPECTORS.

(B) IN CONSULTATION WITH THE COMMISSION, THE SECRETARY SHALL CALCULATE ANNUALLY THE DIRECT AND INDIRECT COSTS ATTRIBUTABLE TO ~~ADMINISTERING TITLE 16, SUBTITLE 5B OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE~~ THE COMMISSION.

(C) ~~THE~~ BEGINNING ON JULY 1, 2011, THE COMMISSION SHALL ESTABLISH FEES BASED ON THE CALCULATIONS PROVIDED BY THE SECRETARY UNDER THIS SECTION.

(D) EACH FEE ESTABLISHED BY THE COMMISSION MAY NOT BE INCREASED ANNUALLY BY MORE THAN 12.5% OF THE EXISTING AND CORRESPONDING FEE OF THE COMMISSION.

(E) THE FEES ESTABLISHED FOR EACH PROFESSION REGULATED UNDER TITLE 16 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE SHALL BE SET SO AS TO PRODUCE FUNDS TO APPROXIMATE THE COST OF REGULATING EACH PROFESSION.

~~**Article – State Government**~~

~~8–403.~~

~~(b) Except as otherwise provided in subsection (a) of this section, on or before the evaluation date for the following governmental activities or units, an evaluation shall be made of the following governmental activities or units and the statutes and regulations that relate to the governmental activities or units:~~

~~(1) Acupuncture Board, State (§ 1A–201 of the Health Occupations Article: July 1, 2014);~~

~~(2) Amusement Ride Safety, State Advisory Board (§ 3–303 of the Business Regulation Article: July 1, 2013);~~

~~(3) Apprenticeship and Training Council (§ 11–403 of the Labor and Employment Article: July 1, 2013);~~

~~(4) Architects, State Board of (§ 3–201 of the Business Occupations and Professions Article: July 1, 2012);~~

~~(5) Athletic Commission, State (§ 4–201 of the Business Regulation Article: July 1, 2020);~~

~~(6) Athletic Training Advisory Committee (§ 14–5D–04 of the Health Occupations Article: July 1, 2012);~~

~~(7) Audiologists, Hearing Aid Dispensers, and Speech–Language Pathologists, State Board of Examiners for (§ 2–201 of the Health Occupations Article: July 1, 2015);~~

~~(8) Banking Board (§ 2–201 of the Financial Institutions Article: July 1, 2011);~~

~~(9) Barbers, State Board of (§ 4–201 of the Business Occupations and Professions Article: July 1, 2020);~~

~~(10) Boiler Rules, Board of (§ 12–904 of the Public Safety Article: July 1, 2013);~~

~~(11) Cemetery Oversight, Office of (§ 5–201 of the Business Regulation Article: July 1, 2012);~~

~~(12) Chiropractic and Massage Therapy Examiners, State Board of (§ 3–201 of the Health Occupations Article: July 1, 2021);~~

~~(13) Collection Agency Licensing Board, State (§ 7–201 of the Business Regulation Article: July 1, 2011);~~

~~(14) Cosmetologists, State Board of (§ 5–201 of the Business Occupations and Professions Article: July 1, 2020);~~

~~(15) Counselors and Therapists, State Board of Professional (§ 17–201 of the Health Occupations Article: July 1, 2018);~~

~~(16) Dental Examiners, State Board of (§ 4–201 of the Health Occupations Article: July 1, 2020);~~

~~(17) Dietetic Practice, State Board of (§ 5–201 of the Health Occupations Article: July 1, 2014);~~

~~(18) Electricians, State Board of Master (§ 6–201 of the Business Occupations and Professions Article: July 1, 2012);~~

~~(19) Electrology Practice Committee (§ 8–6B–05 of the Health Occupations Article: July 1, 2012);~~

~~(20) Elevator Safety Review Board (§§ 12–819 through 12–841 of the Public Safety Article: July 1, 2013);~~

~~(21) Engineers, State Board for Professional (§ 14–201 of the Business Occupations and Professions Article: July 1, 2012);~~

~~(22) Engineers, State Board of Stationary (§ 6.5–201 of the Business Occupations and Professions Article: July 1, 2013);~~

~~(23) Environmental Sanitarians, State Board of (§ 11–201 of the Environment Article: July 1, 2012);~~

~~(24) Financial Regulation, Office of the Commissioner of (§ 2–101 of the Financial Institutions Article: July 1, 2011);~~

~~(25) Foresters, State Board of (§ 7–201 of the Business Occupations and Professions Article: July 1, 2014);~~

~~(26) Health Care Commission, Maryland (§ 19–103 of the Health – General Article: July 1, 2017);~~

~~(27) Health Services Cost Review Commission, State (§ 19–202 of the Health – General Article: July 1, 2017);~~

~~(28) Heating, Ventilation, Air–Conditioning, and Refrigeration Contractors, State Board of (§ 9A–201 of the Business Regulation Article: July 1, 2012);~~

~~(29) Home Improvement Commission, Maryland (§ 8–201 of the Business Regulation Article: July 1, 2011);~~

~~(30) Horse Industry Board, Maryland (§ 2–701 of the Agriculture Article: July 1, 2015);~~

~~(31) Individual Tax Preparers, State Board of (§ 21–201 of the Business Occupations and Professions Article: July 1, 2015);~~

~~(32) Insurance Administration (§§ 2–101 and 2–103 of the Insurance Article: July 1, 2012);~~

~~(33) Interior Designers, State Board of Certified (§ 8–201 of the Business Occupations and Professions Article: July 1, 2013);~~

~~(34) Labor and Industry, Division of (Title 2 of the Labor and Employment Article: July 1, 2013);~~

~~(35) Land Surveyors, State Board for Professional (§ 15–201 of the Business Occupations and Professions Article: July 1, 2023);~~

~~(36) Landscape Architects, State Board of Examiners of (§ 9–201 of the Business Occupations and Professions Article: July 1, 2023);~~

~~(37) Law Examiners, State Board of (§ 10–201 of the Business Occupations and Professions Article: July 1, 2019);~~

~~(38) Maryland–Bred Race Fund Advisory Committee (§ 11–531 of the Business Regulation Article: July 1, 2013);~~

~~(39) mold remediation services, licensing and regulation of (§ 8–701 of the Business Regulation Article: July 1, 2015);~~

~~(40) Morticians and Funeral Directors, State Board of (§ 7–201 of the Health Occupations Article: July 1, 2017);~~

~~(41) Nursing, State Board of (§ 8–201 of the Health Occupations Article: July 1, 2012);~~

~~(42) Nursing Home Administrators, State Board of Examiners of (§ 9–201 of the Health Occupations Article: July 1, 2012);~~

~~(43) Occupational Safety and Health Advisory Board (§ 5–302 of the Labor and Employment Article: July 1, 2013);~~

~~(44) Occupational Therapy Practice, State Board of (§ 10–201 of the Health Occupations Article: July 1, 2014);~~

~~(45) Optometry, State Board of Examiners in (§ 11–201 of the Health Occupations Article: July 1, 2022);~~

~~(46) Pharmacy, State Board of (§ 12–201 of the Health Occupations Article: July 1, 2012);~~

~~(47) Physical Therapy Examiners, State Board of (§ 13–201 of the Health Occupations Article: July 1, 2021);~~

~~(48) Physician Assistant Advisory Committee (§ 15–201 of the Health Occupations Article: July 1, 2012);~~

~~(49) Physicians, State Board of (§ 14–201 of the Health Occupations Article: July 1, 2012);~~

~~(50) Pilots, State Board of (§ 11–201 of the Business Occupations and Professions Article: July 1, 2021);~~

~~(51) Plumbing, State Board of (§ 12–201 of the Business Occupations and Professions Article: July 1, 2022);~~

~~(52) Podiatric Medical Examiners, State Board of (§ 16–201 of the Health Occupations Article: July 1, 2011);~~

~~(53) Polysomnography Professional Standards Committee (§ 14–5C–05 of the Health Occupations Article: July 1, 2012);~~

~~(54) Prevailing Wage Rates, Advisory Council on (§ 17–203 of the State Finance and Procurement Article: July 1, 2013);~~

~~(55) Psychologists, State Board of Examiners of (§ 18–201 of the Health Occupations Article: July 1, 2012);~~

~~(56) Public Accountancy, State Board of (§ 2–201 of the Business Occupations and Professions Article: July 1, 2014);~~

~~(57) Racing Commission, State (§ 11–201 of the Business Regulation Article: July 1, 2013);~~

~~(58) Radiation Oncology/Therapy Technologists, Medical Radiation Technologists, and Nuclear Medicine Technologists Advisory Committee (§ 14–5B–05 of the Health Occupations Article: July 1, 2012);~~

~~**(59) REAL ESTATE APPRAISAL MANAGEMENT COMPANIES, REGISTRATION AND REGULATION OF (§ 16–5B–103 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE: JULY 1, 2021);**~~

~~**[**(59)**] (60)** Real Estate Appraisers and Home Inspectors, State Commission of (§ 16–201 of the Business Occupations and Professions Article: July 1, 2012);~~

~~**[**(60)**] (61)** Real Estate Commission, State (§ 17–201 of the Business Occupations and Professions Article: July 1, 2011);~~

~~**[**(61)**] (62)** Residential Child Care Program Professionals, State Board for Certification of (§ 20–202 of the Health Occupations Article: July 1, 2013);~~

~~**[**(62)**] (63)** Respiratory Care Professional Standards Committee, State (§ 14–5A–05 of the Health Occupations Article: July 1, 2012);~~

~~**[**(63)**] (64)** security systems technicians, licensing and regulation of (§ 18–201 of the Business Occupations and Professions Article: July 1, 2015);~~

~~**[**(64)**] (65)** Social Work Examiners, State Board of (§ 19–201 of the Health Occupations Article: July 1, 2013);~~

~~**[**(65)**] (66)** Standardbred Race Fund Advisory Committee, Maryland (§ 11–625 of the Business Regulation Article: July 1, 2013);~~

~~**[**(66)**] (67)** Veterinary Medical Examiners, State Board of (§ 2–302 of the Agriculture Article: July 1, 2020);~~

~~**[**(67)**] (68)** Waterworks and Waste Systems Operators, State Board of (§ 12–201 of the Environment Article: July 1, 2020); and~~

~~[(68)] (69) Well Drillers, State Board of (§ 13–201 of the Environment Article: July 1, 2020).~~

SECTION 2. AND BE IT FURTHER ENACTED, That the fees set forth in Title 16, Subtitles 3, 3A, 5, and 5A of the Business Occupations and Professions Article in effect on June 30, 2011, shall remain in full force and effect until the fees authorized to be set by the State Commission of Real Estate Appraisers and Home Inspectors under this Act are adopted and become effective.

~~SECTION 3. AND BE IT FURTHER ENACTED, That, beginning July 1, 2011, the fees established for each profession regulated under Title 16 of the Business Occupations and Professions Article shall approximate the cost of regulating each profession.~~

SECTION ~~4.~~ *3.* AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 270

(House Bill 1181)

AN ACT concerning

~~Real Estate Appraisal Management Companies – Registration and Regulation~~
State Commission of Real Estate Appraisers and Home Inspectors – Special Fund and Registration and Regulation of Real Estate Appraisal Management Companies

FOR the purpose of requiring certain persons to register as appraisal management companies with the State Commission of Real Estate Appraisers and Home Inspectors; requiring an appraisal management company's registration to include certain information in a certain form; establishing that a registration is valid for a certain period of time; requiring the Commission to collect a certain national registry fee from appraisal management companies; requiring a person applying for registration to complete a certain consent to service of process; requiring the Commission to set certain fees by regulation; requiring the Commission to publish a certain fee schedule; requiring the Commission to pay certain fees to the Comptroller; requiring the Comptroller to distribute certain fees to a certain fund; prohibiting a person applying for registration from being owned by certain persons; requiring the owner of an appraisal management company to meet certain requirements; requiring a certain individual to serve as a main contact for communication between the Commission and an appraisal management company; prohibiting an appraisal management company from

engaging in certain activities relating to employees; requiring an appraisal management company to verify that an appraiser is a competent appraiser before assigning certain work; requiring certain individuals that perform an appraisal review to hold a certain license or certificate; prohibiting an appraisal management company from entering into certain agreements with an appraiser in conjunction with federally related transactions unless the company verifies certain qualifications; requiring a person applying for registration to make a certain certification concerning its record keeping; requiring an appraisal management company to retain certain records for a certain period of time; prohibiting an appraisal management company from handling certain fees and certain compensation in a certain manner; requiring an appraisal management company to ensure that appraisals are conducted in a certain manner; prohibiting an individual working on behalf of an appraisal management company from engaging in certain activities; requiring an appraisal management company to inform the Commission when the company has a reasonable basis to believe that an appraiser is behaving in a certain manner; designating certain conduct as unprofessional; requiring an appraisal management company to pay an appraiser for certain work within a certain period of time under certain circumstances; prohibiting an appraisal management company from changing a completed appraisal report in a certain manner; establishing guidelines for the use of an appraiser's digital signature or seal; requiring the Commission to issue certain registration numbers; requiring the Commission to publish an annual list of appraisal management companies; requiring an appraisal management company to disclose certain registration information in a certain manner; prohibiting an appraisal management company from taking certain actions relative to an appraiser under certain circumstances without providing certain notice and opportunity to respond; authorizing an appraiser that is removed from an appraisal panel for certain reasons to file a certain complaint with the Commission for certain review; requiring the Commission to adjudicate a complaint within a certain period of time; establishing certain grounds for denying a registration or reprimanding, suspending, or revoking the registration of an appraisal management company; establishing certain penalties; altering provisions relating to commencement of Commission proceedings and hearings; authorizing the Commission to adopt certain regulations; altering the membership of the State Commission of Real Estate Appraisers and Home Inspectors; establishing an appraisal management company hearing board; *requiring the referral of certain matters to the appraisal management company hearing board;* requiring that a certain evaluation of the law and regulations concerning the registration and regulation of real estate appraisal management companies be performed on or before a certain date; establishing the ~~Appraisal Management Company~~ State Commission of Real Estate Appraisers and Home Inspectors Fund as a special, nonlapsing fund in the Department of Labor, Licensing, and Regulation; requiring that the Fund be used for certain purposes; providing for an audit of the Fund; requiring the Secretary of Labor, Licensing, and Regulation, or a designee of the Secretary, to administer the Fund; requiring the Secretary, in consultation with the Commission, to calculate annually certain costs; ~~requiring~~ authorizing the

Commission to set certain fees, based on certain calculations, beginning on a certain date; prohibiting certain fees from increasing more than a certain amount each year; requiring the Commission to publish a certain fee schedule; repealing a provision of law requiring the Commission to pay certain money into the General Fund of the State; requiring the Commission to pay certain fees to the Comptroller beginning on a certain date; requiring the Comptroller to distribute certain fees to the Fund; requiring any unspent *and unencumbered* portion of the Fund in excess of a certain amount to revert to the General Fund at the end of each fiscal year; crediting certain earnings to the General Fund; altering, establishing, and specifying the use of certain fees; requiring that certain fees in effect on a certain date shall remain in full force and effect until certain other fees are adopted and made effective; requiring certain fees to approximate the cost of regulating certain professions; defining certain terms; and generally relating to the registration and regulation of real estate appraisal management companies and the State Commission of Real Estate Appraisers and Home Inspectors.

BY adding to
Article – Business Occupations and Professions
Section 16–210.2 and 16–217; 16–5B–01 through ~~16–5B–19~~ *16–5B–18* to be under the new subtitle "Subtitle 5B. Real Estate Appraisal Management Companies"; and 16–701.2
Annotated Code of Maryland
(2010 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section ~~16–601~~ 16–202, *16–211(a)*, 16–303(a)(2), 16–308(c)(2), 16–310(3), 16–3A–03, 16–3A–05(2), 16–3A–07(c)(2), 16–3A–08(a)(3), 16–505(2), 16–510(c)(2), 16–512(3), 16–5A–01(b)(5), 16–5A–04(b)(1)(ii), 16–601, and 16–602
Annotated Code of Maryland
(2010 Replacement Volume)

BY repealing
Article – Business Occupations and Professions
Section 16–217
Annotated Code of Maryland
(2010 Replacement Volume)

BY adding to
Article – Business Regulation
Section 2–106.7 and 2–106.8
Annotated Code of Maryland
(2010 Replacement Volume and 2010 Supplement)

~~BY repealing and reenacting, with amendments,~~

~~Article – State Government~~
~~Section 8–403(b)~~
~~Annotated Code of Maryland~~
~~(2009 Replacement Volume and 2010 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

16–202.

(a) (1) The Commission consists of 15 members.

(2) Of the 15 members of the Commission:

(i) at least 2 shall be certified general real estate appraisers;

(ii) 2 shall be certified general real estate appraisers, certified residential real estate appraisers, or licensed real estate appraisers;

(iii) 2 shall be representatives of a financial institution who are not certified or licensed real estate appraisers or home inspectors;

(iv) 1 shall be a licensed home inspector who is a member of the American Society of Home Inspectors (ASHI);

(v) 1 shall be a licensed home inspector who is a member of the National Association of Home Inspectors;

(vi) 2 shall be licensed home inspectors without regard to affiliation with or membership in any society or association; **[**and**]**

(vii) **[**5**]** **4** shall be consumer members**; AND**

(VIII) 1 SHALL BE A REPRESENTATIVE OF AN APPRAISAL MANAGEMENT COMPANY REGISTERED UNDER SUBTITLE 5B OF THIS TITLE.

(3) The Governor shall:

(i) appoint the members with the advice of the Secretary and with the advice and consent of the Senate; and

(ii) consider demographic and geographic diversity when making appointments to the Commission.

(b) Each member of the Commission shall be a citizen of the State.

(c) (1) Each consumer member of the Commission:

(i) shall be a member of the general public;

(ii) may not be a licensee, holder of a certificate, or otherwise be subject to regulation by the Commission;

(iii) may not be required to meet the qualifications for the professional members of the Commission; and

(iv) may not, within 1 year before appointment, have had a financial interest in or have received compensation from a person regulated by the Commission.

(2) While a member of the Commission, a consumer member may not:

(i) have a financial interest in or receive compensation from a person regulated by the Commission; or

(ii) grade any examination given by or for the Commission.

(d) Before taking office, each appointee to the Commission shall take the oath required by Article I, § 9 of the Maryland Constitution.

(e) (1) The term of a member is 3 years.

(2) The terms of members are staggered as required by the terms provided for members of the Commission on January 1, 1991.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(5) A member may not serve for more than 2 consecutive 3–year terms.

(f) The Governor may remove a member for incompetence or misconduct.

16–210.2.

(A) THE COMMISSION SHALL ESTABLISH AN APPRAISAL MANAGEMENT COMPANY HEARING BOARD.

(B) (1) THE HEARING BOARD CONSISTS OF THREE MEMBERS OF THE COMMISSION, APPOINTED BY THE COMMISSION.

(2) OF THE THREE POSITIONS ON THE APPRAISAL MANAGEMENT COMPANY HEARING BOARD:

(I) ONE SHALL BE A REPRESENTATIVE OF A FINANCIAL INSTITUTION;

(II) ONE SHALL BE A CONSUMER MEMBER; AND

(III) ONE SHALL BE A REPRESENTATIVE OF AN APPRAISAL MANAGEMENT COMPANY.

(C) FROM AMONG THE MEMBERS OF THE HEARING BOARD, THE COMMISSION SHALL DESIGNATE A CHAIR.

16–211.

(a) The Commission shall refer to the Hearing Board for a hearing any matter for which a hearing may be required under § 16–701, ***[****or****]*** *§ 16–701.1,* ***OR § 16–701.2*** *of this title.*

[16–217.

Except as otherwise provided by law, the Commission shall pay all money collected under this title into the General Fund of the State.**]**

16–217.

(A) (1) BEGINNING ON JULY 1, 2011, THE COMMISSION MAY SET BY REGULATION REASONABLE FEES FOR ITS SERVICES.

(2) THE FEES CHARGED SHALL BE:

(I) SET SO AS TO PRODUCE FUNDS TO APPROXIMATE THE COST OF MAINTAINING THE COMMISSION; AND

(II) BASED ON THE CALCULATIONS PERFORMED BY THE SECRETARY OF LABOR, LICENSING, AND REGULATION UNDER § 2–106.8 OF THE BUSINESS REGULATION ARTICLE.

(B) THE COMMISSION SHALL PUBLISH THE FEE SCHEDULE SET BY THE COMMISSION.

(C) (1) BEGINNING ON JULY 1, 2011, THE COMMISSION SHALL PAY ALL FEES COLLECTED UNDER THIS TITLE TO THE COMPTROLLER.

(2) THE COMPTROLLER SHALL DISTRIBUTE THE FEES TO THE STATE COMMISSION OF REAL ESTATE APPRAISERS AND HOME INSPECTORS FUND ESTABLISHED IN § 2–106.7 OF THE BUSINESS REGULATION ARTICLE.

16–303.

(a) An applicant for a license shall:

(2) pay to the Commission **[**an application**]** **A** fee **[**of $75**]** **SET BY THE COMMISSION**.

16–308.

(c) Before a license expires, the licensee periodically may renew it for an additional 3–year term, if the licensee:

(2) pays to the Commission a renewal fee **[**of $125**]** **SET BY THE COMMISSION**; and

16–310.

The Commission shall reinstate the license of a real estate appraiser who has failed to renew the license, if the real estate appraiser:

(3) in addition to the renewal fee required under § 16–308 of this subtitle, pays to the Commission a reinstatement fee **[**of $25**]** **SET BY THE COMMISSION**.

16–3A–03.

[Effective July 1, 2002, an**]** **AN** applicant for a home inspector license shall:

(1) have completed a minimum of 72 hours of an on–site training course approved by a national home inspection organization and the Commission that at a minimum requires successful completion of the National Home Inspector Examination or its equivalent as determined by the Commission;

(2) have a high school diploma or its equivalent;

(3) have insurance as required under § 16–4A–04 of this title;

(4) submit to the Commission an application on the form that the Commission provides; and

(5) pay to the Commission an application fee **[**of $50**] SET BY THE COMMISSION**.

16–3A–05.

If an applicant qualifies for a home inspector license under this title, the Commission shall send the applicant a notice that states:

(2) the Commission will issue the home inspector license to an applicant upon receipt of a license fee **[**not to exceed $400**] SET BY THE COMMISSION**.

16–3A–07.

(c) Before a license expires, the licensee may renew it for an additional 2–year term, if the licensee:

(2) pays to the Commission a renewal fee **[**not to exceed $400**] SET BY THE COMMISSION**;

16–3A–08.

(a) The Commission shall reinstate the license of an individual who has failed to renew a license for any reason if the individual:

(3) in addition to the renewal fee required under § 16–3A–07 of this subtitle, pays to the Commission a reinstatement fee **[**of $50**] SET BY THE COMMISSION**.

16–505.

An applicant for a certificate shall:

(2) pay to the Commission an application fee **[**of $100**] SET BY THE COMMISSION**.

16–510.

(c) Not earlier than 120 days and not later than 30 days before a certificate expires, the certificate holder may renew it for an additional 3–year term, if the certificate holder:

(2) pays to the Commission a renewal fee **[**of $125**] SET BY THE COMMISSION**; and

16–512.

The Commission shall reinstate the certificate of a real estate appraiser who has failed to renew the certificate during the regular term of the certificate or the grace period, if the real estate appraiser:

(3) in addition to the renewal fee required under § 16–511 of this subtitle, pays to the Commission a reinstatement fee **[**of $25**] SET BY THE COMMISSION**.

16–5A–01.

(b) An applicant for a real estate appraiser trainee license shall:

(5) pay to the Commission an application fee **[**of $75**] SET BY THE COMMISSION**.

16–5A–04.

(b) (1) Before a real estate appraiser trainee license expires, the licensee may renew the license for one additional 3–year term if the licensee:

(ii) pays to the Commission a renewal fee **[**of $75**] SET BY THE COMMISSION**; and

SUBTITLE 5B. REAL ESTATE APPRAISAL MANAGEMENT COMPANIES.

16–5B–01.

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

(B) "APPRAISAL MANAGEMENT COMPANY" MEANS A THIRD PARTY AUTHORIZED BY A CREDITOR OF A CONSUMER CREDIT TRANSACTION SECURED BY A CONSUMER'S PRINCIPAL DWELLING, OR BY AN UNDERWRITER OF OR OTHER PRINCIPAL IN THE SECONDARY MORTGAGE MARKETS, THAT DIRECTLY OR INDIRECTLY PROVIDES APPRAISAL MANAGEMENT SERVICES IN CONNECTION WITH VALUING PROPERTIES COLLATERALIZING MORTGAGE LOANS OR MORTGAGES INCORPORATED IN A SECURITIZATION.

(C) "APPRAISER" MEANS A LICENSED REAL ESTATE APPRAISER OR A CERTIFIED REAL ESTATE APPRAISER.

(D) "APPRAISER PANEL" MEANS A NETWORK OF LICENSED OR CERTIFIED APPRAISERS WHO ARE INDEPENDENT CONTRACTORS TO THE APPRAISAL MANAGEMENT COMPANY.

(E) (1) "APPRAISAL REVIEW" MEANS THE ACT OF DEVELOPING AND COMMUNICATING AN OPINION ABOUT THE QUALITY OF ANOTHER APPRAISER'S WORK THAT WAS PERFORMED AS PART OF AN APPRAISER ASSIGNMENT.

(2) "APPRAISAL REVIEW" DOES NOT INCLUDE AN EXAMINATION OF AN APPRAISAL FOR GRAMMATICAL, TYPOGRAPHICAL, OR OTHER SIMILAR ERRORS THAT DO NOT MAKE A SUBSTANTIVE VALUATION CHANGE.

(F) "COMPETENT APPRAISER" MEANS AN APPRAISER THAT SATISFIES EACH PROVISION OF THE COMPETENCY RULE OF THE UNIFORM STANDARDS OF PROFESSIONAL PRACTICE FOR A SPECIFIC APPRAISAL ASSIGNMENT THAT THE APPRAISER HAS RECEIVED, OR MAY RECEIVE, FROM AN APPRAISAL MANAGEMENT COMPANY.

(G) "CONTROLLING PERSON" MEANS:

(1) AN OWNER, OFFICER, OR DIRECTOR OF AN APPRAISAL MANAGEMENT COMPANY;

(2) AN INDIVIDUAL EMPLOYED, APPOINTED, OR AUTHORIZED BY AN APPRAISAL MANAGEMENT COMPANY THAT HAS THE AUTHORITY TO ENTER INTO:

(I) A CONTRACTUAL RELATIONSHIP WITH OTHER PERSONS FOR THE PERFORMANCE OF APPRAISAL MANAGEMENT SERVICES; AND

(II) AGREEMENTS WITH APPRAISERS FOR THE PERFORMANCE OF APPRAISALS; OR

(3) AN INDIVIDUAL WHO POSSESSES THE POWER TO DIRECT OR CAUSE THE DIRECTION OF THE MANAGEMENT OR POLICIES OF AN APPRAISAL MANAGEMENT COMPANY.

(H) "PROVIDE APPRAISAL MANAGEMENT SERVICES" MEANS TO, DIRECTLY OR INDIRECTLY, ON BEHALF OF A LENDER, FINANCIAL INSTITUTION, CLIENT, OR OTHER PERSON IN CONJUNCTION WITH A CONSUMER CREDIT TRANSACTION THAT IS SECURED BY A CONSUMER'S PRIMARY DWELLING:

(1) ADMINISTER AN APPRAISAL PANEL;

(2) RECRUIT, RETAIN, OR SELECT APPRAISERS;

(3) VERIFY LICENSING OR CERTIFICATION, NEGOTIATE FEES AND SERVICE LEVEL EXPECTATIONS, AND REVIEW THE QUALIFICATIONS OF PERSONS WHO ARE PART OF, OR WHO WISH TO BECOME PART OF, AN APPRAISER PANEL;

(4) CONTRACT WITH APPRAISERS TO PERFORM APPRAISAL ASSIGNMENTS;

(5) RECEIVE AN ORDER FOR AN APPRAISAL FROM ONE PERSON, AND DELIVER THE ORDER FOR THE APPRAISAL TO AN APPRAISER THAT IS PART OF AN APPRAISER PANEL FOR COMPLETION;

(6) MANAGE THE PROCESS OF HAVING AN APPRAISAL PERFORMED, INCLUDING THE FOLLOWING ADMINISTRATIVE DUTIES:

(I) RECEIVING APPRAISAL ORDERS AND REPORTS;

(II) SUBMITTING COMPLETED APPRAISAL REPORTS TO CREDITORS AND UNDERWRITERS;

(III) COLLECTING FEES FROM CREDITORS AND UNDERWRITERS FOR SERVICES PROVIDED; AND

(IV) REIMBURSING APPRAISERS FOR SERVICES PERFORMED;

(7) TRACK AND DETERMINE THE STATUS OF ORDERS FOR APPRAISALS;

(8) CONDUCT QUALITY CONTROL OF A COMPLETED APPRAISAL PRIOR TO THE DELIVERY OF THE APPRAISAL TO THE PERSON THAT ORDERED THE APPRAISAL; OR

(9) PROVIDE A COMPLETED APPRAISAL PERFORMED BY AN APPRAISER TO A CLIENT.

16–5B–02.

THIS SUBTITLE DOES NOT APPLY TO:

(1) A PERSON THAT EXCLUSIVELY EMPLOYS APPRAISERS ON AN EMPLOYER–EMPLOYEE BASIS FOR THE PERFORMANCE OF APPRAISALS; OR

(2) AN ENTITY THAT IS A SUBSIDIARY OWNED AND CONTROLLED BY A FINANCIAL INSTITUTION AND REGULATED BY A FEDERAL FINANCIAL INSTITUTION REGULATORY AGENCY.

16–5B–03.

(A) A PERSON SHALL REGISTER WITH THE COMMISSION BEFORE THE PERSON:

(1) ENGAGES OR ATTEMPTS TO ENGAGE IN BUSINESS AS AN APPRAISAL MANAGEMENT COMPANY;

(2) PROVIDES OR ATTEMPTS TO PROVIDE APPRAISAL MANAGEMENT SERVICES; OR

(3) ADVERTISES OR REPRESENTS THE PERSON TO BE AN APPRAISAL MANAGEMENT COMPANY.

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

(1) THE NAME OF THE PERSON SEEKING REGISTRATION;

(2) THE BUSINESS ADDRESS OF THE PERSON SEEKING REGISTRATION;

(3) THE PHONE CONTACT INFORMATION OF THE PERSON SEEKING REGISTRATION;

(4) IF THE PERSON SEEKING REGISTRATION IS NOT A CORPORATION THAT IS DOMICILED IN THE STATE, THE NAME AND CONTACT INFORMATION FOR THE COMPANY'S AGENT FOR SERVICE OF PROCESS IN THIS STATE;

(5) THE NAME, ADDRESS, AND CONTACT INFORMATION OF ANY INDIVIDUAL OR ANY CORPORATION, PARTNERSHIP, OR OTHER BUSINESS ENTITY THAT OWNS 10% OR MORE OF THE PERSON SEEKING REGISTRATION;

(6) A CERTIFICATION THAT THE PERSON SEEKING REGISTRATION WILL VERIFY THAT A PERSON BEING ADDED TO THE APPRAISER PANEL OF THE APPRAISAL MANAGEMENT COMPANY HOLDS ~~A~~ AN APPROPRIATE LICENSE OR CERTIFICATION IN GOOD STANDING IN THE STATE UNDER THIS SUBTITLE FOR THE PURPOSE OF PERFORMING REAL ESTATE APPRAISALS;

(7) A CERTIFICATION THAT THE PERSON SEEKING REGISTRATION REQUIRES APPRAISERS COMPLETING APPRAISALS AT ITS REQUEST TO COMPLY WITH THE UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE, INCLUDING THE REQUIREMENTS FOR GEOGRAPHIC AND PRODUCT COMPETENCE;

(8) A CERTIFICATION THAT THE PERSON SEEKING REGISTRATION WILL REQUIRE APPRAISALS TO BE CONDUCTED INDEPENDENTLY AS REQUIRED BY THE APPRAISAL INDEPENDENCE STANDARDS UNDER SECTION 129E OF THE TRUTH IN LENDING ACT, INCLUDING THE REQUIREMENTS OF PAYMENT OF A REASONABLE AND CUSTOMARY FEE TO APPRAISERS WHEN THE APPRAISAL MANAGEMENT COMPANY IS PROVIDING SERVICES FOR A CONSUMER CREDIT TRANSACTION SECURED BY THE PRINCIPAL DWELLING OF A CONSUMER;

(9) A CERTIFICATION THAT THE PERSON SEEKING REGISTRATION MAINTAINS A DETAILED RECORD OF EACH SERVICE REQUEST THAT IT RECEIVES AND THE APPRAISER THAT PERFORMS THE RESIDENTIAL REAL ESTATE APPRAISAL SERVICES FOR THE PERSON UNDER § 16–5B–09 OF THIS SUBTITLE;

(10) AN IRREVOCABLE UNIFORM CONSENT TO SERVICE OF PROCESS IN ACCORDANCE WITH § 16–5B–04(C) OF THIS SUBTITLE; AND

(11) ANY OTHER INFORMATION THAT THE COMMISSION REASONABLY REQUIRES TO IMPLEMENT THIS SUBTITLE.

(C) IF THE REGISTRATION PROCESS REQUIRED UNDER SUBSECTION (A) OF THIS SECTION HAS NOT BEEN ESTABLISHED AS OF THE EFFECTIVE DATE OF THIS SUBTITLE, AN APPRAISAL MANAGEMENT COMPANY MAY, WITHOUT BEING REGISTERED UNDER THIS SUBTITLE, CONTINUE TO PROVIDE APPRAISAL MANAGEMENT SERVICES IN ACCORDANCE WITH THIS SUBTITLE FOR 120 DAYS AFTER A REGISTRATION PROCESS BECOMES AVAILABLE.

(D) AN APPRAISAL MANAGEMENT COMPANY THAT HAS SUBMITTED A COMPLETE APPLICATION FOR REGISTRATION UNDER SUBSECTION (B) OF THIS SECTION MAY CONTINUE TO PROVIDE APPRAISAL MANAGEMENT SERVICES IN ACCORDANCE WITH THIS SUBTITLE UNTIL THE COMMISSION MAKES A FINAL DECISION TO APPROVE OR DENY THE COMPANY'S APPLICATION FOR REGISTRATION UNDER THIS SUBTITLE.

16–5B–04.

(A) AN APPLICANT FOR REGISTRATION AS AN APPRAISAL MANAGEMENT COMPANY SHALL SUBMIT TO THE COMMISSION AN APPLICATION ON A FORM REQUIRED BY THE COMMISSION.

(B) A REGISTRATION ISSUED UNDER THIS SUBTITLE IS VALID FOR 1 YEAR.

(C) A PERSON APPLYING FOR REGISTRATION AS AN APPRAISAL MANAGEMENT COMPANY SHALL COMPLETE AN IRREVOCABLE UNIFORM CONSENT TO SERVICE OF PROCESS, AS REQUIRED BY THE COMMISSION.

~~(D) THE COMMISSION SHALL COLLECT FROM EACH APPRAISAL MANAGEMENT COMPANY THE AMOUNT DETERMINED BY THE APPRAISAL SUBCOMMITTEE TO BE A NATIONAL REGISTRY FEE FOR EACH APPRAISER ON THE APPRAISER PANEL OF AN APPRAISAL MANAGEMENT COMPANY UNDER SECTION 1109(A)(4) OF THE FEDERAL FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989, AS AMENDED BY THE DODD–FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT OF 2010.~~

~~(E) (1)~~ (D) THE COMMISSION MAY SET BY REGULATION REASONABLE FEES FOR REGISTERING APPRAISAL MANAGEMENT COMPANIES UNDER THIS SUBTITLE.

~~(2) THE FEES SHALL BE:~~

~~(I) SET SO AS TO PRODUCE FUNDS TO APPROXIMATE THE COST OF ADMINISTERING THIS SUBTITLE; AND~~

~~(II) BASED ON CALCULATIONS PERFORMED BY THE SECRETARY OF LABOR, LICENSING, AND REGULATION UNDER § 2–106.8 OF THE BUSINESS REGULATION ARTICLE.~~

~~(3) THE COMMISSION SHALL PUBLISH THE FEE SCHEDULE SET BY THE COMMISSION UNDER THIS SECTION.~~

~~(4) (I) THE COMMISSION SHALL PAY ALL FEES COLLECTED UNDER THIS SUBTITLE TO THE COMPTROLLER.~~

~~(II) THE COMPTROLLER SHALL DISTRIBUTE THE FEES TO THE APPRAISAL MANAGEMENT COMPANY FUND ESTABLISHED IN § 2–106.7 OF THE BUSINESS REGULATION ARTICLE.~~

16–5B–05.

(A) A PERSON APPLYING FOR REGISTRATION AS AN APPRAISAL MANAGEMENT COMPANY MAY NOT BE OWNED IN WHOLE OR IN PART, DIRECTLY OR INDIRECTLY, BY:

(1) A PERSON WHO HAS HAD A LICENSE OR CERTIFICATE TO ACT AS AN APPRAISER REFUSED, DENIED, CANCELED, REVOKED, OR SURRENDERED IN ANY STATE; OR

(2) ANOTHER ENTITY THAT IS OWNED BY A PERSON WHO HAS HAD A LICENSE OR CERTIFICATE TO ACT AS AN APPRAISER REFUSED, DENIED, CANCELED, REVOKED, OR SURRENDERED IN ANY STATE.

(B) THE OWNER OF AN APPRAISAL MANAGEMENT COMPANY SHALL:

(1) BE OF GOOD ~~MORAL CHARACTER~~ CHARACTER AND REPUTATION, AS DETERMINED BY THE COMMISSION; AND

(2) SUBMIT TO A BACKGROUND INVESTIGATION, AS DETERMINED BY THE COMMISSION.

(C) A PERSON APPLYING FOR REGISTRATION AS AN APPRAISAL MANAGEMENT COMPANY SHALL CERTIFY TO THE COMMISSION THAT IT HAS REVIEWED EACH ENTITY THAT OWNS THE PERSON AND THAT NO OTHER ENTITY THAT OWNS THE PERSON IS DIRECTLY OWNED BY A PERSON THAT HAS HAD A LICENSE OR CERTIFICATE TO ACT AS AN APPRAISER REFUSED, DENIED, CANCELED, REVOKED, OR SURRENDERED IN ANY STATE.

16–5B–06.

(A) A PERSON APPLYING FOR REGISTRATION AS AN APPRAISAL MANAGEMENT COMPANY SHALL DESIGNATE AN INDIVIDUAL TO SERVE AS A CONTROLLING PERSON THAT WILL BE THE MAIN CONTACT FOR ALL COMMUNICATION BETWEEN THE COMMISSION AND THE APPRAISAL MANAGEMENT COMPANY.

(B) THE CONTROLLING PERSON DESIGNATED UNDER SUBSECTION (A) OF THIS SECTION SHALL:

(1) HAVE NEVER HAD A LICENSE OR CERTIFICATE TO ACT AS AN APPRAISER REFUSED, DENIED, CANCELED, REVOKED, OR SURRENDERED IN ANY STATE, UNLESS THE LICENSE OR CERTIFICATE WAS SUBSEQUENTLY GRANTED OR REINSTATED;

(2) BE OF GOOD ~~MORAL CHARACTER~~ CHARACTER AND REPUTATION, AS DETERMINED BY THE COMMISSION; AND

(3) SUBMIT TO A BACKGROUND INVESTIGATION, AS DETERMINED BY THE COMMISSION.

16–5B–07.

AN APPRAISAL MANAGEMENT COMPANY MAY NOT:

(1) KNOWINGLY EMPLOY A PERSON IN A POSITION IN WHICH THE PERSON HAS THE RESPONSIBILITY TO ORDER APPRAISALS OR TO REVIEW COMPLETED APPRAISALS WHO HAS HAD A LICENSE OR CERTIFICATE TO ACT AS AN APPRAISER REFUSED, DENIED, CANCELED, REVOKED, OR SURRENDERED IN ANY STATE, UNLESS THE LICENSE OR CERTIFICATE WAS SUBSEQUENTLY GRANTED OR REINSTATED;

(2) KNOWINGLY ENTER INTO AN INDEPENDENT CONTRACTOR ARRANGEMENT FOR REAL ESTATE APPRAISAL SERVICES WITH A PERSON WHO HAS HAD A LICENSE OR CERTIFICATE TO ACT AS AN APPRAISER REFUSED, DENIED, CANCELED, REVOKED, OR SURRENDERED IN ANY STATE, UNLESS THE LICENSE OR CERTIFICATE WAS SUBSEQUENTLY GRANTED OR REINSTATED; OR

(3) KNOWINGLY ENTER INTO A CONTRACT, AN AGREEMENT, OR ANY OTHER BUSINESS RELATIONSHIP, FOR THE PURPOSE OF OBTAINING REAL ESTATE APPRAISAL SERVICES, WITH AN ENTITY THAT EMPLOYS, HAS ENTERED INTO AN INDEPENDENT CONTRACT ARRANGEMENT WITH, OR HAS ENTERED INTO A CONTRACT, AN AGREEMENT, OR ANY OTHER BUSINESS RELATIONSHIP WITH A PERSON WHO HAS EVER HAD A LICENSE OR CERTIFICATE TO ACT AS AN APPRAISER REFUSED, DENIED, CANCELED, REVOKED, OR SURRENDERED IN ANY STATE, UNLESS THE LICENSE OR CERTIFICATE WAS SUBSEQUENTLY GRANTED OR REINSTATED.

16–5B–08.

(A) ~~BEFORE PLACING AN ASSIGNMENT WITH AN APPRAISER ON THE APPRAISER PANEL OF AN APPRAISAL MANAGEMENT COMPANY, THE~~ AN APPRAISAL MANAGEMENT COMPANY SHALL ~~VERIFY~~ REQUIRE THAT AN APPRAISER CONFIRM IN WRITING OR VIA ELECTRONIC MEANS THAT ~~THE~~ AN APPRAISER RECEIVING THE ASSIGNMENT IS A COMPETENT APPRAISER FOR THE PERFORMANCE OF THE APPRAISAL BEING ASSIGNED.

(B) AN APPRAISAL MANAGEMENT COMPANY THAT HAS COMPLIED WITH SUBSECTION (A) OF THIS SECTION IN RELATION TO AN ASSIGNMENT MAY NOT

BE HELD LIABLE FOR A VIOLATION OF THIS SUBTITLE IN RELATION TO THAT ASSIGNMENT IF THE COMMISSION SUBSEQUENTLY DETERMINES THAT THE APPRAISER COMPLETING THE ASSIGNMENT VIOLATED THE COMPETENCY RULE OF THE UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE.

~~(B)~~ (C) AN EMPLOYEE OF OR INDEPENDENT CONTRACTOR TO THE APPRAISAL MANAGEMENT COMPANY THAT PERFORMS AN APPRAISAL REVIEW ON A PROPERTY LOCATED IN THE STATE SHALL BE AN APPRAISER LICENSED OR CERTIFIED IN THE ~~STATE IN WHICH THE PROPERTY THAT IS THE SUBJECT OF THE APPRAISAL IS LOCATED~~ STATE.

~~(C)~~ (D) AN APPRAISAL MANAGEMENT COMPANY MAY NOT ENTER INTO ANY AGREEMENTS WITH AN APPRAISER FOR THE PERFORMANCE OF APPRAISALS IN CONJUNCTION WITH FEDERALLY RELATED TRANSACTIONS UNLESS IT VERIFIES THAT THE APPRAISER IS LICENSED OR CERTIFIED TO PERFORM THE APPRAISAL UNDER THIS SUBTITLE.

16–5B–09.

(A) A PERSON APPLYING FOR REGISTRATION AS AN APPRAISAL MANAGEMENT COMPANY SHALL CERTIFY TO THE COMMISSION ON AN ANNUAL BASIS THAT IT WILL MAINTAIN A DETAILED RECORD OF:

(1) EACH SERVICE REQUEST THAT IT RECEIVES; AND

(2) EACH APPRAISER THAT PERFORMS THE APPRAISAL FOR THE APPRAISAL MANAGEMENT COMPANY.

(B) AN APPRAISAL MANAGEMENT COMPANY SHALL RETAIN THE RECORDS REQUIRED UNDER SUBSECTION (A) OF THIS SECTION FOR 5 YEARS AFTER AN APPRAISAL IS COMPLETED, OR 2 YEARS AFTER FINAL DISPOSITION OF A JUDICIAL PROCEEDING RELATED TO THE ASSIGNMENT, WHICHEVER PERIOD EXPIRES LATER.

16–5B–10.

(A) AN APPRAISAL MANAGEMENT COMPANY MAY NOT:

(1) ~~KNOWINGLY FAIL TO COMPENSATE AN APPRAISER AT A RATE THAT IS REASONABLE AND CUSTOMARY FOR APPRAISALS BEING PERFORMED WITHOUT THE SERVICES OF AN APPRAISAL MANAGEMENT COMPANY IN THE MARKET AREA OF THE PROPERTY BEING APPRAISED;~~

~~(2) KNOWINGLY INCLUDE ANY FEES FOR PROVIDING APPRAISAL MANAGEMENT SERVICES IN THE AMOUNT THAT IT CHARGES A LENDER, CLIENT, OR OTHER PERSON FOR THE COMPLETION OF AN APPRAISAL BY AN APPRAISER THAT IS PART OF THE APPRAISER PANEL OF THE APPRAISAL MANAGEMENT COMPANY;~~

~~(3)~~ KNOWINGLY FAIL TO SEPARATE AND DISCLOSE ANY FEES CHARGED TO A CLIENT BY THE APPRAISAL MANAGEMENT COMPANY FOR THE COMPLETION OF AN APPRAISAL BY AN APPRAISER FROM THE FEES CHARGED TO A LENDER, CLIENT, OR ANY OTHER PERSON BY AN APPRAISAL MANAGEMENT COMPANY FOR PROVIDING APPRAISAL MANAGEMENT SERVICES; OR

~~(4)~~ (2) KNOWINGLY PROHIBIT AN APPRAISER FROM RECORDING THE FEE THAT THE APPRAISER WAS PAID BY THE APPRAISAL MANAGEMENT COMPANY FOR ~~THE PERFORMANCE OF THE APPRAISAL~~ THE PROVISION OF REAL ESTATE SERVICES WITHIN THE APPRAISAL REPORT THAT IS SUBMITTED BY THE APPRAISER TO THE APPRAISAL MANAGEMENT COMPANY~~; OR~~

~~(5) KNOWINGLY FAIL TO SEPARATELY STATE THE FEES PAID TO AN APPRAISER FOR APPRAISAL SERVICES AND THE FEES CHARGED BY THE APPRAISAL MANAGEMENT COMPANY FOR SERVICES ASSOCIATED WITH THE MANAGEMENT OF THE APPRAISAL PROCESS TO A CLIENT, BORROWER, OR OTHER PAYER~~.

(B) THE COMMISSION MAY NOT BRING DISCIPLINARY ACTION UNDER § 16–702.2 OF THIS TITLE OR RECOMMEND CRIMINAL SANCTIONS UNDER § 16–706 OF THIS TITLE BASED SOLELY ON SUBSECTION (A) OF THIS SECTION.

16–5B–11.

(A) (1) EACH APPRAISAL MANAGEMENT COMPANY SHALL ENSURE THAT ~~APPRAISALS ARE CONDUCTED~~ REAL ESTATE APPRAISAL SERVICES ARE PROVIDED INDEPENDENTLY AND FREE FROM INAPPROPRIATE INFLUENCE AND COERCION UNDER THE APPRAISAL INDEPENDENCE STANDARDS ESTABLISHED UNDER SECTION 129E OF THE TRUTH IN LENDING ACT.

(2) (I) AN APPRAISAL MANAGEMENT COMPANY SHALL PAY AN APPRAISER REASONABLE AND CUSTOMARY FEES CONSISTENT WITH THE PRESUMPTIONS OF COMPLIANCE DEFINED UNDER FEDERAL LAW.

(II) THE COMMISSION MAY NOT BRING DISCIPLINARY ACTION UNDER § 16–702.2 OF THIS TITLE OR RECOMMEND CRIMINAL SANCTIONS UNDER § 16–706 OF THIS TITLE BASED SOLELY ON SUBPARAGRAPH (I) OF THIS PARAGRAPH.

(B) ~~NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, AN EMPLOYEE, A DIRECTOR, AN OFFICER, OR AN AGENT OF AN APPRAISAL MANAGEMENT COMPANY MAY NOT~~ AN EMPLOYEE, PARTNER, DIRECTOR, OFFICER, OR AGENT OF AN APPRAISAL MANAGEMENT COMPANY MAY NOT INFLUENCE OR ATTEMPT TO INFLUENCE THE DEVELOPMENT, REPORTING, RESULT, OR REVIEW OF AN APPRAISAL THROUGH COERCION, EXTORTION, COLLUSION, COMPENSATION, INDUCEMENT, INTIMIDATION, BRIBERY, OR ANY OTHER MEANS, INCLUDING:

(1) ~~COMPENSATE, COLLUDE, OR INFLUENCE, OR ATTEMPT~~ COMPENSATING, COLLUDING, OR INFLUENCING, OR ATTEMPTING TO COMPENSATE, COLLUDE, OR INFLUENCE A PERSON INVOLVED IN AN APPRAISAL FOR THE PURPOSE OF CAUSING THE APPRAISED VALUE ASSIGNED UNDER THE APPRAISAL TO THE PROPERTY TO BE BASED ON A FACTOR OTHER THAN THE INDEPENDENT JUDGMENT OF THE APPRAISER;

(2) ~~MISCHARACTERIZE, OR SUBORN~~ MISCHARACTERIZING, OR SUBORNING ANY MISCHARACTERIZATION OF, THE APPRAISED VALUE OF A PROPERTY IN CONJUNCTION WITH A CONSUMER CREDIT TRANSACTION;

(3) ~~SEEK~~ SEEKING TO INFLUENCE AN APPRAISER OR OTHERWISE ~~ENCOURAGE~~ ENCOURAGING A TARGETED VALUE IN ORDER TO FACILITATE THE MAKING OR PRICING OF A CONSUMER CREDIT TRANSACTION;

(4) ~~WITHHOLD OR THREATEN~~ WITHHOLDING OR THREATENING TO WITHHOLD TIMELY PAYMENT FOR AN APPRAISAL REPORT OR FOR ~~APPRAISAL SERVICES RENDERED~~ THE PROVISION OF REAL ESTATE APPRAISAL SERVICES WHEN THE APPRAISAL REPORT OR SERVICES ARE PROVIDED IN ACCORDANCE WITH A CONTRACT BETWEEN THE PARTIES;

(5) ~~WITHHOLD OR THREATEN~~ WITHHOLDING OR THREATENING TO WITHHOLD FUTURE BUSINESS FROM AN APPRAISER;

(6) ~~DEMOTE OR TERMINATE OR THREATEN~~ DEMOTING OR TERMINATING OR THREATENING TO DEMOTE OR TERMINATE AN APPRAISER;

(7) EXPRESSLY OR IMPLIEDLY ~~PROMISE~~ PROMISING FUTURE BUSINESS, PROMOTIONS, OR INCREASED COMPENSATION FOR AN APPRAISER;

(8) ~~REQUIRE~~ REQUIRING AN APPRAISER TO INDEMNIFY AN APPRAISAL MANAGEMENT COMPANY OR HOLD AN APPRAISAL MANAGEMENT COMPANY HARMLESS FOR ANY LIABILITY, DAMAGE, LOSSES, OR CLAIMS

ARISING OUT OF THE SERVICES PROVIDED BY THE APPRAISAL MANAGEMENT COMPANY, AND NOT THE SERVICES PERFORMED BY THE APPRAISER;

(9) ~~CONDITION~~ CONDITIONING A REQUEST FOR AN APPRAISAL OR THE PAYMENT OF AN APPRAISAL FEE OR SALARY OR BONUS ON:

(I) AN OPINION, A CONCLUSION, OR A VALUATION TO BE REACHED; OR

(II) ~~ON~~ A PRELIMINARY ESTIMATE OR OPINION REQUESTED FROM AN APPRAISER;

(10) ~~REQUEST~~ REQUESTING THAT AN APPRAISER PROVIDE:

(I) AN ESTIMATED, PREDETERMINED, OR DESIRED VALUATION IN AN APPRAISAL REPORT; OR

(II) ESTIMATED VALUES OR COMPARABLE SALES AT ANY TIME BEFORE THE APPRAISER'S COMPLETION OF AN APPRAISAL;

(11) EXCEPT FOR A COPY OF THE SALES CONTRACT FOR PURCHASE TRANSACTIONS, ~~PROVIDE~~ PROVIDING TO AN APPRAISER AN ANTICIPATED, ESTIMATED, ENCOURAGED, OR DESIRED VALUE FOR A SUBJECT PROPERTY OR A PROPOSED OR TARGET AMOUNT TO BE LOANED TO THE BORROWER;

(12) ~~PROVIDE~~ PROVIDING TO AN APPRAISER, OR A PERSON RELATED TO THE APPRAISER, STOCK OR OTHER FINANCIAL OR NONFINANCIAL BENEFITS;

(13) ~~ALLOW~~ ALLOWING THE REMOVAL OF AN APPRAISER FROM AN APPRAISER PANEL WITHOUT PRIOR WRITTEN NOTICE TO THE APPRAISER;

(14) ~~OBTAIN, USE, OR PAY~~ OBTAINING, USING, OR PAYING FOR A SECOND OR SUBSEQUENT APPRAISAL, OR ~~ORDER~~ ORDERING AN AUTOMATED VALUATION MODEL, IN CONNECTION WITH A MORTGAGE FINANCING TRANSACTION UNLESS:

(I) THERE IS A REASONABLE BASIS TO BELIEVE THAT THE INITIAL APPRAISAL WAS FLAWED AND THE BASIS IS CLEARLY AND APPROPRIATELY NOTED IN THE LOAN FILE; ~~OR~~

(II) THE SUBSEQUENT APPRAISAL OR AUTOMATED VALUATION MODEL IS DONE UNDER A BONA FIDE PREFUNDING OR POSTFUNDING APPRAISAL REVIEW OR QUALITY CONTROL PROCESS;

(III) A SECOND APPRAISAL IS REQUIRED UNDER STATE OR FEDERAL LAW; OR

(IV) THE SECOND APPRAISAL OR AUTOMATED VALUATION MODEL IS ORDERED BY AN APPRAISAL MANAGEMENT COMPANY IN RESPONSE TO A REQUEST BY A CLIENT IN ORDER TO SATISFY CLIENT VALUATION POLICIES FOR THE PROPERTY BEING APPRAISED AND THE SECOND APPRAISAL OR AUTOMATED VALUATION MODEL IS ORDERED BY THE CLIENT PRIOR TO THE COMPLETION OF THE FIRST APPRAISAL; OR

(15) ANY OTHER ACT ~~THAT IMPAIRS OR ATTEMPTS~~ IMPAIRING OR ATTEMPTING TO IMPAIR AN APPRAISER'S INDEPENDENCE OR IMPARTIALITY.

(C) NOTHING IN SUBSECTION (A) OR (B) OF THIS SECTION MAY BE CONSTRUED TO PROHIBIT AN APPRAISAL MANAGEMENT COMPANY FROM ASKING AN APPRAISER TO:

(1) CONSIDER ADDITIONAL APPROPRIATE PROPERTY INFORMATION, INCLUDING THE CONSIDERATION OF ADDITIONAL COMPARABLE PROPERTIES TO MAKE OR SUPPORT AN APPRAISAL;

(2) PROVIDE FURTHER DETAIL, SUBSTANTIATION, OR EXPLANATION FOR AN APPRAISER'S VALUE CONCLUSION; OR

(3) CORRECT ERRORS IN AN APPRAISAL REPORT.

16–5B–12.

AN APPRAISAL MANAGEMENT COMPANY SHALL INFORM THE COMMISSION WHEN THE APPRAISAL MANAGEMENT COMPANY HAS A REASONABLE BASIS TO BELIEVE THAT:

(1) AN APPRAISER HAS:

~~(1)~~ (I) ~~IS FAILING~~ FAILED TO COMPLY WITH THE UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE;

~~(2)~~ (II) ~~IS VIOLATING~~ VIOLATED APPLICABLE LAWS; OR

~~(3)~~ (III) ~~IS ENGAGING~~ ENGAGED IN UNETHICAL OR UNPROFESSIONAL CONDUCT; AND

(2) THE APPRAISER'S CONDUCT UNDER ITEM (1) OF THIS SECTION IS LIKELY TO AFFECT THE VALUE ASSIGNED TO THE CONSUMER'S PRINCIPAL DWELLING.

16–5B–13.

AN APPRAISAL MANAGEMENT COMPANY COMMITS UNPROFESSIONAL CONDUCT IF THE APPRAISAL MANAGEMENT COMPANY:

(1) REQUIRES AN APPRAISER TO MODIFY AN ASPECT OF AN APPRAISAL REPORT AND THE MODIFICATION REQUESTED IS NOT RELATED TO SUBSTANDARD PERFORMANCE OR NONCOMPLIANCE WITH THE TERMS OF ENGAGEMENT;

(2) REQUIRES AN APPRAISER TO PREPARE AN APPRAISAL REPORT IF THE APPRAISER HAS NOTIFIED THE APPRAISAL MANAGEMENT COMPANY THAT, IN THE APPRAISER'S OWN PROFESSIONAL JUDGMENT, THE APPRAISER BELIEVES THE APPRAISER DOES NOT HAVE THE NECESSARY EXPERTISE FOR THE SPECIFIC GEOGRAPHIC AREA;

(3) REQUIRES AN APPRAISER TO PREPARE AN APPRAISAL REPORT UNDER A TIME FRAME THAT THE APPRAISER HAS NOTIFIED THE APPRAISAL MANAGEMENT COMPANY THAT, IN THE APPRAISER'S OWN PROFESSIONAL JUDGMENT, THE APPRAISER BELIEVES DOES NOT AFFORD THE APPRAISER THE ABILITY TO MEET ALL THE RELEVANT LEGAL AND PROFESSIONAL OBLIGATIONS;

(4) PROHIBITS OR INHIBITS COMMUNICATION BETWEEN AN APPRAISER AND A LENDER, A REAL ESTATE LICENSEE, OR ANY OTHER PERSON FROM WHOM THE APPRAISER, IN THE APPRAISER'S OWN PROFESSIONAL JUDGMENT, BELIEVES INFORMATION WOULD BE RELEVANT;

(5) REQUIRES THE APPRAISER TO DO ANYTHING THAT DOES NOT COMPLY WITH:

(I) THE UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE; OR

(II) ANY ASSIGNMENT CONDITIONS AND CERTIFICATIONS REQUIRED BY THE CLIENT; OR

(6) MAKES ANY PORTION OF THE APPRAISER'S FEE OR THE APPRAISAL MANAGEMENT COMPANY'S FEE CONTINGENT ON A FAVORABLE OUTCOME, INCLUDING:

(I) A LOAN CLOSING; OR

(II) A SPECIFIC DOLLAR AMOUNT BEING ACHIEVED BY THE APPRAISER IN THE APPRAISAL REPORT~~; OR~~

~~(7) REQUESTS, FOR THE PURPOSE OF FACILITATING A MORTGAGE LOAN TRANSACTION:~~

~~(I) A BROKER PRICE OPINION; OR~~

~~(II) ANY OTHER REAL PROPERTY PRICE OR VALUE ESTIMATION THAT DOES NOT QUALIFY AS AN APPRAISAL~~.

16–5B–14.

(A) EXCEPT IN CASES OF BREACH OF CONTRACT OR SUBSTANDARD PERFORMANCE OF SERVICES, AN APPRAISAL MANAGEMENT COMPANY SHALL PAY AN APPRAISER FOR THE COMPLETION OF AN APPRAISAL OR VALUATION ASSIGNMENT WITHIN 60 DAYS AFTER THE APPRAISER PROVIDES THE COMPLETED APPRAISAL OR VALUATION STUDY TO THE APPRAISAL MANAGEMENT COMPANY OR ITS ASSIGNEE.

(B) THE COMMISSION MAY NOT BRING DISCIPLINARY ACTION UNDER § 16–702.2 OF THIS TITLE OR RECOMMEND CRIMINAL SANCTIONS UNDER § 16–706 OF THIS TITLE BASED SOLELY ON SUBSECTION (A) OF THIS SECTION.

16–5B–15.

(A) AN APPRAISAL MANAGEMENT COMPANY MAY NOT CHANGE A COMPLETED APPRAISAL REPORT SUBMITTED BY AN APPRAISER BY:

(1) PERMANENTLY REMOVING THE APPRAISER'S SIGNATURE OR SEAL; OR

(2) ADDING INFORMATION TO, OR REMOVING INFORMATION FROM, THE APPRAISAL REPORT WITH AN INTENT TO CHANGE THE VALUATION CONCLUSION.

(B) (1) AN APPRAISAL MANAGEMENT COMPANY MAY NOT REQUIRE AN APPRAISER TO PROVIDE THE APPRAISAL MANAGEMENT COMPANY WITH THE APPRAISER'S DIGITAL SIGNATURE OR SEAL.

(2) SUBJECT TO THE RESTRICTIONS IN THE UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE, AN APPRAISER MAY VOLUNTARILY PROVIDE THE APPRAISER'S DIGITAL SIGNATURE TO ANOTHER PERSON.

16–5B–16.

(A) THE COMMISSION SHALL ISSUE A UNIQUE REGISTRATION NUMBER TO EACH APPRAISAL MANAGEMENT COMPANY THAT IS REGISTERED IN THIS STATE.

(B) THE COMMISSION SHALL PUBLISH ANNUALLY A LIST OF APPRAISAL MANAGEMENT COMPANIES.

(C) AN APPRAISAL MANAGEMENT COMPANY SHALL DISCLOSE THE COMPANY'S REGISTRATION NUMBER ON ~~ALL PRINT AND ELECTRONIC ADVERTISING, INCLUDING ANY ELECTRONIC ADVERTISING OR COMMUNICATION VIA THE INTERNET~~ ANY INSTRUMENT UTILIZED BY THE APPRAISAL MANAGEMENT COMPANY TO PROCURE APPRAISAL SERVICES IN THIS STATE.

16–5B–17.

(A) EXCEPT WITHIN 30 DAYS AFTER AN APPRAISER IS FIRST ADDED TO THE APPRAISER PANEL OF AN APPRAISAL MANAGEMENT COMPANY, AN APPRAISAL MANAGEMENT COMPANY MAY NOT REMOVE AN APPRAISER FROM ITS APPRAISER PANEL, OR OTHERWISE REFUSE TO ASSIGN REQUESTS FOR REAL ESTATE APPRAISAL SERVICES TO AN APPRAISER, WITHOUT:

(1) NOTIFYING THE APPRAISER IN WRITING OF THE REASONS WHY THE APPRAISER IS BEING REMOVED FROM THE APPRAISER PANEL OF THE APPRAISAL MANAGEMENT COMPANY;

(2) IDENTIFYING THE ILLEGAL CONDUCT, VIOLATION OF THE UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE, ~~OR~~ VIOLATION OF STATE LICENSING STANDARDS, OR SUBSTANDARD PERFORMANCE OR VIOLATIONS OF CONTRACTUAL TERMS BETWEEN THE APPRAISER AND THE APPRAISAL MANAGEMENT COMPANY THAT THE APPRAISAL MANAGEMENT COMPANY HAS A REASONABLE BASIS TO BELIEVE THAT THE APPRAISER HAS ENGAGED IN; AND

(3) PROVIDING AN OPPORTUNITY FOR THE APPRAISER TO RESPOND.

(B) (1) AN APPRAISER THAT IS REMOVED FROM THE APPRAISER PANEL OF AN APPRAISAL MANAGEMENT COMPANY FOR ALLEGED ILLEGAL CONDUCT, A VIOLATION OF THE UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE, OR A VIOLATION OF STATE LICENSING STANDARDS MAY FILE A COMPLAINT WITH THE COMMISSION FOR A REVIEW OF THE DECISION OF THE APPRAISAL MANAGEMENT COMPANY.

(2) THE COMMISSION'S REVIEW UNDER PARAGRAPH (1) OF THIS SUBSECTION IS LIMITED TO DETERMINING WHETHER:

(I) THE APPRAISAL MANAGEMENT COMPANY HAS COMPLIED WITH SUBSECTION (A) OF THIS SECTION; AND

(II) THE APPRAISER HAS COMMITTED A VIOLATION OF:

1. STATE LAW; OR

2. THE UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE.

(C) (1) IF AN APPRAISER FILES A COMPLAINT AGAINST AN APPRAISAL MANAGEMENT COMPANY UNDER SUBSECTION (B) OF THIS SECTION, THE COMMISSION SHALL ~~ADJUDICATE THE COMPLAINT WITHIN 180 DAYS~~ SCHEDULE A HEARING WITHIN A REASONABLE TIME, NOT EXCEEDING 1 YEAR, AFTER THE COMPLAINT IS FILED.

(2) THE TIME SPECIFIED UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY BE EXTENDED FOR GOOD CAUSE BY THE COMMISSION ON WRITTEN NOTICE TO THE PARTIES.

(D) IF AFTER OPPORTUNITY FOR HEARING AND REVIEW, THE COMMISSION DETERMINES THAT AN APPRAISAL MANAGEMENT COMPANY ACTED IMPROPERLY IN REMOVING AN APPRAISER FROM THE APPRAISER PANEL, OR THAT AN APPRAISER DID NOT COMMIT A VIOLATION OF STATE LAW OR A VIOLATION OF THE UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE, THE COMMISSION SHALL ORDER THAT AN APPRAISER BE RESTORED TO THE APPRAISER PANEL OF THE APPRAISAL MANAGEMENT COMPANY THAT WAS THE SUBJECT OF THE COMPLAINT.

(E) IF THE COMMISSION FINDS THAT THE APPRAISAL MANAGEMENT COMPANY ACTED IMPROPERLY IN REMOVING THE APPRAISER FROM THE APPRAISER PANEL, AN APPRAISAL MANAGEMENT COMPANY MAY NOT:

(1) REDUCE THE NUMBER OF REAL ESTATE APPRAISAL ASSIGNMENTS THE COMPANY GIVES TO AN APPRAISER; OR

(2) PENALIZE THE APPRAISER IN ANY OTHER MANNER.

16–5B–18.

THE COMMISSION MAY ADOPT REGULATIONS NECESSARY TO IMPLEMENT, ADMINISTER, AND ENFORCE THIS SUBTITLE.

~~**16–5B–19.**~~

~~**SUBJECT TO THE EVALUATION AND REESTABLISHMENT PROVISIONS OF THE MARYLAND PROGRAM EVALUATION ACT, THE SUBTITLE AND ALL REGULATIONS ADOPTED UNDER THIS SUBTITLE SHALL TERMINATE AND BE OF NO EFFECT AFTER JULY 1, 2022.**~~

16–601.

(a) Subject to the provisions of this section, the Commission shall start proceedings under § 16–701 **[**or**],** § 16–701.1**, OR § 16–701.2** of this title on a complaint made to the Commission by any person.

(b) (1) A complaint shall:

(i) be in writing; and

(ii) state specifically the facts on which the complaint is based.

(2) If a complaint is made by any person other than the Commission, the complaint shall be made under oath by the person who submits the complaint.

(3) A complaint may be accompanied by documentary or other evidence.

(c) The Commission shall investigate each complaint submitted to the Commission if the complaint:

(1) alleges facts that establish a prima facie case that is grounds for disciplinary action under § 16–701 **[**or**],** § 16–701.1**, OR § 16–701.2** of this title; and

(2) meets the requirements of this section.

(d) (1) On conclusion of the investigation, the Commission shall determine if there is a reasonable basis to believe that there are grounds for

disciplinary action under § 16–701 **[**or**],** § 16–701.1**, OR § 16–701.2** of this title against an applicant or licensee.

(2) (i) If the Commission finds a reasonable basis as provided under paragraph (1) of this subsection, the Commission shall act on the complaint as provided under § 16–602 of this subtitle.

(ii) If the Commission does not find a reasonable basis as provided under paragraph (1) of this subsection, the Commission shall dismiss the complaint.

16–602.

(a) Except as otherwise provided in § 10–226 of the State Government Article, before the Commission takes any final action under § 16–701 **[**or**],** § 16–701.1**, OR § 16–701.2** of this title, it shall give the individual against whom the action is contemplated an opportunity for a hearing before:

(1) the Commission; or

(2) the Hearing Board for proceedings under § 16–211 of this title.

(b) The Commission shall give notice and hold the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(c) The Commission may administer oaths in connection with any proceeding under this section.

(d) The hearing notice to be given to the individual shall be sent by certified mail to the last known address of the individual at least 10 days before the hearing.

(e) The individual may be represented at the hearing by counsel.

(f) (1) The Commission may issue subpoenas in connection with any proceeding under this section.

(2) If a person fails to comply with a subpoena issued under this subsection, on petition of the Commission, a circuit court may compel compliance with the subpoena.

(g) If, after due notice, the individual against whom the action is contemplated fails or refuses to appear, nevertheless the Commission may hear and determine the matter.

16–701.2.

(A) SUBJECT TO THE HEARING PROVISIONS OF § 16–602 OF THIS TITLE, THE COMMISSION MAY DENY REGISTRATION TO ANY APPLICANT FOR REGISTRATION AS AN APPRAISAL MANAGEMENT COMPANY, REPRIMAND ANY REGISTERED APPRAISAL MANAGEMENT COMPANY, OR SUSPEND OR REVOKE THE REGISTRATION OF AN APPRAISAL MANAGEMENT COMPANY IF THE APPLICANT OR REGISTRANT:

(1) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO OBTAIN REGISTRATION FOR THE APPLICANT OR REGISTRANT OR FOR ANOTHER;

(2) FRAUDULENTLY OR DECEPTIVELY USES A REGISTRATION;

(3) UNDER THE LAWS OF THE UNITED STATES OR ANY STATE IS CONVICTED OF:

(I) A FELONY; OR

(II) A MISDEMEANOR THAT IS DIRECTLY RELATED TO THE FITNESS AND QUALIFICATIONS OF THE REGISTRANT TO PROVIDE APPRAISAL MANAGEMENT SERVICES;

~~(3)~~ (4) VIOLATES OR ATTEMPTS TO VIOLATE ANY PROVISION OF THIS TITLE; ~~OR~~

~~(4)~~ (5) VIOLATES OR ATTEMPTS TO VIOLATE ANY REGULATION ADOPTED UNDER THIS TITLE; OR

(6) VIOLATES § 14–127 OF THE REAL PROPERTY ARTICLE.

(B) (1) INSTEAD OF OR IN ADDITION TO REPRIMANDING A REGISTRANT OR SUSPENDING OR REVOKING A REGISTRATION UNDER THIS SECTION, THE COMMISSION MAY IMPOSE A PENALTY NOT EXCEEDING $25,000 FOR EACH VIOLATION.

(2) TO DETERMINE THE AMOUNT OF THE PENALTY IMPOSED, THE COMMISSION SHALL CONSIDER:

(I) THE SERIOUSNESS OF THE VIOLATION;

(II) THE HARM CAUSED BY THE VIOLATION;

(III) THE GOOD FAITH OF THE REGISTRANT; AND

(IV) ANY HISTORY OF PREVIOUS VIOLATIONS BY THE REGISTRANT.

(3) THE COMMISSION SHALL PAY ANY PENALTY COLLECTED UNDER THIS SUBSECTION INTO THE GENERAL FUND OF THE STATE.

(C) THE COMMISSION SHALL CONSIDER THE FOLLOWING FACTS IN THE GRANTING, DENIAL, RENEWAL, SUSPENSION, OR REVOCATION OF A REGISTRATION OR THE REPRIMAND OF A REGISTRANT WHEN AN APPLICANT OR REGISTRANT IS CONVICTED OF A FELONY OR A MISDEMEANOR DESCRIBED IN SUBSECTION (A)(3) OF THIS SECTION:

(1) THE NATURE OF THE CRIME;

(2) THE RELATIONSHIP OF THE CRIME TO THE ACTIVITIES AUTHORIZED BY THE REGISTRATION;

(3) WITH RESPECT TO A FELONY, THE RELEVANCE OF THE CONVICTION TO THE FITNESS AND QUALIFICATION OF THE APPLICANT OR REGISTRANT TO PROVIDE APPRAISAL MANAGEMENT SERVICES;

(4) THE LENGTH OF TIME SINCE THE CONVICTION; AND

(5) THE BEHAVIOR AND ACTIVITIES OF THE APPLICANT OR REGISTRANT BEFORE AND AFTER THE CONVICTION.

Article – Business Regulation

2–106.7.

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

(2) "COMMISSION" MEANS THE STATE COMMISSION OF REAL ESTATE APPRAISERS AND HOME INSPECTORS.

(3) "FUND" MEANS THE ~~APPRAISAL MANAGEMENT COMPANY~~ STATE COMMISSION OF REAL ESTATE APPRAISERS AND HOME INSPECTORS FUND.

(B) (1) THERE IS ~~AN APPRAISAL MANAGEMENT COMPANY~~ A STATE COMMISSION OF REAL ESTATE APPRAISERS AND HOME INSPECTORS FUND IN THE DEPARTMENT.

(2) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7–302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(C) THE FUND CONSISTS OF FEES COLLECTED BY THE COMMISSION AND DISTRIBUTED TO THE FUND UNDER ~~§ 16–5B–04~~ TITLE 16 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE.

(D) THE FUND SHALL BE USED TO COVER THE COMMISSION'S ACTUAL DOCUMENTED DIRECT AND INDIRECT COSTS OF ~~REGISTERING AND REGULATING APPRAISAL MANAGEMENT COMPANIES UNDER TITLE 16, SUBTITLE 5B OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE~~ FULFILLING THE STATUTORY AND REGULATORY DUTIES OF THE COMMISSION.

(E) THE SECRETARY OR A DESIGNEE OF THE SECRETARY SHALL ADMINISTER THE FUND.

(F) THE LEGISLATIVE AUDITOR SHALL AUDIT THE ACCOUNTS AND TRANSACTIONS OF THE FUND AS PROVIDED IN § 2–1220 OF THE STATE GOVERNMENT ARTICLE.

(G) AT THE END OF EACH FISCAL YEAR, ANY UNSPENT *AND UNENCUMBERED* PORTION OF THE FUND IN EXCESS OF $100,000 SHALL REVERT TO THE GENERAL FUND OF THE STATE.

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

2–106.8.

(A) IN THIS SECTION, "COMMISSION" MEANS THE STATE COMMISSION OF REAL ESTATE APPRAISERS AND HOME INSPECTORS.

(B) IN CONSULTATION WITH THE COMMISSION, THE SECRETARY SHALL CALCULATE ANNUALLY THE DIRECT AND INDIRECT COSTS ATTRIBUTABLE TO ~~ADMINISTERING TITLE 16, SUBTITLE 5B OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE~~ THE COMMISSION.

(C) ~~THE~~ BEGINNING ON JULY 1, 2011, THE COMMISSION SHALL ESTABLISH FEES BASED ON THE CALCULATIONS PROVIDED BY THE SECRETARY UNDER THIS SECTION.

(D) EACH FEE ESTABLISHED BY THE COMMISSION MAY NOT BE INCREASED ANNUALLY BY MORE THAN 12.5% OF THE EXISTING AND CORRESPONDING FEE OF THE COMMISSION.

(E) THE FEES ESTABLISHED FOR EACH PROFESSION REGULATED UNDER TITLE 16 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE SHALL BE SET SO AS TO PRODUCE FUNDS TO APPROXIMATE THE COST OF REGULATING EACH PROFESSION.

~~**Article – State Government**~~

~~8–403.~~

~~(b) Except as otherwise provided in subsection (a) of this section, on or before the evaluation date for the following governmental activities or units, an evaluation shall be made of the following governmental activities or units and the statutes and regulations that relate to the governmental activities or units:~~

~~(1) Acupuncture Board, State (§ 1A–201 of the Health Occupations Article: July 1, 2014);~~

~~(2) Amusement Ride Safety, State Advisory Board (§ 3–303 of the Business Regulation Article: July 1, 2013);~~

~~(3) Apprenticeship and Training Council (§ 11–403 of the Labor and Employment Article: July 1, 2013);~~

~~(4) Architects, State Board of (§ 3–201 of the Business Occupations and Professions Article: July 1, 2012);~~

~~(5) Athletic Commission, State (§ 4–201 of the Business Regulation Article: July 1, 2020);~~

~~(6) Athletic Training Advisory Committee (§ 14–5D–04 of the Health Occupations Article: July 1, 2012);~~

~~(7) Audiologists, Hearing Aid Dispensers, and Speech–Language Pathologists, State Board of Examiners for (§ 2–201 of the Health Occupations Article: July 1, 2015);~~

~~(8) Banking Board (§ 2–201 of the Financial Institutions Article: July 1, 2011);~~

~~(9) Barbers, State Board of (§ 4–201 of the Business Occupations and Professions Article: July 1, 2020);~~

~~(10) Boiler Rules, Board of (§ 12–904 of the Public Safety Article: July 1, 2013);~~

~~(11) Cemetery Oversight, Office of (§ 5–201 of the Business Regulation Article: July 1, 2012);~~

~~(12) Chiropractic and Massage Therapy Examiners, State Board of (§ 3–201 of the Health Occupations Article: July 1, 2021);~~

~~(13) Collection Agency Licensing Board, State (§ 7–201 of the Business Regulation Article: July 1, 2011);~~

~~(14) Cosmetologists, State Board of (§ 5–201 of the Business Occupations and Professions Article: July 1, 2020);~~

~~(15) Counselors and Therapists, State Board of Professional (§ 17–201 of the Health Occupations Article: July 1, 2018);~~

~~(16) Dental Examiners, State Board of (§ 4–201 of the Health Occupations Article: July 1, 2020);~~

~~(17) Dietetic Practice, State Board of (§ 5–201 of the Health Occupations Article: July 1, 2014);~~

~~(18) Electricians, State Board of Master (§ 6–201 of the Business Occupations and Professions Article: July 1, 2012);~~

~~(19) Electrology Practice Committee (§ 8–6B–05 of the Health Occupations Article: July 1, 2012);~~

~~(20) Elevator Safety Review Board (§§ 12–819 through 12–841 of the Public Safety Article: July 1, 2013);~~

~~(21) Engineers, State Board for Professional (§ 14–201 of the Business Occupations and Professions Article: July 1, 2012);~~

~~(22) Engineers, State Board of Stationary (§ 6.5–201 of the Business Occupations and Professions Article: July 1, 2013);~~

~~(23) Environmental Sanitarians, State Board of (§ 11–201 of the Environment Article: July 1, 2012);~~

~~(24) Financial Regulation, Office of the Commissioner of (§ 2–101 of the Financial Institutions Article: July 1, 2011);~~

~~(25) Foresters, State Board of (§ 7–201 of the Business Occupations and Professions Article: July 1, 2014);~~

~~(26) Health Care Commission, Maryland (§ 19–103 of the Health – General Article: July 1, 2017);~~

~~(27) Health Services Cost Review Commission, State (§ 19–202 of the Health – General Article: July 1, 2017);~~

~~(28) Heating, Ventilation, Air–Conditioning, and Refrigeration Contractors, State Board of (§ 9A–201 of the Business Regulation Article: July 1, 2012);~~

~~(29) Home Improvement Commission, Maryland (§ 8–201 of the Business Regulation Article: July 1, 2011);~~

~~(30) Horse Industry Board, Maryland (§ 2–701 of the Agriculture Article: July 1, 2015);~~

~~(31) Individual Tax Preparers, State Board of (§ 21–201 of the Business Occupations and Professions Article: July 1, 2015);~~

~~(32) Insurance Administration (§§ 2–101 and 2–103 of the Insurance Article: July 1, 2012);~~

~~(33) Interior Designers, State Board of Certified (§ 8–201 of the Business Occupations and Professions Article: July 1, 2013);~~

~~(34) Labor and Industry, Division of (Title 2 of the Labor and Employment Article: July 1, 2013);~~

~~(35) Land Surveyors, State Board for Professional (§ 15–201 of the Business Occupations and Professions Article: July 1, 2023);~~

~~(36) Landscape Architects, State Board of Examiners of (§ 9–201 of the Business Occupations and Professions Article: July 1, 2023);~~

~~(37) Law Examiners, State Board of (§ 10–201 of the Business Occupations and Professions Article: July 1, 2019);~~

~~(38) Maryland–Bred Race Fund Advisory Committee (§ 11–531 of the Business Regulation Article: July 1, 2013);~~

~~(39) mold remediation services, licensing and regulation of (§ 8–701 of the Business Regulation Article: July 1, 2015);~~

~~(40) Morticians and Funeral Directors, State Board of (§ 7–201 of the Health Occupations Article: July 1, 2017);~~

~~(41) Nursing, State Board of (§ 8–201 of the Health Occupations Article: July 1, 2012);~~

~~(42) Nursing Home Administrators, State Board of Examiners of (§ 9–201 of the Health Occupations Article: July 1, 2012);~~

~~(43) Occupational Safety and Health Advisory Board (§ 5–302 of the Labor and Employment Article: July 1, 2013);~~

~~(44) Occupational Therapy Practice, State Board of (§ 10–201 of the Health Occupations Article: July 1, 2014);~~

~~(45) Optometry, State Board of Examiners in (§ 11–201 of the Health Occupations Article: July 1, 2022);~~

~~(46) Pharmacy, State Board of (§ 12–201 of the Health Occupations Article: July 1, 2012);~~

~~(47) Physical Therapy Examiners, State Board of (§ 13–201 of the Health Occupations Article: July 1, 2021);~~

~~(48) Physician Assistant Advisory Committee (§ 15–201 of the Health Occupations Article: July 1, 2012);~~

~~(49) Physicians, State Board of (§ 14–201 of the Health Occupations Article: July 1, 2012);~~

~~(50) Pilots, State Board of (§ 11–201 of the Business Occupations and Professions Article: July 1, 2021);~~

~~(51) Plumbing, State Board of (§ 12–201 of the Business Occupations and Professions Article: July 1, 2022);~~

~~(52) Podiatric Medical Examiners, State Board of (§ 16–201 of the Health Occupations Article: July 1, 2011);~~

~~(53) Polysomnography Professional Standards Committee (§ 14–5C–05 of the Health Occupations Article: July 1, 2012);~~

~~(54) Prevailing Wage Rates, Advisory Council on (§ 17–203 of the State Finance and Procurement Article: July 1, 2013);~~

~~(55) Psychologists, State Board of Examiners of (§ 18–201 of the Health Occupations Article: July 1, 2012);~~

~~(56) Public Accountancy, State Board of (§ 2–201 of the Business Occupations and Professions Article: July 1, 2014);~~

~~(57) Racing Commission, State (§ 11–201 of the Business Regulation Article: July 1, 2013);~~

~~(58) Radiation Oncology/Therapy Technologists, Medical Radiation Technologists, and Nuclear Medicine Technologists Advisory Committee (§ 14–5B–05 of the Health Occupations Article: July 1, 2012);~~

~~**(59) REAL ESTATE APPRAISAL MANAGEMENT COMPANIES, REGISTRATION AND REGULATION OF (§ 16–5B–103 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE: JULY 1, 2021);**~~

~~**[**(59)**] (60)** Real Estate Appraisers and Home Inspectors, State Commission of (§ 16–201 of the Business Occupations and Professions Article: July 1, 2012);~~

~~**[**(60)**] (61)** Real Estate Commission, State (§ 17–201 of the Business Occupations and Professions Article: July 1, 2011);~~

~~**[**(61)**] (62)** Residential Child Care Program Professionals, State Board for Certification of (§ 20–202 of the Health Occupations Article: July 1, 2013);~~

~~**[**(62)**] (63)** Respiratory Care Professional Standards Committee, State (§ 14–5A–05 of the Health Occupations Article: July 1, 2012);~~

~~**[**(63)**] (64)** security systems technicians, licensing and regulation of (§ 18–201 of the Business Occupations and Professions Article: July 1, 2015);~~

~~**[**(64)**] (65)** Social Work Examiners, State Board of (§ 19–201 of the Health Occupations Article: July 1, 2013);~~

~~**[**(65)**] (66)** Standardbred Race Fund Advisory Committee, Maryland (§ 11–625 of the Business Regulation Article: July 1, 2013);~~

~~**[**(66)**] (67)** Veterinary Medical Examiners, State Board of (§ 2–302 of the Agriculture Article: July 1, 2020);~~

~~**[**(67)**] (68)** Waterworks and Waste Systems Operators, State Board of (§ 12–201 of the Environment Article: July 1, 2020); and~~

~~**[**(68)**] (69)** Well Drillers, State Board of (§ 13–201 of the Environment Article: July 1, 2020).~~

SECTION 2. AND BE IT FURTHER ENACTED, That the fees set forth in Title 16, Subtitles 3, 3A, 5, and 5A of the Business Occupations and Professions Article in effect on June 30, 2011, shall remain in full force and effect until the fees authorized to be set by the State Commission of Real Estate Appraisers and Home Inspectors under this Act are adopted and become effective.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 271

(Senate Bill 664)

AN ACT concerning

Health Occupations – Dental Hygienists – Nitrous Oxide

FOR the purpose of altering the definition of "practice dental hygiene" for purposes of certain provisions of law governing dental hygienists to include ~~administering nitrous oxide and~~ monitoring a patient, under certain circumstances, to whom nitrous oxide is administered; authorizing the State Board of Dental Examiners to adopt certain regulations; ~~altering the authority of the Board to adopt certain rules and regulations concerning the administration of certain anesthesia by certain dental hygienists;~~ authorizing a dental hygienist, under certain circumstances, to monitor a patient to whom nitrous oxide is administered; requiring a dental hygienist to complete certain educational and examination requirements before performing certain functions; providing for the termination of this Act; and generally relating to the practice of dental hygiene.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 4–101(k)~~,~~ and 4–205(a)(1)~~, and 4–206~~
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

BY adding to
Article – Health Occupations
Section 4–206.2
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

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

Article – Health Occupations

4–101.

(k) "Practice dental hygiene" means to:

(1) Perform a preliminary dental examination;

(2) Perform a complete prophylaxis, including the removal of any deposit, accretion, or stain from the surface of a tooth or a restoration;

(3) Polish a tooth or a restoration;

(4) Chart cavities, restorations, missing teeth, periodontal conditions, and other features observed during preliminary examination, prophylaxis, or polishing;

(5) Apply a medicinal agent to a tooth for a prophylactic purpose;

(6) Take a dental X ray;

(7) Perform a manual curettage in conjunction with scaling and root planing;

(8) Administer local anesthesia in accordance with § 4–206.1 of this title; **[**or**]**

(9) ~~**ADMINISTER NITROUS OXIDE;**~~

~~**(10)**~~ **MONITOR, IN ACCORDANCE WITH § 4–206.2 OF THIS TITLE, A PATIENT TO WHOM NITROUS OXIDE IS ADMINISTERED; OR**

[(9)**]** ~~**(11)**~~ **(10)** Perform any other intraoral function that the Board authorizes by a rule or regulation adopted under § 4–206 of this title.

4–205.

(a) In addition to the powers set forth elsewhere in this title, the Board may:

(1) Adopt regulations governing:

(i) The administration of general anesthesia by a licensed dentist;

(ii) The administration of sedation by a licensed dentist;

(iii) The use of a dental assistant by a licensed dentist in performing intraoral procedures;

(iv) Subject to subsection (b) of this section, the issuance of a permit to a facility not otherwise regulated where a dentist administers or has general anesthesia or sedation administered;

(v) Subject to subsection (b) of this section, the issuance of a permit to a dentist who administers or has general anesthesia or sedation administered;

(vi) Reasonable requirements for the training and evaluation of a dentist before the dentist may administer general anesthesia or sedation other than nitrous oxide administered alone and not in conjunction with:

1. Another method of diminishing or eliminating pain; or

2. Medication used for diminishing or eliminating anxiety;

(vii) Reasonable requirements for:

1. The education, training, evaluation, and examination of a dental hygienist before the dental hygienist may perform manual curettage in conjunction with scaling and root planing; and

2. Performance by a dental hygienist of manual curettage in conjunction with scaling and root planing;

(viii) Reasonable requirements for:

1. The education, training, evaluation, and examination of a dental hygienist before the dental hygienist may administer local anesthesia under § 4–206.1 of this subtitle; and

2. Administering by a dental hygienist of local anesthesia under § 4–206.1 of this subtitle;

(IX) REASONABLE REQUIREMENTS FOR:

1. THE EDUCATION, TRAINING, EVALUATION, AND EXAMINATION OF A DENTAL HYGIENIST BEFORE A DENTAL HYGIENIST MAY ~~ADMINISTER NITROUS OXIDE TO A PATIENT OR~~ MONITOR A PATIENT TO WHOM NITROUS OXIDE IS BEING ADMINISTERED, SUBJECT TO § 4–206.2 OF THIS SUBTITLE; AND

2. ~~ADMINISTRATION OF NITROUS OXIDE BY A DENTAL HYGIENIST; AND~~

~~3.~~ **MONITORING BY A DENTAL HYGIENIST, IN ACCORDANCE WITH § 4–206.2 OF THIS SUBTITLE, OF A PATIENT TO WHOM NITROUS OXIDE IS BEING ADMINISTERED;**

[(ix)**] (X)** The discipline of a holder of any facility or administration permit for the administration of general anesthesia or sedation; and

[(x)**] (XI)** The release of patient dental records;

~~4–206.~~

~~(a) Except as otherwise provided in this section, the Board may adopt rules and regulations that authorize a licensed dental hygienist to perform additional intraoral functions.~~

~~(b) The Board may not authorize a licensed dental hygienist to:~~

~~(1) Perform a diagnosis;~~

~~(2) Perform an extraction;~~

~~(3) Repair a cavity;~~

~~(4) Correct tooth placement;~~

~~(5) Perform a surgical procedure; or~~

~~(6) Administer anesthesia other than the following:~~

~~(i) Topical anesthesia; [or]~~

~~(ii) Local anesthesia in accordance with § 4–206.1 of this subtitle; OR~~

~~(III) NITROUS OXIDE.~~

4–206.2.

(A) A DENTAL HYGIENIST MAY MONITOR A PATIENT TO WHOM NITROUS OXIDE IS ADMINISTERED PROVIDED THE MONITORING OF THE PATIENT IS UNDER THE SUPERVISION OF A DENTIST WHO IS PHYSICALLY PRESENT ON THE PREMISES.

(B) BEFORE A DENTAL HYGIENIST MAY MONITOR A PATIENT TO WHOM NITROUS OXIDE IS ADMINISTERED, THE DENTAL HYGIENIST SHALL SUCCESSFULLY COMPLETE THE FOLLOWING:

(1) ANY EDUCATIONAL REQUIREMENTS ESTABLISHED BY THE BOARD; AND

(2) A WRITTEN AND CLINICAL EXAMINATION AS REQUIRED BY THE BOARD.

(C) A DENTAL HYGIENIST SHALL COMPLETE THE EDUCATIONAL REQUIREMENTS ESTABLISHED BY THE BOARD UNDER SUBSECTION (B)(1) OF THIS SECTION THROUGH AN ACCREDITED DENTAL HYGIENE PROGRAM.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011. It shall remain effective for a period of 3 years and, at the end of September 30, 2014, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 10, 2011.

Chapter 272

(House Bill 841)

AN ACT concerning

Health Occupations – Dental Hygienists – Nitrous Oxide

FOR the purpose of altering the definition of "practice dental hygiene" for purposes of certain provisions of law governing dental hygienists to include ~~administering nitrous oxide and~~ monitoring a patient, *under certain circumstances,* to whom nitrous oxide is administered; authorizing the State Board of Dental Examiners to adopt certain regulations; *authorizing a dental hygienist, under certain circumstances, to monitor a patient to whom nitrous oxide is administered; requiring a dental hygienist to complete certain educational and examination requirements before performing certain functions; providing for the termination of this Act;* ~~altering the authority of the Board to adopt certain rules and regulations concerning the administration of certain anesthesia by certain dental hygienists;~~ and generally relating to the practice of dental hygiene.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 4–101(k)~~,~~ and 4–205(a)(1)~~, and 4–206~~
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

BY adding to
Article – Health Occupations
Section 4–206.2
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

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

Article – Health Occupations

4–101.

(k) "Practice dental hygiene" means to:

(1) Perform a preliminary dental examination;

(2) Perform a complete prophylaxis, including the removal of any deposit, accretion, or stain from the surface of a tooth or a restoration;

(3) Polish a tooth or a restoration;

(4) Chart cavities, restorations, missing teeth, periodontal conditions, and other features observed during preliminary examination, prophylaxis, or polishing;

(5) Apply a medicinal agent to a tooth for a prophylactic purpose;

(6) Take a dental X ray;

(7) Perform a manual curettage in conjunction with scaling and root planing;

(8) Administer local anesthesia in accordance with § 4–206.1 of this title; **[**or**]**

(9) ~~**ADMINISTER NITROUS OXIDE;**~~

~~**(10)**~~ **MONITOR*, IN ACCORDANCE WITH § 4–206.2 OF THIS TITLE,* A PATIENT TO WHOM NITROUS OXIDE IS ADMINISTERED; OR**

[(9)**]** ~~**(11)**~~ **(10)** Perform any other intraoral function that the Board authorizes by a rule or regulation adopted under § 4–206 of this title.

4–205.

(a) In addition to the powers set forth elsewhere in this title, the Board may:

(1) Adopt regulations governing:

(i) The administration of general anesthesia by a licensed dentist;

(ii) The administration of sedation by a licensed dentist;

(iii) The use of a dental assistant by a licensed dentist in performing intraoral procedures;

(iv) Subject to subsection (b) of this section, the issuance of a permit to a facility not otherwise regulated where a dentist administers or has general anesthesia or sedation administered;

(v) Subject to subsection (b) of this section, the issuance of a permit to a dentist who administers or has general anesthesia or sedation administered;

(vi) Reasonable requirements for the training and evaluation of a dentist before the dentist may administer general anesthesia or sedation other than nitrous oxide administered alone and not in conjunction with:

1. Another method of diminishing or eliminating pain; or

2. Medication used for diminishing or eliminating anxiety;

(vii) Reasonable requirements for:

1. The education, training, evaluation, and examination of a dental hygienist before the dental hygienist may perform manual curettage in conjunction with scaling and root planing; and

2. Performance by a dental hygienist of manual curettage in conjunction with scaling and root planing;

(viii) Reasonable requirements for:

1. The education, training, evaluation, and examination of a dental hygienist before the dental hygienist may administer local anesthesia under § 4–206.1 of this subtitle; and

2. Administering by a dental hygienist of local anesthesia under § 4–206.1 of this subtitle;

(IX) REASONABLE REQUIREMENTS FOR:

1. THE EDUCATION, TRAINING, EVALUATION, AND EXAMINATION OF A DENTAL HYGIENIST BEFORE A DENTAL HYGIENIST MAY ~~ADMINISTER NITROUS OXIDE TO A PATIENT OR~~ MONITOR A PATIENT TO WHOM NITROUS OXIDE IS BEING ADMINISTERED, *SUBJECT TO § 4–206.2 OF THIS SUBTITLE*; AND

2. ~~ADMINISTRATION OF NITROUS OXIDE BY A DENTAL HYGIENIST; AND~~

~~3.~~ MONITORING BY A DENTAL HYGIENIST, *IN ACCORDANCE WITH § 4–206.2 OF THIS SUBTITLE*, OF A PATIENT TO WHOM NITROUS OXIDE IS BEING ADMINISTERED;

[(ix)**] (X)** The discipline of a holder of any facility or administration permit for the administration of general anesthesia or sedation; and

[(x)**] (XI)** The release of patient dental records;

~~4–206.~~

~~(a) Except as otherwise provided in this section, the Board may adopt rules and regulations that authorize a licensed dental hygienist to perform additional intraoral functions.~~

~~(b) The Board may not authorize a licensed dental hygienist to:~~

~~(1) Perform a diagnosis;~~

~~(2) Perform an extraction;~~

~~(3) Repair a cavity;~~

~~(4) Correct tooth placement;~~

~~(5) Perform a surgical procedure; or~~

~~(6) Administer anesthesia other than the following:~~

~~(i) Topical anesthesia; **[**or**]**~~

~~(ii) Local anesthesia in accordance with § 4–206.1 of this subtitle; **OR**~~

~~**(III) NITROUS OXIDE.**~~

4–206.2.

(A) A DENTAL HYGIENIST MAY MONITOR A PATIENT TO WHOM NITROUS OXIDE IS ADMINISTERED PROVIDED THE MONITORING OF THE PATIENT IS UNDER THE SUPERVISION OF A DENTIST WHO IS PHYSICALLY PRESENT ON THE PREMISES.

(B) BEFORE A DENTAL HYGIENIST MAY MONITOR A PATIENT TO WHOM NITROUS OXIDE IS ADMINISTERED, THE DENTAL HYGIENIST SHALL SUCCESSFULLY COMPLETE THE FOLLOWING:

(1) ANY EDUCATIONAL REQUIREMENTS ESTABLISHED BY THE BOARD; AND

(2) A WRITTEN AND CLINICAL EXAMINATION AS REQUIRED BY THE BOARD.

(C) A DENTAL HYGIENIST SHALL COMPLETE THE EDUCATIONAL REQUIREMENTS ESTABLISHED BY THE BOARD UNDER SUBSECTION (B)(1) OF THIS SECTION THROUGH AN ACCREDITED DENTAL HYGIENE PROGRAM.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011. *It shall remain effective for a period of 3 years and, at the end of September 30, 2014, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.*

Approved by the Governor, May 10, 2011.

Chapter 273

(Senate Bill 679)

AN ACT concerning

Vehicle Laws – Overtaking and Passing School Vehicles – School Bus Monitoring Cameras

FOR the purpose of authorizing a ~~county board of education~~ *law enforcement agency*, in consultation with a ~~certain local law enforcement agency~~ *county board of education*, to place school bus monitoring cameras on county school buses for the purpose of recording a motor vehicle committing a violation relating to overtaking and passing school vehicles, if authorized by a local law enacted by the governing body of the local jurisdiction; ~~requiring a school bus operator to~~

~~give a recording of the violation to a certain local law enforcement agency;~~ requiring a ~~recording~~ *recorded image* made by a school bus monitoring camera to include certain images and information; providing that the driver of a motor vehicle recorded committing a certain violation is subject to a certain civil penalty; providing that a civil penalty under this Act may not exceed a certain amount; requiring the District Court to prescribe a certain uniform citation form and civil penalty; *providing for the payment of fines imposed and the distribution of revenues collected as a result of violations enforced by school bus monitoring cameras;* requiring a certain local law enforcement agency to mail a certain citation to the owner of a certain motor vehicle within a certain period of time; providing for the contents of a certain citation; authorizing a local law enforcement agency to mail a warning instead of a citation; authorizing a person receiving a certain citation to pay the civil penalty or elect to stand trial; providing that a certain certificate is admissible as evidence in a proceeding concerning a certain violation; providing that a certain adjudication of liability is based on a preponderance of evidence; establishing certain defenses, and requirements for proving the defenses, for a certain violation recorded by a school bus monitoring camera; requiring the District Court to provide certain evidence to a local law enforcement agency under certain circumstances; authorizing a local law enforcement agency to mail a certain notice within a certain time period after receiving certain evidence; authorizing the Motor Vehicle Administration to refuse to register or reregister a motor vehicle or suspend the registration of a motor vehicle under certain circumstances; ~~establishing that a violation for which a civil penalty may be imposed under this Act is a moving violation for certain purposes, may be treated as a parking violation for certain purposes, and may be considered for certain insurance purposes;~~ requiring the Chief Judge of the District Court, in consultation with certain local law enforcement agencies, to adopt certain procedures; providing that a proceeding for a certain violation recorded by a school bus monitoring camera is under the exclusive original jurisdiction of the District Court; providing that a recorded image of a motor vehicle produced by a school bus monitoring camera is admissible in a certain proceeding under certain circumstances; defining certain terms; and generally relating to the use of school bus monitoring cameras to enforce offenses relating to overtaking and passing school vehicles.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 4–401(13), *7–302(e),* and 10–311
Annotated Code of Maryland
(2006 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, without amendments,
Article – Transportation
Section 21–706
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,
Article – Transportation
Section 21–706.1
Annotated Code of Maryland
(2009 Replacement Volume and 2010 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

4–401.

Except as provided in § 4–402 of this subtitle, and subject to the venue provisions of Title 6 of this article, the District Court has exclusive original civil jurisdiction in:

(13) A proceeding for a civil infraction under § 21–202.1, § 21–704.1, **§ 21–706.1,** § 21–809, or § 21–810 of the Transportation Article or § 10–112 of the Criminal Law Article;

7–302.

(e) (1) A citation issued pursuant to § 21–202.1, ***§ 21–706.1,*** *§ 21–809, or § 21–810 of the Transportation Article shall provide that the person receiving the citation may elect to stand trial by notifying the issuing agency of the person's intention to stand trial at least 5 days prior to the date of payment as set forth in the citation. On receipt of the notice to stand trial, the agency shall forward to the District Court having venue a copy of the citation and a copy of the notice from the person who received the citation indicating the person's intention to stand trial. On receipt thereof, the District Court shall schedule the case for trial and notify the defendant of the trial date under procedures adopted by the Chief Judge of the District Court.*

(2) A citation issued as the result of a traffic control signal monitoring system or speed monitoring system, including a work zone speed control system, controlled by a political subdivision ***OR A SCHOOL BUS MONITORING CAMERA*** *shall provide that, in an uncontested case, the penalty shall be paid directly to that political subdivision. A citation issued as the result of a traffic control signal monitoring system or a work zone speed control system controlled by a State agency, or as a result of a traffic control signal monitoring system* ***[****or****],*** *a speed monitoring system****, OR A SCHOOL BUS MONITORING CAMERA*** *in a case contested in District Court, shall provide that the penalty shall be paid directly to the District Court.*

(3) Civil penalties resulting from citations issued using ***A*** *traffic control signal monitoring* ***[****systems or****] SYSTEM,*** *speed monitoring* ***[****systems****] SYSTEM****,* ***[****or a****]***

work zone speed control system, ***OR SCHOOL BUS MONITORING CAMERA*** *that are collected by the District Court shall be collected in accordance with subsection (a) of this section and distributed in accordance with § 12–118 of the Transportation Article.*

(4) (i) From the fines collected by a political subdivision as a result of violations enforced by speed monitoring systems ***OR SCHOOL BUS MONITORING CAMERAS****, a political subdivision:*

1. May recover the costs of implementing and administering the speed monitoring systems ***OR SCHOOL BUS MONITORING CAMERAS****; and*

2. Subject to subparagraph (ii) of this paragraph, may spend any remaining balance solely for public safety purposes, including pedestrian safety programs.

(ii) 1. For any fiscal year, if the balance remaining from the fines collected by a political subdivision as a result of violations enforced by speed monitoring systems, after the costs of implementing and administering the systems are recovered in accordance with subparagraph (i)1 of this paragraph, is greater than 10% of the total revenues of the political subdivision for the fiscal year, the political subdivision shall remit any funds that exceed 10% of the total revenues to the Comptroller.

2. The Comptroller shall deposit any money remitted under this subparagraph to the General Fund of the State.

10–311.

(a) A recorded image of a motor vehicle produced by a traffic control signal monitoring system in accordance with § 21–202.1 of the Transportation Article is admissible in a proceeding concerning a civil citation issued under that section for a violation of § 21–202(h) of the Transportation Article without authentication.

(b) A recorded image of a motor vehicle produced by a speed monitoring system in accordance with § 21–809 or § 21–810 of the Transportation Article is admissible in a proceeding concerning a civil citation issued under that section for a violation of Title 21, Subtitle 8 of the Transportation Article without authentication.

(c) **A RECORDED IMAGE OF A MOTOR VEHICLE PRODUCED BY A SCHOOL BUS MONITORING CAMERA IN ACCORDANCE WITH § 21–706.1 OF THE TRANSPORTATION ARTICLE IS ADMISSIBLE IN A PROCEEDING CONCERNING A CIVIL CITATION ISSUED UNDER THAT SECTION FOR A VIOLATION OF § 21–706 OF THE TRANSPORTATION ARTICLE WITHOUT AUTHENTICATION.**

(D) In any other judicial proceeding, a recorded image produced by a traffic control signal monitoring system, speed monitoring system, **[**or**]** work zone speed control system**, OR SCHOOL BUS MONITORING CAMERA** is admissible as otherwise provided by law.

Article – Transportation

21–706.

(a) If a school vehicle has stopped on a roadway and is operating the alternately flashing red lights specified in § 22–228 of this article, the driver of any other vehicle meeting or overtaking the school vehicle shall stop at least 20 feet from the rear of the school vehicle, if approaching the school vehicle from its rear, or at least 20 feet from the front of the school vehicle, if approaching the school vehicle from its front.

(b) If a school vehicle has stopped on a roadway and is operating the alternately flashing red lights specified in § 22–228 of this article, the driver of any other vehicle meeting or overtaking the school vehicle may not proceed until the school vehicle resumes motion or the alternately flashing red lights are deactivated.

(c) This section does not apply to the driver of a vehicle on a divided highway, if the school vehicle is on a different roadway.

21–706.1.

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

(2) "LAW ENFORCEMENT AGENCY" MEANS A LAW ENFORCEMENT AGENCY OF A LOCAL POLITICAL SUBDIVISION THAT IS AUTHORIZED TO ISSUE A CITATION FOR A VIOLATION OF THE MARYLAND VEHICLE LAW OR OF LOCAL TRAFFIC LAWS OR REGULATIONS.

(3) (I) "OWNER" MEANS THE REGISTERED OWNER OF A MOTOR VEHICLE OR A LESSEE OF A MOTOR VEHICLE UNDER A LEASE OF 6 MONTHS OR MORE.

(II) "OWNER" DOES NOT INCLUDE:

1. A MOTOR VEHICLE RENTAL OR LEASING COMPANY; OR

2. A HOLDER OF A SPECIAL REGISTRATION PLATE ISSUED UNDER TITLE 13, SUBTITLE 9, PART III OF THIS ARTICLE.

(4) "RECORDED IMAGE" MEANS IMAGES RECORDED BY A SCHOOL BUS MONITORING CAMERA:

(I) ON:

1. TWO OR MORE PHOTOGRAPHS;

2. TWO OR MORE MICROPHOTOGRAPHS;

3. TWO OR MORE ELECTRONIC IMAGES;

4. VIDEOTAPE; OR

5. ANY OTHER MEDIUM; AND

(II) SHOWING THE REAR OF A MOTOR VEHICLE AND, ON AT LEAST ONE IMAGE OR PORTION OF TAPE, CLEARLY IDENTIFYING THE REGISTRATION PLATE NUMBER OF THE MOTOR VEHICLE.

(5) "SCHOOL BUS MONITORING CAMERA" MEANS A CAMERA PLACED ON A SCHOOL BUS THAT IS DESIGNED TO CAPTURE A RECORDED IMAGE OF A DRIVER OF A MOTOR VEHICLE COMMITTING A VIOLATION.

(6) "VIOLATION" MEANS A VIOLATION OF § 21–706 OF THIS SUBTITLE.

(B) (1) **(I)** If a school bus operator witnesses a violation **[**of § 21–706 of this subtitle**]**, the operator may promptly report the violation ~~to **[**a law enforcement**]** AN~~ *to a law enforcement* agency exercising jurisdiction where the violation occurred.

[(2)**]** **(II)** The report, to the extent possible, shall include:

[(i)**]** **1.** Information pertaining to the identity of the alleged violator;

[(ii)**]** **2.** The license number and color of the vehicle involved in the violation;

[(iii)**]** **3.** The time and location at which the violation occurred; and

[(iv)**]** **4.** An identification of the vehicle as an automobile, station wagon, truck, bus, motorcycle, or other type of vehicle.

[(b)**]** **(2)** If the identity of the operator of the vehicle at the time the violation occurred cannot be established, the ~~[~~law enforcement~~]~~ agency shall issue to the registered owner of the vehicle, a warning stating:

[(1)**]** **(I)** That a report of a violation **[**of § 21–706 of this subtitle**]** was made to the ~~[~~law enforcement~~]~~ agency and that the report described the owner's vehicle as the vehicle involved in the violation;

[(2)**]** **(II)** That there is insufficient evidence for the issuance of a citation;

[(3)**]** **(III)** That the warning does not constitute a finding that the owner is guilty of the violation; and

[(4)**]** **(IV)** The requirements of § 21–706 of this subtitle.

(C) (1) ~~(I)~~ ~~A~~ **A SCHOOL BUS MONITORING CAMERA MAY NOT BE USED IN A LOCAL JURISDICTION UNDER THIS SECTION UNLESS ITS USE IS AUTHORIZED BY THE GOVERNING BODY OF THE LOCAL JURISDICTION BY LOCAL LAW ENACTED AFTER REASONABLE NOTICE AND A PUBLIC HEARING.**

~~(II)~~ ***(2)*** **IF AUTHORIZED BY THE GOVERNING BODY OF THE LOCAL JURISDICTION, A** ~~COUNTY BOARD OF EDUCATION~~ ***LAW ENFORCEMENT AGENCY*****, IN CONSULTATION WITH** ~~AN AGENCY~~ ***THE COUNTY BOARD OF EDUCATION*****, MAY PLACE SCHOOL BUS MONITORING CAMERAS ON COUNTY SCHOOL BUSES.**

~~(2) IF A SCHOOL BUS MONITORING CAMERA RECORDS A VIOLATION, THE SCHOOL BUS OPERATOR SHALL GIVE THE RECORDING OF THE VIOLATION TO AN AGENCY EXERCISING JURISDICTION WHERE THE VIOLATION OCCURRED.~~

(D) A ~~RECORDING~~ ***RECORDED IMAGE*** **BY A SCHOOL BUS MONITORING CAMERA UNDER THIS SECTION INDICATING THAT THE DRIVER OF A MOTOR VEHICLE HAS COMMITTED A VIOLATION SHALL INCLUDE:**

(1) AN IMAGE OF THE MOTOR VEHICLE;

(2) AN IMAGE OF THE MOTOR VEHICLE'S REAR LICENSE PLATE;

(3) THE TIME AND DATE OF THE VIOLATION; AND

(4) TO THE EXTENT POSSIBLE, THE LOCATION OF THE VIOLATION.

(E) (1) UNLESS THE DRIVER OF THE MOTOR VEHICLE RECEIVED A CITATION FROM A POLICE OFFICER AT THE TIME OF THE VIOLATION, THE OWNER OR, IN ACCORDANCE WITH SUBSECTION (H)(5) OF THIS SECTION, THE DRIVER OF A MOTOR VEHICLE IS SUBJECT TO A CIVIL PENALTY IF THE MOTOR VEHICLE IS RECORDED BY A SCHOOL BUS MONITORING CAMERA DURING THE COMMISSION OF A VIOLATION.

(2) A CIVIL PENALTY UNDER THIS SUBSECTION MAY NOT EXCEED ~~$500~~ $250.

(3) FOR PURPOSES OF THIS SECTION, THE DISTRICT COURT SHALL PRESCRIBE:

(I) A UNIFORM CITATION FORM CONSISTENT WITH SUBSECTION (F)(1) OF THIS SECTION AND § 7–302 OF THE COURTS ARTICLE; AND

(II) A CIVIL PENALTY, WHICH SHALL BE INDICATED ON THE CITATION, TO BE PAID BY PERSONS WHO CHOOSE TO PREPAY THE CIVIL PENALTY WITHOUT APPEARING IN DISTRICT COURT.

(F) (1) SUBJECT TO THE PROVISIONS OF PARAGRAPHS (2) THROUGH (4) OF THIS SUBSECTION, A LAW ENFORCEMENT AGENCY SHALL MAIL TO THE OWNER LIABLE UNDER SUBSECTION (E) OF THIS SECTION A CITATION THAT SHALL INCLUDE:

(I) THE NAME AND ADDRESS OF THE REGISTERED OWNER OF THE VEHICLE;

(II) THE REGISTRATION NUMBER OF THE MOTOR VEHICLE INVOLVED IN THE VIOLATION;

(III) THE VIOLATION CHARGED;

(IV) TO THE EXTENT POSSIBLE, THE LOCATION OF THE VIOLATION;

(V) THE DATE AND TIME OF THE VIOLATION;

(VI) A COPY OF THE RECORDED IMAGE;

(VII) THE AMOUNT OF THE CIVIL PENALTY IMPOSED AND THE DATE BY WHICH THE CIVIL PENALTY MUST BE PAID;

(VIII) A SIGNED STATEMENT BY A TECHNICIAN EMPLOYED BY THE LAW ENFORCEMENT AGENCY THAT, BASED ON INSPECTION OF RECORDED IMAGES, THE MOTOR VEHICLE WAS BEING OPERATED DURING THE COMMISSION OF A VIOLATION;

(IX) A STATEMENT THAT RECORDED IMAGES ARE EVIDENCE OF A VIOLATION; AND

(X) INFORMATION ADVISING THE PERSON ALLEGED TO BE LIABLE UNDER THIS SECTION:

1. OF THE MANNER AND TIME IN WHICH LIABILITY AS ALLEGED IN THE CITATION MAY BE CONTESTED IN THE DISTRICT COURT; AND

2. THAT FAILURE TO PAY THE CIVIL PENALTY OR TO CONTEST LIABILITY IN A TIMELY MANNER IS AN ADMISSION OF LIABILITY AND MAY RESULT IN REFUSAL OR SUSPENSION OF THE MOTOR VEHICLE REGISTRATION.

(2) THE LAW ENFORCEMENT AGENCY MAY MAIL A WARNING NOTICE IN PLACE OF A CITATION TO THE OWNER LIABLE UNDER SUBSECTION (E) OF THIS SECTION.

(3) EXCEPT AS PROVIDED IN SUBSECTION (H)(5) OF THIS SECTION, A CITATION ISSUED UNDER THIS SECTION SHALL BE MAILED NO LATER THAN 2 WEEKS AFTER THE ALLEGED VIOLATION.

(4) A PERSON WHO RECEIVES A CITATION UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY:

(I) PAY THE CIVIL PENALTY, IN ACCORDANCE WITH INSTRUCTIONS ON THE CITATION, DIRECTLY TO THE COUNTY ~~OR THE DISTRICT COURT~~; OR

(II) ELECT TO STAND TRIAL FOR THE ALLEGED VIOLATION.

(G) (1) A CERTIFICATE ALLEGING THAT A VIOLATION OCCURRED, SWORN TO OR AFFIRMED BY A DULY AUTHORIZED AGENT OF ~~THE~~ *A LAW ENFORCEMENT* AGENCY, BASED ON INSPECTION OF RECORDED IMAGES PRODUCED BY A SCHOOL BUS MONITORING CAMERA SHALL BE EVIDENCE OF THE FACTS CONTAINED IN THE CERTIFICATE AND SHALL BE ADMISSIBLE IN ANY PROCEEDING CONCERNING THE ALLEGED VIOLATION.

(2) ADJUDICATION OF LIABILITY SHALL BE BASED ON A PREPONDERANCE OF EVIDENCE.

(H) (1) THE DISTRICT COURT MAY CONSIDER IN DEFENSE OF A VIOLATION:

(I) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THAT THE MOTOR VEHICLE OR REGISTRATION PLATES OF THE MOTOR VEHICLE WERE STOLEN BEFORE THE VIOLATION OCCURRED AND WERE NOT UNDER THE CONTROL OR POSSESSION OF THE OWNER AT THE TIME OF THE VIOLATION;

(II) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, EVIDENCE THAT THE PERSON NAMED IN THE CITATION WAS NOT OPERATING THE VEHICLE AT THE TIME OF THE VIOLATION; AND

(III) ANY OTHER ISSUES AND EVIDENCE THAT THE DISTRICT COURT DEEMS PERTINENT.

(2) IN ORDER TO DEMONSTRATE THAT THE MOTOR VEHICLE OR THE REGISTRATION PLATES WERE STOLEN BEFORE THE VIOLATION OCCURRED AND WERE NOT UNDER THE CONTROL OR POSSESSION OF THE OWNER AT THE TIME OF THE VIOLATION, THE OWNER MUST SUBMIT PROOF THAT A POLICE REPORT ABOUT THE STOLEN MOTOR VEHICLE OR REGISTRATION PLATES WAS FILED IN A TIMELY MANNER.

(3) TO SATISFY THE EVIDENTIARY BURDEN UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION, THE PERSON NAMED IN THE CITATION SHALL PROVIDE TO THE DISTRICT COURT EVIDENCE TO THE SATISFACTION OF THE DISTRICT COURT OF WHO WAS OPERATING THE VEHICLE AT THE TIME OF THE VIOLATION, INCLUDING, AT A MINIMUM, THE OPERATOR'S NAME AND CURRENT ADDRESS.

(4) (I) THE PROVISIONS OF THIS PARAGRAPH APPLY ONLY TO A CITATION THAT INVOLVES A CLASS E (TRUCK) VEHICLE WITH A REGISTERED GROSS WEIGHT OF 26,001 POUNDS OR MORE, CLASS F (TRACTOR) VEHICLE, CLASS G (TRAILER) VEHICLE OPERATED IN COMBINATION WITH A CLASS F (TRACTOR) VEHICLE, AND CLASS P (PASSENGER BUS) VEHICLE.

(II) TO SATISFY THE EVIDENTIARY BURDEN UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION, THE PERSON NAMED IN A CITATION DESCRIBED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY PROVIDE TO THE DISTRICT COURT A LETTER, SWORN TO OR AFFIRMED BY THE PERSON AND MAILED BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, THAT:

1. STATES THAT THE PERSON NAMED IN THE CITATION WAS NOT OPERATING THE VEHICLE AT THE TIME OF THE VIOLATION; AND

2. PROVIDES THE NAME, ADDRESS, AND DRIVER'S LICENSE IDENTIFICATION NUMBER OF THE PERSON WHO WAS OPERATING THE VEHICLE AT THE TIME OF THE VIOLATION.

(5) (I) IF THE DISTRICT COURT FINDS THAT THE PERSON NAMED IN THE CITATION WAS NOT OPERATING THE VEHICLE AT THE TIME OF THE VIOLATION OR RECEIVES EVIDENCE UNDER PARAGRAPH (4)(II)2 OF THIS SUBSECTION IDENTIFYING THE PERSON DRIVING THE VEHICLE AT THE TIME OF THE VIOLATION, THE CLERK OF THE COURT SHALL PROVIDE TO THE LAW ENFORCEMENT AGENCY ISSUING THE CITATION A COPY OF ANY EVIDENCE SUBSTANTIATING WHO WAS OPERATING THE VEHICLE AT THE TIME OF THE VIOLATION.

(II) ON THE RECEIPT OF SUBSTANTIATING EVIDENCE FROM THE DISTRICT COURT UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, ~~AN~~ *THE LAW ENFORCEMENT* AGENCY MAY ISSUE A CITATION AS PROVIDED IN SUBSECTION (F) OF THIS SECTION TO THE PERSON THAT THE EVIDENCE INDICATES WAS OPERATING THE VEHICLE AT THE TIME OF THE VIOLATION.

(III) A CITATION ISSUED UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH SHALL BE MAILED NO LATER THAN 2 WEEKS AFTER RECEIPT OF THE EVIDENCE FROM THE DISTRICT COURT.

(I) IF THE CIVIL PENALTY IS NOT PAID AND THE VIOLATION IS NOT CONTESTED, THE ADMINISTRATION MAY REFUSE TO REGISTER OR REREGISTER OR MAY SUSPEND THE REGISTRATION OF THE MOTOR VEHICLE.

~~**(J) A VIOLATION FOR WHICH A CIVIL PENALTY IS IMPOSED UNDER THIS SECTION:**~~

~~**(1) IS A MOVING VIOLATION FOR THE PURPOSE OF ASSESSING POINTS UNDER § 16–402 OF THIS ARTICLE AND MAY BE RECORDED BY THE ADMINISTRATION ON THE DRIVING RECORD OF THE OWNER OR DRIVER OF THE VEHICLE;**~~

~~**(2) MAY BE TREATED AS A PARKING VIOLATION FOR PURPOSES OF § 26–305 OF THIS ARTICLE; AND**~~

~~**(3) MAY BE CONSIDERED IN THE PROVISION OF MOTOR VEHICLE INSURANCE COVERAGE.**~~

~~(K)~~ **(J)** ***A VIOLATION FOR WHICH A CIVIL PENALTY IS IMPOSED UNDER THIS SECTION:***

(1) IS NOT A MOVING VIOLATION FOR THE PURPOSE OF ASSESSING POINTS UNDER § 16–402 OF THIS ARTICLE AND MAY NOT BE RECORDED BY THE ADMINISTRATION ON THE DRIVING RECORD OF THE OWNER OR DRIVER OF THE VEHICLE;

(2) MAY BE TREATED AS A PARKING VIOLATION FOR PURPOSES OF § 26–305 OF THIS ARTICLE; AND

(3) MAY NOT BE CONSIDERED IN THE PROVISION OF MOTOR VEHICLE INSURANCE COVERAGE.

(K) **IN CONSULTATION WITH LAW ENFORCEMENT AGENCIES, THE CHIEF JUDGE OF THE DISTRICT COURT SHALL ADOPT PROCEDURES FOR THE ISSUANCE OF CITATIONS, ~~THE TRIAL OF~~ *TRIALS FOR* VIOLATIONS, AND THE COLLECTION OF CIVIL PENALTIES *IMPOSED* UNDER THIS SECTION.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 274

(Senate Bill 689)

AN ACT concerning

Motor Vehicle Dealers – Issuance of Temporary Registration Plate – Lapsed Security – Registration

FOR the purpose of authorizing a licensed motor vehicle dealer to issue a temporary registration plate to a vehicle buyer who is subject to a penalty for lapsed security; establishing an exception for certain vehicles to the prohibition against the Motor Vehicle Administration issuing a new registration if the vehicle owner is subject to a penalty for lapsed security; making a certain technical correction; and generally relating to registration of a motor vehicle owned by a person who is subject to a penalty for lapsed security.

BY repealing and reenacting, with amendments,
Article – Transportation

Section 13–602 and 17–106(e)(3)
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, without amendments,
Article – Transportation
Section 17–104(a) and 17–106(a)
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

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

Article – Transportation

13–602.

(a) (1) **(I)** Subject to the provisions of this part, a licensed dealer may issue one temporary registration plate for a vehicle to the person who buys the vehicle from the dealer, whether or not the vehicle is to be registered in this State.

[(2)**]** **(II)** The dealer may not issue more than one temporary registration for any vehicle.

(2) A LICENSED DEALER MAY ISSUE A TEMPORARY REGISTRATION PLATE TO A VEHICLE BUYER WHO IS SUBJECT TO A PENALTY FOR LAPSED SECURITY FOR ANOTHER VEHICLE UNDER § 17–106 OF THIS ARTICLE.

(b) Before a temporary registration plate may be issued for a vehicle, the buyer of the vehicle shall complete and deliver to the dealer a temporary registration plate application, on the form that the Administration requires.

(c) On the same day that a dealer issues a temporary registration plate for a vehicle, the dealer shall:

(1) Send to the Administration a copy of the temporary registration plate application completed by the buyer of the vehicle; and

(2) Electronically transmit to the Administration, in the format that the Administration requires, the vehicle, owner, insurance, and temporary registration information contained on the temporary registration plate application.

17–104.

(a) The Administration may not issue or transfer the registration of a motor vehicle unless the owner or prospective owner of the vehicle furnishes evidence satisfactory to the Administration that the required security is in effect.

17–106.

(a) If the required security for any vehicle lapses at any time, the registration of that vehicle:

(1) Is suspended automatically as of the date of the lapse effective not later than 60 days after notification to the Administration that the lapse has occurred; and

(2) Remains suspended until:

(i) The required security is replaced and the vehicle owner submits evidence of replaced security on a form as prescribed by the Administration and certified by an insurer or insurance producer; and

(ii) Any uninsured motorist penalty fee assessed is paid to the Administration.

(e) (3) If the Administration assesses a vehicle owner or co–owner with a penalty under this subsection, the Administration may not take any of the following actions until the penalty is paid:

(i) Reinstate a registration suspended under this subsection;

(ii) **[**Issue**]** **EXCEPT FOR A TEMPORARY REGISTRATION AS PROVIDED UNDER § 13–602(A)(2) OF THIS ARTICLE, ISSUE** a new registration for any vehicle that is owned or co–owned by that person and is titled after the violation date; or

(iii) Renew a registration for a vehicle that is owned or co–owned by that person **[**and is titled after the violation date**]**.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 275

(House Bill 319)

AN ACT concerning

Motor Vehicle Dealers – Issuance of Temporary Registration Plate – Lapsed Security – Registration

FOR the purpose of authorizing a licensed motor vehicle dealer to issue a temporary registration plate to a vehicle buyer who is subject to a penalty for lapsed security; establishing an exception for certain vehicles to the prohibition against the Motor Vehicle Administration issuing a new registration if the vehicle owner is subject to a penalty for lapsed security; making a certain technical correction; and generally relating to registration of a motor vehicle owned by a person who is subject to a penalty for lapsed security.

BY repealing and reenacting, with amendments,
Article – Transportation
Section 13–602 and 17–106(e)(3)
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, without amendments,
Article – Transportation
Section 17–104(a) and 17–106(a)
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

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

Article – Transportation

13–602.

(a) (1) **(I)** Subject to the provisions of this part, a licensed dealer may issue one temporary registration plate for a vehicle to the person who buys the vehicle from the dealer, whether or not the vehicle is to be registered in this State.

[(2)**]** **(II)** The dealer may not issue more than one temporary registration for any vehicle.

(2) A LICENSED DEALER MAY ISSUE A TEMPORARY REGISTRATION PLATE TO A VEHICLE BUYER WHO IS SUBJECT TO A PENALTY FOR LAPSED SECURITY FOR ANOTHER VEHICLE UNDER § 17–106 OF THIS ARTICLE.

(b) Before a temporary registration plate may be issued for a vehicle, the buyer of the vehicle shall complete and deliver to the dealer a temporary registration plate application, on the form that the Administration requires.

(c) On the same day that a dealer issues a temporary registration plate for a vehicle, the dealer shall:

(1) Send to the Administration a copy of the temporary registration plate application completed by the buyer of the vehicle; and

(2) Electronically transmit to the Administration, in the format that the Administration requires, the vehicle, owner, insurance, and temporary registration information contained on the temporary registration plate application.

17–104.

(a) The Administration may not issue or transfer the registration of a motor vehicle unless the owner or prospective owner of the vehicle furnishes evidence satisfactory to the Administration that the required security is in effect.

17–106.

(a) If the required security for any vehicle lapses at any time, the registration of that vehicle:

(1) Is suspended automatically as of the date of the lapse effective not later than 60 days after notification to the Administration that the lapse has occurred; and

(2) Remains suspended until:

(i) The required security is replaced and the vehicle owner submits evidence of replaced security on a form as prescribed by the Administration and certified by an insurer or insurance producer; and

(ii) Any uninsured motorist penalty fee assessed is paid to the Administration.

(e) (3) If the Administration assesses a vehicle owner or co–owner with a penalty under this subsection, the Administration may not take any of the following actions until the penalty is paid:

(i) Reinstate a registration suspended under this subsection;

(ii) **[**Issue**]** **EXCEPT FOR A TEMPORARY REGISTRATION AS PROVIDED UNDER § 13–602(A)(2) OF THIS ARTICLE, ISSUE** a new registration for

any vehicle that is owned or co–owned by that person and is titled after the violation date; or

(iii) Renew a registration for a vehicle that is owned or co–owned by that person ~~and is titled after the violation date~~.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 276

(Senate Bill 693)

AN ACT concerning

Injured Workers' Insurance Fund – Employee Compensation

FOR the purpose of providing that employees of the Injured Workers' Insurance Fund are not subject to certain laws, regulations, or executive orders governing State employee compensation; ~~clarifying that certain employees are not in the State Personnel Management System;~~ repealing a requirement that the Board for the Fund set compensation for its employees in accordance with the State pay plan; and generally relating to compensation of employees of the Injured Workers' Insurance Fund.

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 10–113
Annotated Code of Maryland
(2008 Replacement Volume and 2010 Supplement)

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

Article – Labor and Employment

10–113.

(a) The Board:

(1) shall appoint a President of the Fund;

(2) shall appoint or employ attorneys to advise and represent the Fund in all legal matters and, where necessary, to sue or defend suits in the name of the Fund; and

(3) may employ other staff.

(b) (1) Except as provided in paragraph (2) of this subsection, employees of the Fund are **[**special appointments**]** ~~**NOT IN THE STATE PERSONNEL MANAGEMENT SYSTEM**~~.

(2) A classified employee of the Fund hired before July 1, 1990 in a nonprofessional or nontechnical position shall remain a member of the classified service or its equivalent in the State Personnel Management System as long as the employee remains in a nonprofessional or nontechnical position with the Fund.

(c) (1) **[**Except as otherwise provided by law, the**]** **THE** Board shall set compensation for its employees.

(2) **[**To the extent practicable, the Board shall set the compensation in accordance with the State pay plan.**]** **EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, AN EMPLOYEE OF THE FUND IS NOT SUBJECT TO ANY LAW, REGULATION, OR EXECUTIVE ORDER GOVERNING STATE EMPLOYEE COMPENSATION, INCLUDING FURLOUGHS, SALARY REDUCTIONS, OR ANY OTHER GENERAL FUND COST SAVINGS MEASURE.**

(d) (1) This subsection does not apply to the layoff of an employee because of lack of work.

(2) **[**A special appointment**]** **AN** employee of the Fund may not be permanently removed unless:

(i) written charges are filed;

(ii) the employee has an opportunity for a hearing in accordance with Title 10, Subtitle 2 of the State Government Article; and

(iii) there is cause for removal.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 277

(Senate Bill 695)

AN ACT concerning

Higher Education – Regulation of Public, Private Nonprofit, and For–Profit Institutions of Higher Education

FOR the purpose of distinguishing between public, private nonprofit, and for–profit institutions of higher education; ~~prohibiting~~ clarifying that a person is prohibited from engaging in certain unfair or deceptive practices in the offer for sale of course credit or other educational services; authorizing the Maryland Higher Education Commission to create and provide for the operation of ~~a certain guaranty fund~~ certain guaranty funds to be used for certain purposes; providing that certain guaranty funds are continuing, nonlapsing funds not subject to certain provisions of law; prohibiting unspent portions of the funds from being transferred or reverted to the General Fund; prohibiting certain State money from being used to support the funds; requiring for–profit institutions of higher education to pay a certain fee into ~~the~~ a certain fund; authorizing the Commission to impose certain penalties on certain for–profit institutions of higher education; ~~authorizing the Commission to revoke or suspend the certificate of approval of certain for–profit institutions of higher education under certain circumstances~~ requiring certain institutions of higher education to notify certain students that certain programs have not been recommended for implementation by the Commission under certain circumstances; prohibiting certain institutions of higher education from paying certain financial or other incentives based on certain success to a person or entity engaged in student recruitment or admission activity; authorizing the Commission to require certain reports and data from certain institutions of higher education; prohibiting the Commission from requiring reports on certain matters that concern certain information, data, or documents; authorizing the board of trustees of a community college to submit a request for proposals for the offering of a certain degree program to certain institutions of higher education under certain circumstances; requiring a certain institution of higher education to seek the approval of the Commission before offering a certain degree program; specifying the institutions of higher education at which certain students may use certain financial assistance; requiring certain institutions of higher education to transfer certain information to the Maryland Longitudinal Data System in accordance with certain plans; altering the membership of the Governor's P–20 Leadership Council of Maryland; requiring the Commission to consider incorporating certain institutions of higher education into a certain goal; defining certain terms; making clarifying and stylistic changes; providing for the effective date of this Act; providing for the termination of certain provisions of this Act; and generally relating to the regulation of public, private nonprofit, and for–profit institutions of higher education.

BY repealing and reenacting, with amendments,
Article – Commercial Law
Section 13–303
Annotated Code of Maryland
(2005 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,
Article – Education
Section 10–101, 10–211, 11–105(g) and (k), 11–201, 11–202.1(a), ~~11–203(d)~~ 11–203 (b) and (d), 11–204(c), ~~11–205,~~ 11–206(a), (b), and (d), 11–206.1(a), (b), (e)(1), (f)(5), and (i)(3), ~~11–402,~~ 11–701, 11–902(b)(4)(iii)3., ~~16–108(a)~~ 16–108(a) and (c), 17–101, 17–105(b) and (d), 18–103, 18–708(a)(3), 18–2201(b), 18–2301(b), 18–2502, 18–2503, 18–2504(c)(1), 21–501(a)(3), ~~and~~ 24–707(b), and 24–801(c)(11)
Annotated Code of Maryland
(2008 Replacement Volume and 2010 Supplement)

BY adding to
Article – Education
Section 11–402.1, 11–407, and 24–707(c)
Annotated Code of Maryland
(2008 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,
Article – Education
Section 11–203(d)(3)(ii) and 18–103
Annotated Code of Maryland
(2008 Replacement Volume and 2010 Supplement)
(As enacted by Section 1 of this Act)

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

Article – Commercial Law

13–303.

A person may not engage in any unfair or deceptive trade practice, as defined in this subtitle or as further defined by the Division, in:

(1) The sale, lease, rental, loan, or bailment of any consumer goods, consumer realty, or consumer services;

(2) The offer for sale, lease, rental, loan, or bailment of consumer goods, consumer realty, or consumer services;

(3) THE OFFER FOR SALE OF COURSE CREDIT OR OTHER EDUCATIONAL SERVICES;

[(3)**] (4)** The extension of consumer credit; or

[(4)**] (5)** The collection of consumer debts.

Article – Education

10–101.

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

(b) "Charter" means the Maryland Charter for Higher Education.

(c) "Commission" means the Maryland Higher Education Commission.

(D) "FOR–PROFIT INSTITUTION OF HIGHER EDUCATION" MEANS AN INSTITUTION OF HIGHER EDUCATION THAT GENERALLY LIMITS ENROLLMENT TO GRADUATES OF SECONDARY SCHOOLS, AWARDS DEGREES AT THE ASSOCIATE, BACCALAUREATE, OR GRADUATE LEVEL, AND IS NOT A PUBLIC OR PRIVATE NONPROFIT INSTITUTION OF HIGHER EDUCATION.

[(d)**] (E)** "Governing board" means:

(1) The Board of Regents of the University System of Maryland;

(2) The Board of Regents of Morgan State University;

(3) The Board of Trustees of St. Mary's College of Maryland; and

(4) The Board of Trustees of Baltimore City Community College.

[(e)**] (F)** "Governing body" means:

(1) A governing board;

(2) A board of trustees of a community college;

(3) The governing entity of **[**nonpublic**] PRIVATE NONPROFIT** institutions of higher education; **[**or**]**

(4) THE GOVERNING ENTITY OF A FOR–PROFIT INSTITUTION OF HIGHER EDUCATION; OR

[(4)**] (5)** The governing entity of a regional higher education center.

(G) "INDEPENDENT INSTITUTION OF HIGHER EDUCATION" MEANS A PRIVATE NONPROFIT INSTITUTION OF HIGHER EDUCATION THAT GENERALLY LIMITS ENROLLMENT TO GRADUATES OF SECONDARY SCHOOLS, SERVES A PUBLIC PURPOSE, AND AWARDS DEGREES AT THE ASSOCIATE, BACCALAUREATE, OR GRADUATE LEVEL.

[(f)**] (H) (1)** "Institution of higher education" means an institution of postsecondary education that generally limits enrollment to graduates of secondary schools, and awards degrees at either the associate, baccalaureate, or graduate level.

(2) "INSTITUTION OF HIGHER EDUCATION" INCLUDES PUBLIC, PRIVATE NONPROFIT, AND FOR–PROFIT INSTITUTIONS OF HIGHER EDUCATION.

[(g)**] (I)** (1) "Institution of postsecondary education" means a school or other institution that offers an educational program in the State for individuals who are at least 16 years old and who have graduated from or left elementary or secondary school.

(2) "Institution of postsecondary education" does not include:

(i) Any adult education, evening high school, or high school equivalence program conducted by a public school system of the State; or

(ii) Any apprenticeship or on–the–job training program subject to approval by the Apprenticeship and Training Council.

[(h)**] (J)** "Private career school" means a privately owned and privately operated institution of postsecondary education other than an institution of higher education that furnishes or offers to furnish programs, whether or not requiring a payment of tuition or fee, for the purpose of training, retraining, or upgrading individuals for gainful employment as skilled or semiskilled workers or technicians in recognized occupations or in new and emerging occupations.

(K) (1) "PRIVATE NONPROFIT INSTITUTION OF HIGHER EDUCATION" MEANS A PRIVATE NONPROFIT INSTITUTION OF HIGHER EDUCATION THAT GENERALLY LIMITS ENROLLMENT TO GRADUATES OF SECONDARY SCHOOLS AND AWARDS DEGREES AT THE ASSOCIATE, BACCALAUREATE, OR GRADUATE LEVEL.

(2) "PRIVATE NONPROFIT INSTITUTION OF HIGHER EDUCATION" INCLUDES AN INDEPENDENT INSTITUTION OF HIGHER EDUCATION.

[(i)**] (L)** "Program" or "educational program" means an organized course of study that leads to the award of a certificate, diploma, or degree.

[(j)**] (M)** "Public senior higher education institution" means:

(1) The constituent institutions of the University System of Maryland;

(2) Morgan State University; and

(3) St. Mary's College of Maryland.

[(k)**] (N)** "Regional higher education center" means a higher education facility in the State that:

(1) Is operated by a public institution of higher education in the State or a **[**nonpublic**] PRIVATE NONPROFIT** institution of higher education operating under a charter granted by the General Assembly and includes participation by two or more institutions of higher education in the State;

(2) Consists of an array of program offerings from institutions of higher education approved to operate in the State by the Commission or by an act of the General Assembly that specifically satisfies the criteria set forth in § 10–212(b) of this title;

(3) Offers multiple degree levels; and

(4) Is either approved by the Commission to operate in the State or is established by statute.

[(l)**] (O)** "Secretary" means the Secretary of Higher Education.

[(m)**] (P)** "State Plan for Higher Education" means the plan for postsecondary education and research required to be developed by the Maryland Higher Education Commission under § 11–105(b) of this article.

10–211.

(a) The **[**nonpublic**] PRIVATE NONPROFIT** institutions of higher education in the State are an important educational resource and are vital to the provision of postsecondary education in the State.

(b) The State shall continue to provide financial aid as provided by law to **[**nonpublic**] PRIVATE NONPROFIT** institutions of higher education to foster this important educational resource.

(c) (1) In this subsection, "cultural diversity" means the inclusion of those racial and ethnic groups and individuals that are or have been underrepresented in higher education.

(2) On or before May 1 of each year, each **[**nonpublic**]** **PRIVATE NONPROFIT** institution of higher education eligible for State aid under § 17–103 of this article shall submit a report on the institution's programs to promote and enhance cultural diversity on its campus to the Maryland Independent College and University Association.

(3) (i) On or before August 1 of each year, the Maryland Independent College and University Association shall submit a report on the status of the programs reported to the Association under paragraph (2) of this subsection to the Commission.

(ii) The report submitted to the Commission under subparagraph (i) of this paragraph shall include an analysis of the best practices used by **[**nonpublic**]** **PRIVATE NONPROFIT** institutions of higher education to promote and enhance cultural diversity on their campuses.

11–105.

(g) The Commission shall:

(1) Administer State funds for **[**nonpublic**]** **PRIVATE NONPROFIT** institutions of higher education in the State; and

(2) Assure that the purposes for which these funds were appropriated are achieved.

(k) Subject to the provisions in Subtitle 2 of this title, the Commission may:

(1) Review any educational program offered at **[**a public or nonpublic**]** **AN** institution of postsecondary education **[**in the State that receives State funds**]**; and

(2) Establish guidelines relating to matters of general educational policy.

11–201.

The Commission shall establish minimum requirements for issuing certificates, diplomas, and degrees by **[**public and nonpublic**]** institutions of postsecondary education.

11–202.1.

(a) A **[**nonpublic**]** **PRIVATE NONPROFIT** institution of higher education operating under a charter granted by the General Assembly may operate without a certificate of approval from the Commission.

11–203.

(b) **[**Any**] SUBJECT TO SUBSECTION (D)(3)(II)2 OF THIS SECTION, ANY** bond or guarantee required under this section shall be in the form and amount the Secretary requires.

(d) (1) By rule and regulation, the Commission may create and provide for the operation of **TWO SEPARATE [**a**]** guaranty **[**fund**] FUNDS** for **[**private**]:**

(I) FOR–PROFIT INSTITUTIONS OF HIGHER EDUCATION; AND

(II) PRIVATE career schools.

(2) (i) The **PRIVATE CAREER SCHOOL [**fund**]** ~~**FUNDS**~~ shall be used:

1. To reimburse any student at a ~~**FOR–PROFIT INSTITUTION OF HIGHER EDUCATION OR**~~ private career school who is entitled to a refund of tuition and fees because the institution has failed to perform faithfully any agreement or contract with the student or failed to comply with any provision of this article; or

2. For any other function directly related to the original purpose of the fund deemed appropriate by the Secretary.

(II) THE FOR–PROFIT INSTITUTION OF HIGHER EDUCATION FUND SHALL BE USED TO REIMBURSE ANY STUDENT AT A FOR–PROFIT INSTITUTION OF HIGHER EDUCATION WHO IS ENTITLED TO A REFUND OF TUITION AND FEES BECAUSE THE INSTITUTION HAS FAILED TO PERFORM FAITHFULLY ANY AGREEMENT OR CONTRACT WITH THE STUDENT OR FAILED TO COMPLY WITH ANY PROVISION OF THIS ARTICLE.

(III) 1. THE FUNDS SHALL BE CONTINUING, NONLAPSING FUNDS, NOT SUBJECT TO § 7–302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

2. ANY UNSPENT PORTIONS OF THE FUNDS MAY NOT BE TRANSFERRED OR REVERT TO THE GENERAL FUND OF THE STATE, BUT SHALL REMAIN IN THE FUNDS TO BE USED FOR THE PURPOSES SPECIFIED IN THIS SUBSECTION.

3. NO OTHER STATE MONEY MAY BE USED TO SUPPORT THE FUNDS.

~~(ii)~~ **(IV)** The Commission shall be subrogated to and may enforce the claim of any student to the extent of any actual or authorized reimbursement from the **[**fund**]** **FUNDS**.

(3) (i) Each **FOR–PROFIT INSTITUTION OF HIGHER EDUCATION OR** private career school that is required to obtain a certificate of approval shall pay an annual fee into the **APPROPRIATE** fund.

(ii) The Commission shall determine the amount of the fee based on the probable amount of money needed for the **[**fund**]** **FUNDS** for each fiscal year. If the moneys in the guaranty **[**fund**]** **FUNDS** are insufficient to satisfy duly authorized claims, the participating institutions may be reassessed and shall pay the additional amounts required.

(iii) The Commission may not issue a certificate of approval to, and shall revoke any certificate of approval previously issued to, an institution that fails to pay any annual fee or reassessment.

(iv) The Commission shall deposit into the **APPROPRIATE** ~~[~~fund~~]~~ ~~FUNDS~~ any penalty assessed against a **FOR–PROFIT INSTITUTION OF HIGHER EDUCATION OR** private career school**, RESPECTIVELY,** under the terms of § 11–204 of this subtitle.

(4) (i) The **[**fund**]** **FUNDS** shall be maintained by the State Comptroller who may deposit the assets of the **[**fund**]** **FUNDS** in any manner that is consistent with the purposes of the **[**fund**]** **FUNDS**.

(ii) All interest or other return on fund **[**investment**]** **INVESTMENTS** shall be credited to the **[**fund**]** **FUNDS**.

(5) The Commission, through the Attorney General, may enforce any claim to which the Commission has been subrogated under this subsection.

11–204.

(c) (1) If a hearing is not requested within the specified time period, or if the notice of deficiencies is upheld in whole or in part after a hearing, the Commission may reprimand the institution or suspend or revoke the institution's certificate of approval or any other approval issued by the Commission or Secretary.

(2) (i) Instead of or in addition to reprimanding a **FOR–PROFIT INSTITUTION OF HIGHER EDUCATION OR** private career school, or suspending or revoking any approval issued to a **FOR–PROFIT INSTITUTION OF HIGHER**

EDUCATION OR private career school, the Commission may impose a penalty of up to $5,000 for each violation as specified in regulations adopted by the Commission.

(ii) In accordance with the provisions of this section, the Commission shall deposit any penalty assessed against a **FOR–PROFIT INSTITUTION OF HIGHER EDUCATION OR** private career school into the guaranty fund for **FOR–PROFIT INSTITUTIONS OF HIGHER EDUCATION OR FOR** private career schools if such **[**a fund exists**]** **FUNDS EXIST**. Otherwise, all penalties shall be deposited into the **[**State General Fund**]** **GENERAL FUND OF THE STATE**.

~~11–205.~~

~~(a) The Commission may summarily order the revocation or suspension of a certificate of approval of a **FOR–PROFIT INSTITUTION OF HIGHER EDUCATION OR** private career school if:~~

~~(1) **[**The school's**]** **AN** owner or director **OF THE SCHOOL OR INSTITUTION**, or any person in whose name the approval is issued, is convicted of a crime of moral turpitude or a crime relating to the operation of the school if:~~

~~(i) The conviction is final; and~~

~~(ii) The period for appeal has expired;~~

~~(2) An agency that exercises concurrent authority over the **[**private career**]** school **OR INSTITUTION** has revoked any approval to operate required by law; or~~

~~(3) Without prior approval of the Commission, the certificate of approval of a school **OR INSTITUTION** is sold, pledged, or transferred, or there is a change of ownership of a school **OR INSTITUTION**.~~

~~(b) The Commission may summarily order a revocation or suspension of a certificate of approval of a **FOR–PROFIT INSTITUTION OF HIGHER EDUCATION OR** private career school under subsection (a) of this section only if it gives the school **OR INSTITUTION**:~~

~~(1) Prior oral or written notice of the proposed revocation or suspension and a brief, informal opportunity for response;~~

~~(2) Prior or prompt subsequent written notice of the revocation or suspension and the findings on which the revocation or suspension is based; and~~

~~(3) After the revocation or suspension is effective, an opportunity to be heard promptly before the Commission.~~

~~(e) (1) In any hearing held on the grounds for revocation under subsection (a) of this section, the Commission may limit the issues to be determined to whether:~~

~~(i) The alleged conviction in fact occurred;~~

~~(ii) The alleged revocation under subsection (a)(2) of this section in fact occurred; or~~

~~(iii) The alleged sale, pledge, or transfer, or change of ownership of the [private career] school OR INSTITUTION in fact occurred.~~

~~(2) Notwithstanding paragraph (1) of this subsection, in any hearing held on the grounds for revocation under subsection (a) of this section, a [private career] school OR INSTITUTION may present matters in mitigation of the offense alleged by the Commission.~~

11–206.

(a) This section does not apply to:

(1) New programs proposed to be implemented by public and [nonpublic] **PRIVATE NONPROFIT** institutions of higher education using existing program resources in accordance with § 11–206.1 of this subtitle; and

(2) Programs offered by institutions of higher education that operate in the State without a certificate of approval in accordance with § 11–202(c)(2) or (3) of this subtitle.

(b) (1) Prior to the proposed date of implementation, the governing body of an institution of postsecondary education shall submit to the Commission each proposal for:

(i) A new program; or

(ii) A substantial modification of an existing program.

(2) The Commission shall review each such proposal and:

(i) With respect to each public institution of postsecondary education, either approve or disapprove the proposal;

(ii) ~~With~~ **EXCEPT AS PROVIDED IN § 16–108(C) OF THIS ARTICLE, WITH** respect to each [nonpublic] **PRIVATE NONPROFIT OR FOR–PROFIT** institution of higher education, either recommend that the proposal be implemented or that the proposal not be implemented; and

(iii) With respect to a ~~**FOR–PROFIT INSTITUTION OF HIGHER EDUCATION OR**~~ private career school, either approve or disapprove the proposal.

(3) If the Commission fails to act within 60 days of the date of submission of the completed proposal, the proposal shall be deemed approved.

(4) Except as provided in paragraph (3) of this subsection, a public institution of postsecondary education~~**, FOR–PROFIT INSTITUTION OF HIGHER EDUCATION,**~~ and private career school may not implement a proposal without the prior approval of the Commission.

~~(5) Except as provided in paragraph (3) of this subsection, and subject to the provisions of § 17–105 of this article, a **[**nonpublic**]** **PRIVATE NONPROFIT** institution of higher education may implement a proposal that has not received a positive recommendation by the Commission.~~

(5) (I) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, AND SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, A PROGRAM THAT HAS NOT RECEIVED A POSITIVE RECOMMENDATION BY THE COMMISSION MAY BE IMPLEMENTED BY:

1. SUBJECT TO THE PROVISIONS OF § 17–105 OF THIS ARTICLE, A PRIVATE NONPROFIT INSTITUTION OF HIGHER EDUCATION; OR

2. A FOR–PROFIT INSTITUTION OF HIGHER EDUCATION.

(II) IF A PRIVATE NONPROFIT OR FOR–PROFIT INSTITUTION OF HIGHER EDUCATION IMPLEMENTS A PROPOSAL DESPITE THE RECOMMENDATION FROM THE COMMISSION THAT A PROGRAM NOT BE IMPLEMENTED, THE INSTITUTION SHALL NOTIFY BOTH PROSPECTIVE STUDENTS OF THE PROGRAM AND ENROLLED STUDENTS IN THE PROGRAM THAT THE PROGRAM HAS NOT BEEN RECOMMENDED FOR IMPLEMENTATION BY THE COMMISSION.

(6) (i) If the Commission disapproves a proposal, the Commission shall provide to the governing body that submits the proposal a written explanation of the reasons for the disapproval.

(ii) After revising a proposal to address the Commission's reasons for disapproval, the governing body may submit the revised proposal to the Commission for approval.

(d) The Commission shall review and make recommendations on programs in **[**nonpublic**]** **PRIVATE NONPROFIT** **AND FOR–PROFIT** institutions of higher education ~~that receive State funds~~.

11–206.1.

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

(2) "Public institution of higher education" means:

(i) A public senior higher education institution; and

(ii) A community college.

(3) **[**"Nonpublic**]** **"PRIVATE NONPROFIT** institution of higher education" ~~means a regionally accredited institution of higher education eligible for aid under § 17–103 of this article~~ **HAS THE MEANING STATED IN § 10–101(K) OF THIS ARTICLE**.

(b) (1) A president of a public institution of higher education may propose to establish a new program or abolish an existing program if the action:

(i) Is consistent with the institution's adopted mission statement under Subtitle 3 of this title; and

(ii) Can be implemented within the existing program resources of the institution.

(2) A president of a **[**nonpublic**]** **PRIVATE NONPROFIT** institution of higher education may propose to establish a new program if the action:

(i) Is consistent with the mission statement published in the official catalog of the **[**nonpublic**]** **PRIVATE NONPROFIT** institution; and

(ii) Can be implemented within the existing resources of the institution.

(3) The president of a public institution of higher education shall report any programs that are proposed to be established or abolished in accordance with paragraph (1) of this subsection to:

(i) The institution's governing board; and

(ii) The Maryland Higher Education Commission.

(4) The president of a **[**nonpublic**]** **PRIVATE NONPROFIT** institution of higher education shall report any programs that are proposed to be established in accordance with paragraph (2) of this subsection to the Commission.

(5) Upon receipt of a proposed new program, the Commission shall notify all other institutions of higher education in the State.

(e) Within 30 days of receipt of a notice of an institution's intent to establish a new program in accordance with subsection (b) of this section, the Commission may file, or the institutions of higher education in the State may file with the Commission, an objection to implementation of a proposed program provided the objection is based on:

(1) Inconsistency of the proposed program with the institution's approved mission for a public institution of higher education and the mission statement published in the official catalog of a **[**nonpublic**]** **PRIVATE NONPROFIT** institution of higher education;

(f) (5) If the objection cannot be resolved within 30 days of receipt of an objection, the Commission shall make a final determination on approval of the new program for a public institution of higher education or a final recommendation on implementation for a **[**nonpublic**]** **PRIVATE NONPROFIT** institution of higher education.

(i) The Commission shall:

(3) Make available a copy of the report under item (2) of this subsection to the public institutions of higher education and the **[**nonpublic**]** **PRIVATE NONPROFIT** institutions of higher education.

~~11–402.~~

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

~~(2) (i) "School" means a **FOR–PROFIT INSTITUTION OF HIGHER EDUCATION OR** private career school located outside the State.~~

~~(ii) "School" does not include a **FOR–PROFIT INSTITUTION OF HIGHER EDUCATION OR** private career school that operates in the State pursuant to a certificate of approval issued under § 11–202(b) of this title.~~

~~(3) "Solicitor" means a person engaged in the business, for compensation, of soliciting or offering to solicit students in this State to enroll in or apply for a program offered by a school.~~

~~(b) A person may not act as a solicitor unless such person has a permit issued under this section.~~

~~(c) (1) A person wishing to act as a solicitor shall apply to the Commission for a permit.~~

~~(2) The application shall be made on the forms the Commission provides, shall contain the information the Commission requires, and shall be accompanied by:~~

~~(i) A copy of each type of contract offered by the solicitor to prospective students; and~~

~~(ii) Any advertising materials and other representations that are made by the school to its students or prospective students.~~

~~(d) Each permit issued under this section expires on June 30 after its issuance and may be renewed annually on application and payment of the required fee.~~

~~(e) (1) The Commission shall consider the application and accompanying material.~~

~~(2) If the Commission approves the application, it shall issue a permit to the solicitor, on payment of an initial fee of $25. The renewal fee is $25.~~

~~(f) After notice to the solicitor and an opportunity for a hearing, the Commission may revoke the solicitor's permit for:~~

~~(1) Violation of a contract with a student; or~~

~~(2) Any other good cause.~~

11–402.1.

AN INSTITUTION OF HIGHER EDUCATION MAY NOT PAY A COMMISSION, A BONUS, OR ANY OTHER INCENTIVE PAYMENT BASED ON SUCCESS IN SECURING ENROLLMENTS OR THE AWARD OF FINANCIAL AID TO A PERSON OR ENTITY ENGAGED IN STUDENT RECRUITMENT OR ADMISSION ACTIVITY.

11–407.

(A) THE COMMISSION MAY REQUIRE REASONABLE ANNUAL REPORTS AND DATA FROM A FOR–PROFIT INSTITUTION OF HIGHER EDUCATION AS THE COMMISSION GENERALLY REQUIRES OF OTHER INSTITUTIONS OF HIGHER EDUCATION.

(B) THE COMMISSION MAY NOT REQUIRE A FOR–PROFIT INSTITUTION OF HIGHER EDUCATION TO REPORT TO THE COMMISSION ON MATTERS THAT CONCERN INFORMATION, DATA, OR DOCUMENTS, HOWEVER STYLED, THAT ARE PROPRIETARY TO THE INSTITUTION OR THAT CONSTITUTE A TRADE SECRET.

11–701.

In cooperation with the State's public and **[**nonpublic**]** **PRIVATE NONPROFIT** institutions of postsecondary education, the ~~Council of Maryland's K–16 Partnership~~ **GOVERNOR'S P–20 LEADERSHIP COUNCIL OF MARYLAND**, the Maryland State Department of Education, and the local school systems, the Commission shall establish and administer a College Preparation Intervention Program.

11–902.

(b) The Committee consists of:

(4) The following 14 members appointed by the Governor:

(iii) Three members, one representing each of the following institutions of higher education:

3. A **[**private,**]** 4–year **PRIVATE NONPROFIT** institution of higher education;

16–108.

(a) (1) A board of trustees may submit to the Commission a request for proposals for the offering of a baccalaureate degree program not currently offered in the region.

(2) The Commission shall distribute the request for proposals to public senior higher education institutions and **[**nonpublic**]** **PRIVATE NONPROFIT** institutions of higher education.

(c) (1) The board of trustees may submit the request for proposals to out–of–state senior higher education institutions **AND FOR–PROFIT INSTITUTIONS OF HIGHER EDUCATION** if none of the senior higher education institutions in the State submit an acceptable response to the request for proposals submitted under subsection (a) of this section.

(2) **[**Before**]** **NOTWITHSTANDING § 11–206(B)(2)(II) OF THIS ARTICLE, BEFORE** offering a degree program that is the subject of the request for proposals, an out–of–state senior higher education institution **OR FOR–PROFIT**

INSTITUTION OF HIGHER EDUCATION shall seek the approval of the Commission under Title 11, Subtitle 2 of this article.

17–101.

There is a program of State aid to **[**nonpublic**]** **PRIVATE NONPROFIT** institutions of higher education known as the Joseph A. Sellinger Program.

17–105.

(b) If a **[**nonpublic**]** **PRIVATE NONPROFIT** institution of higher education has implemented a new or substantially modified program contrary to the recommendation of the Maryland Higher Education Commission that was based on a finding of unreasonable duplication, then the Maryland Higher Education Commission may recommend that the General Assembly reduce the appropriation by the amount of aid associated with the full–time equivalent enrollment in that program. This provision does not preclude the **[**nonpublic**]** **PRIVATE NONPROFIT** institution from going forward with implementation of the new or substantially modified program.

(d) (1) If the General Assembly reduces program funding under subsection (b) of this section, the affected **[**nonpublic**]** **PRIVATE NONPROFIT** institution annually may reapply to the Maryland Higher Education Commission for reconsideration of the program recommendation.

(2) If the Commission determines that the unreasonable duplication no longer exists, then the Commission may recommend that there be no reduction in the institution's amount of aid.

18–103.

~~A~~ **EXCEPT AS OTHERWISE PROVIDED IN SUBTITLES 4, 5, AND 12 OF THIS TITLE, A** scholarship, grant, loan, or other student financial assistance awarded by the Office may be used **ONLY** at ~~any~~ **A** public or private **NONPROFIT** institution of higher education in this State that possesses a certificate of approval from the Commission.

18–708.

(a) (3) "Eligible institution" means a public or private **NONPROFIT** institution of higher education in this State that possesses a certificate of approval from the Commission.

18–2201.

(b) "Eligible institution" means a public or private **NONPROFIT** institution of higher education in this State that possesses a certificate of approval from the Maryland Higher Education Commission.

18–2301.

(b) "Eligible institution" means a public or private **NONPROFIT** institution of higher education in this State that possesses a certificate of approval from the Maryland Higher Education Commission.

18–2502.

A Community College Transfer Scholarship awarded under this subtitle may be used only at a 4–year **[**private or**]** public **OR PRIVATE NONPROFIT** institution of higher education in the State.

18–2503.

To qualify for a Community College Transfer Scholarship, an applicant shall:

(1) Be a resident of the State;

(2) Be a student at a community college in the State;

(3) Maintain a cumulative 3.0 grade point average on a 4.0 scale while a student at a community college in the State;

(4) Have completed at least 60 credits at a community college in the State or have earned an associate's degree by the end of the semester in which the applicant plans to transfer;

(5) Be accepted for admission in a degree program at a 4–year **[**private or**]** public **OR PRIVATE NONPROFIT** institution of higher education in the State;

(6) Intend to enroll in a 4–year **[**private or**]** public **OR PRIVATE NONPROFIT** institution of higher education in the State in order to complete a bachelor's degree program;

(7) Enroll as a full–time student in that 4–year institution;

(8) Have an annual total family income of not more than $95,000; and

(9) Accept any other conditions or satisfy any additional criteria that the Commission or the Office may establish.

18–2504.

(c) (1) Subject to paragraphs (2) and (3) of this subsection, to retain a Community College Transfer Scholarship, the recipient shall:

(i) Remain a resident of the State;

(ii) Continue to be enrolled as an undergraduate student in a degree program at a 4–year **[**private or**]** public **OR PRIVATE NONPROFIT** institution of higher education in the State;

(iii) Maintain a 3.0 grade point average on a 4.0 scale each academic year the individual is enrolled at a 4–year **[**private or**]** public **OR PRIVATE NONPROFIT** institution of higher education in the State or provide evidence satisfactory to the Office of extenuating circumstances; and

(iv) Maintain the standards of the eligible institution that the individual attends.

21–501.

(a) (3) "Student" means an individual who:

(i) 1. Is at least 16 years old but younger than the age of 23 years; or

2. Reaches the age of 23 years while participating in an approved paid work–based learning program under this section; and

(ii) Is enrolled in a public or private secondary **SCHOOL** or **PUBLIC OR PRIVATE NONPROFIT** postsecondary **[**school**]** **INSTITUTION** in the State.

24–707.

(b) ~~[Private] FOR–PROFIT AND PRIVATE NONPROFIT institutions of higher education and private~~ **PRIVATE** secondary schools may transfer student data and workforce data to the Maryland Longitudinal Data System in accordance with the data security and safeguarding plan developed under § 24–704(g)(6) of this subtitle.

(C) FOR–PROFIT AND PRIVATE NONPROFIT INSTITUTIONS OF HIGHER EDUCATION SHALL TRANSFER STUDENT–LEVEL ENROLLMENT DATA, DEGREE DATA, AND FINANCIAL AID DATA FOR ALL MARYLAND RESIDENTS TO THE MARYLAND LONGITUDINAL DATA SYSTEM IN ACCORDANCE WITH THE DATA SECURITY AND SAFEGUARDING PLAN DEVELOPED UNDER § 24–704(G)(6) OF THIS SUBTITLE.

24–801.

(c) The Council shall consist of the following members:

(11) The following members appointed by the Governor:

(i) A member of the State Board of Education;

(ii) A representative of local superintendents of education;

(iii) A representative of local boards of education;

(iv) Two members of employee organizations that represent elementary and secondary school personnel in the State;

(v) A representative of elementary and secondary school principals;

(vi) Two representatives of nonpublic elementary and secondary schools;

(vii) An expert in early childhood education;

(viii) An expert in career and technology education;

(ix) Two representatives of community colleges;

(x) Two representatives of independent colleges or universities;

(xi) A representative of public institutions of higher education outside the University System of Maryland;

(xii) A representative of college or university deans who has responsibility for a science, technology, engineering, and math (STEM) discipline;

(xiii) Four representatives of the University System of Maryland;

(XIV) A REPRESENTATIVE OF A FOR–PROFIT INSTITUTION OF HIGHER EDUCATION;

[(xiv)**] (XV)** Three representatives of the business community; and

[(xv)**] (XVI)** Six additional members with experience and knowledge that will benefit the work of the Council.

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

Article – Education

11–203.

(d) (3) (ii) **1.** **[**The**]** **SUBJECT TO SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, THE** Commission shall determine the amount of the fee based on the probable amount of money needed for the funds for each fiscal year. If the moneys in the guaranty funds are insufficient to satisfy duly authorized claims, the participating institutions may be reassessed and shall pay the additional amounts required.

2. THE AMOUNT OF THE ANNUAL FEE CHARGED TO A FOR–PROFIT INSTITUTION OF HIGHER EDUCATION MAY NOT EXCEED 0.0025 OF ALL GROSS TUITION, OR $30,000, WHICHEVER IS LESS.

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

Article – Education

18–103.

(A) IN THIS TITLE, "IN–STATE INSTITUTION OF HIGHER EDUCATION" MEANS A DEGREE–GRANTING INSTITUTION WHOSE PRIMARY CAMPUS IS LOCATED IN MARYLAND AND WHOSE AUTHORITY TO GRANT DEGREES IS CONFERRED BY MARYLAND.

(B) **[**Except as otherwise provided in Subtitles 4, 5, and 12 of this title, a**]** **A** scholarship, grant, loan, or other student financial assistance awarded by the Office may be used only at **[**a public or private nonprofit**]** **AN IN–STATE** institution of higher education **[**in this State**]** that possesses a certificate of approval from the Commission.

SECTION 4. AND BE IT FURTHER ENACTED, That, in order to assist the State in reaching the goal that 55% of adults in Maryland will have an associate's or bachelor's degree by 2025, the Maryland Higher Education Commission should consider incorporating for–profit and out–of–state institutions awarding degrees in Maryland into the goal.

SECTION 5. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect on July 1, 2011. It shall remain effective for a period of 2 years and, at the end of June 30, 2013, with no further action required by the General Assembly, Section 2 of this Act shall be abrogated and of no further force and effect.

SECTION 6. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall take effect on July 1, 2011. It shall remain effective for a period of 5 years and, at the end of June 30, 2016, with no further action required by the General Assembly, Section 3 of this Act shall be abrogated and of no further force and effect.

SECTION ~~2.~~ 7. AND BE IT FURTHER ENACTED, That, except as provided in Sections 5 and 6 of this Act, this Act shall take effect ~~October~~ June 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 278

(Senate Bill 728)

AN ACT concerning

State Board for Professional Engineers – Increase in Membership and Practice Specialties

FOR the purpose of increasing the number of members of the State Board for Professional Engineers; requiring ~~a certain number of~~ *one of the* engineer members of the Board to be ~~on~~ appointed, without regard to specific professional practice, from a certain list submitted by the Maryland Society of Professional Engineers; ~~requiring a certain list to include only individuals who practice certain engineering specialties;~~ making certain conforming changes; specifying the terms of the new members of the Board; and generally relating to the State Board for Professional Engineers.

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 14–202
Annotated Code of Maryland
(2010 Replacement Volume)

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

Article – Business Occupations and Professions

14–202.

(a) (1) The Board consists of **[**seven**]** ~~NINE~~ ***EIGHT*** members.

(2) Of the **[**seven**]** ~~NINE~~ ***EIGHT*** members of the Board:

(i) **[**five**]** ~~SEVEN~~ ***SIX*** shall be engineers; and

(ii) two shall be consumer members.

(3) Of the **[**five**]** ~~SEVEN~~ ***SIX*** engineer members of the Board:

(i) one shall be a chemical engineer;

(ii) two shall be civil engineers;

(iii) one shall be an electrical engineer; **[**and**]**

(iv) one shall be a mechanical engineer**; AND**

(V) ~~**TWO**~~ ***ONE*** **SHALL BE** ***A*** **PROFESSIONAL** ~~**ENGINEERS**~~ ***ENGINEER*** ~~**WHO PRACTICE AN ENGINEERING SPECIALTY NOT LISTED IN ITEMS (I) THROUGH (IV) OF THIS PARAGRAPH**~~ **APPOINTED WITHOUT REGARD TO SPECIFIC PROFESSIONAL PRACTICE WHO SHALL REPRESENT** ~~**ALL**~~ ***OTHER*** **DESIGNATIONS OF PROFESSIONAL ENGINEERING**.

(4) The Governor shall appoint the members with the advice of the Secretary and with the advice and consent of the Senate.

(5) (i) The Governor shall appoint each of the engineer members from a single list of at least 3 names of engineers submitted by the local chapters of the applicable professional organization, as set forth in this paragraph and any list of qualified individuals that may have been submitted to the Governor by any person who is a resident of the State.

(ii) For the chemical engineer member, the list shall be submitted by the American Institute of Chemical Engineers.

(iii) For the civil engineer members, the list shall be submitted by the American Society of Civil Engineers.

(iv) For the electrical engineer member, the list shall be submitted by the Institute of Electrical and Electronics Engineers.

(v) For the mechanical engineer member, the list shall be submitted by the American Society of Mechanical Engineers.

(VI) FOR THE ~~**TWO**~~ ***ONE*** **ENGINEER** ~~**MEMBERS**~~ ***MEMBER*** ~~**WITHOUT A REQUIRED SPECIALTY**~~ **IDENTIFIED IN PARAGRAPH (3)(V) OF THIS SUBSECTION, THE LIST SHALL BE SUBMITTED BY THE MARYLAND SOCIETY OF PROFESSIONAL ENGINEERS** ~~**AND SHALL INCLUDE ONLY QUALIFIED INDIVIDUALS WHO PRACTICE AN ENGINEERING SPECIALTY NOT LISTED IN PARAGRAPH (3)(I) THROUGH (IV) OF THIS SUBSECTION**~~**.**

(b) Each member of the Board shall be:

(1) a citizen of the United States; and

(2) a resident of the State.

(c) (1) Each engineer member of the Board shall have:

(i) practiced engineering for at least 12 years; and

(ii) been in responsible charge of important engineering work for at least 5 years.

(2) Each engineer member of the Board shall be licensed as a professional engineer in this State at all times during the member's term on the Board.

(d) Each consumer member of the Board:

(1) shall be a member of the general public;

(2) may not be a licensee or otherwise be subject to regulation by the Board;

(3) may not be required to meet the qualifications for the professional members of the Board; and

(4) may not, within 1 year before appointment, have had a financial interest in or have received compensation from a person regulated by the Board.

(e) While a member of the Board, a consumer member may not:

(1) have a financial interest in or receive compensation from a person regulated by the Board; or

(2) grade any examination given by or for the Board.

(f) Before taking office, each appointee to the Board shall take the oath required by Article I, § 9 of the Maryland Constitution.

(g) (1) The term of a member is 5 years and begins on July 1.

(2) The terms of members are staggered as required by the terms provided for members of the Board on October 1, **[**1989**] 2011**.

(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.

(h) The Governor may remove a member for incompetence, misconduct, neglect of duties, or other sufficient cause.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(1) the ~~terms of the two new members~~ *term of the new member* of the State Board for Professional Engineers established by this Act shall expire 5 years after ~~they are~~ *the member is* appointed; and

(2) the terms of the other members of the State Board for Professional Engineers on October 1, 2011, shall expire in accordance with the staggering of terms in effect on October 1, 2011.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 279

(House Bill 1135)

AN ACT concerning

State Board for Professional Engineers – Increase in Membership and Practice Specialties

FOR the purpose of increasing the number of members of the State Board for Professional Engineers; requiring ~~a certain number of~~ one of the engineer members of the Board to be ~~on~~ appointed, without regard to specific professional practice, from a certain list submitted by the Maryland Society of Professional Engineers; ~~requiring a certain list to include only individuals who practice certain engineering specialties;~~ making certain conforming changes; specifying the terms of the new members of the Board; and generally relating to the State Board for Professional Engineers.

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 14–202
Annotated Code of Maryland
(2010 Replacement Volume)

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

Article – Business Occupations and Professions

14–202.

(a) (1) The Board consists of **[**seven**]** ~~**NINE**~~ **EIGHT** members.

(2) Of the **[**seven**]** ~~**NINE**~~ **EIGHT** members of the Board:

(i) **[**five**]** ~~**SEVEN**~~ **SIX** shall be engineers; and

(ii) two shall be consumer members.

(3) Of the **[**five**]** ~~**SEVEN**~~ **SIX** engineer members of the Board:

(i) one shall be a chemical engineer;

(ii) two shall be civil engineers;

(iii) one shall be an electrical engineer; **[**and**]**

(iv) one shall be a mechanical engineer**; AND**

(V) ~~**TWO**~~ **ONE SHALL BE** ~~**ENGINEERS WHO PRACTICE AN ENGINEERING SPECIALTY NOT LISTED IN ITEMS (I) THROUGH (IV) OF THIS PARAGRAPH**~~ **A PROFESSIONAL ENGINEER APPOINTED WITHOUT REGARD TO SPECIFIC PROFESSIONAL PRACTICE WHO SHALL REPRESENT OTHER DESIGNATIONS OF PROFESSIONAL ENGINEERING**.

(4) The Governor shall appoint the members with the advice of the Secretary and with the advice and consent of the Senate.

(5) (i) The Governor shall appoint each of the engineer members from a single list of at least 3 names of engineers submitted by the local chapters of the applicable professional organization, as set forth in this paragraph and any list of qualified individuals that may have been submitted to the Governor by any person who is a resident of the State.

(ii) For the chemical engineer member, the list shall be submitted by the American Institute of Chemical Engineers.

(iii) For the civil engineer members, the list shall be submitted by the American Society of Civil Engineers.

(iv) For the electrical engineer member, the list shall be submitted by the Institute of Electrical and Electronics Engineers.

(v) For the mechanical engineer member, the list shall be submitted by the American Society of Mechanical Engineers.

(VI) FOR THE ~~TWO~~ ONE ENGINEER ~~MEMBERS WITHOUT A REQUIRED SPECIALTY, THE LIST SHALL BE SUBMITTED BY THE MARYLAND SOCIETY OF PROFESSIONAL ENGINEERS AND SHALL INCLUDE ONLY QUALIFIED INDIVIDUALS WHO PRACTICE AN ENGINEERING SPECIALTY NOT LISTED IN PARAGRAPH (3)(I) THROUGH (IV) OF THIS SUBSECTION~~ MEMBER IDENTIFIED IN PARAGRAPH (3)(V) OF THIS SUBSECTION, THE LIST SHALL BE SUBMITTED BY THE MARYLAND SOCIETY OF PROFESSIONAL ENGINEERS.

(b) Each member of the Board shall be:

(1) a citizen of the United States; and

(2) a resident of the State.

(c) (1) Each engineer member of the Board shall have:

(i) practiced engineering for at least 12 years; and

(ii) been in responsible charge of important engineering work for at least 5 years.

(2) Each engineer member of the Board shall be licensed as a professional engineer in this State at all times during the member's term on the Board.

(d) Each consumer member of the Board:

(1) shall be a member of the general public;

(2) may not be a licensee or otherwise be subject to regulation by the Board;

(3) may not be required to meet the qualifications for the professional members of the Board; and

(4) may not, within 1 year before appointment, have had a financial interest in or have received compensation from a person regulated by the Board.

(e) While a member of the Board, a consumer member may not:

(1) have a financial interest in or receive compensation from a person regulated by the Board; or

(2) grade any examination given by or for the Board.

(f) Before taking office, each appointee to the Board shall take the oath required by Article I, § 9 of the Maryland Constitution.

(g) (1) The term of a member is 5 years and begins on July 1.

(2) The terms of members are staggered as required by the terms provided for members of the Board on October 1, **[**1989**] 2011**.

(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.

(h) The Governor may remove a member for incompetence, misconduct, neglect of duties, or other sufficient cause.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(1) the ~~terms of the two new members~~ term of the new member of the State Board for Professional Engineers established by this Act shall expire 5 years after ~~they are~~ the member is appointed; and

(2) the terms of the other members of the State Board for Professional Engineers on October 1, 2011, shall expire in accordance with the staggering of terms in effect on October 1, 2011.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 280

(Senate Bill 741)

AN ACT concerning

Commercial Law – Debt Settlement Services

FOR the purpose of prohibiting a person from offering, providing, or attempting to provide debt settlement services unless the person is registered as a debt

settlement services provider with the Commissioner of Financial Regulation or is exempt from registration; authorizing the Commissioner to adopt regulations, enter into certain cooperative and information sharing agreements, and exchange certain information with certain agencies for a certain purpose; requiring a person registering as a debt settlement services provider or renewing a registration to pay certain fees; requiring certain fees to be deposited in a certain fund and used to cover certain costs and expenses incurred by the Commissioner; requiring an applicant for registration to file a certain application; specifying the information to be included in the application; providing that a registration may be renewed under certain circumstances; prohibiting a registrant from offering, providing, or attempting to provide debt settlement services in the State except as allowed under this Act; authorizing a registrant to charge a certain debt settlement services fee; prohibiting a registrant from charging a certain fee or requiring a certain contribution; prohibiting a registrant from charging a certain debt settlement services fee until after certain actions have been taken; providing that a certain provision of this Act does not prohibit a registrant from requesting or requiring a consumer to deposit certain funds in a certain account under certain circumstances; requiring a registrant to allow a consumer to withdraw from a debt settlement services agreement at any time; prohibiting a registrant from making a certain representation; requiring a debt settlement services agreement to be signed and dated by the registrant and the consumer and to include certain information and disclosures; requiring an advertisement for debt settlement services to include a certain disclosure; requiring a registrant that establishes a certain account to file a certain surety bond with the Commissioner; requiring a registrant to report certain information to the Commissioner, on the form the Commissioner requires, on or before a certain date each year; providing that a violation of this Act is an unfair or deceptive trade practice within the meaning of the Maryland Consumer Protection Act and is subject to certain enforcement and penalty provisions; altering the content and purposes of a certain fund; providing for the application of this Act; providing that, under certain circumstances, certain provisions of this Act are in addition to and not in substitution for any other provision of law; establishing a certain short title; defining certain terms; making certain conforming changes; requiring a registrant to report certain information to the Commissioner on or before a certain date each year for a certain number of years; requiring the Office of the Commissioner of Financial Regulation in the Department of Labor, Licensing, and Regulation, in consultation with the Consumer Protection Division of the Office of the Attorney General, to report certain recommendations to certain committees of the General Assembly on or before a certain date; *providing for the termination of this Act;* and generally relating to debt settlement services and debt settlement services providers.

BY repealing and reenacting, with amendments,
Article – Commercial Law
Section 13–301(14)(xxvi)
Annotated Code of Maryland

(2005 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, without amendments,
Article – Commercial Law
Section 13–301(14)(xxvii)
Annotated Code of Maryland
(2005 Replacement Volume and 2010 Supplement)

BY adding to
Article – Commercial Law
Section 13–301(14)(xxviii)
Annotated Code of Maryland
(2005 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,
Article – Financial Institutions
Section 12–905
Annotated Code of Maryland
(2003 Replacement Volume and 2010 Supplement)

BY adding to
Article – Financial Institutions
Section 12–1001 through 12–1017 to be under the new subtitle "Subtitle 10. Maryland Debt Settlement Services Act"
Annotated Code of Maryland
(2003 Replacement Volume and 2010 Supplement)

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

Article – Commercial Law

13–301.

Unfair or deceptive trade practices include any:

(14) Violation of a provision of:

(xxvi) Title 6, Subtitle 13 of the Environment Article; **[**or**]**

(xxvii) Section 7–405(e)(2)(ii) of the Health Occupations Article; or

(XXVIII) TITLE 12, SUBTITLE 10 OF THE FINANCIAL INSTITUTIONS ARTICLE; OR

Article – Financial Institutions

12–905.

(a) There is a Debt Management Services Fund that consists of:

(1) All revenue received for the licensing of persons that provide debt management services under this subtitle;

(2) ALL REVENUE RECEIVED FOR THE REGISTRATION OF PERSONS THAT PROVIDE DEBT SETTLEMENT SERVICES UNDER SUBTITLE 10 OF THIS TITLE;

(3) Income from investments that the Treasurer makes for the Fund; and

[(3)**] (4)** Except as provided in subsection (b) of this section, any other fee or revenue received by the Commissioner under this subtitle **OR UNDER SUBTITLE 10 OF THIS TITLE**.

(b) The Commissioner shall pay all fines and penalties collected by the Commissioner under this subtitle **AND UNDER SUBTITLE 10 OF THIS TITLE** into the General Fund of the State.

(c) The purpose of the Fund is to pay all the costs and expenses incurred by the Commissioner that are related to the regulation of the debt management services business under this subtitle **AND THAT ARE RELATED TO THE REGISTRATION OF DEBT SETTLEMENT SERVICES PROVIDERS UNDER SUBTITLE 10 OF THIS TITLE**, including:

(1) Expenditures authorized under this subtitle **AND SUBTITLE 10 OF THIS TITLE**; and

(2) Any other expense authorized in the State budget.

(d) (1) The Treasurer is the custodian of the Fund.

(2) The Treasurer shall deposit payments received from the Commissioner into the Fund.

(e) (1) The Fund is a continuing, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article, and may not be deemed a part of the General Fund of the State.

(2) Unless otherwise provided by law, no part of the Fund may revert or be credited to:

(i) The General Fund of the State; or

(ii) A special fund of the State.

(f) (1) All the costs and expenses of the Commissioner relating to the regulation of the debt management services business under this subtitle **AND TO THE REGISTRATION OF DEBT SETTLEMENT SERVICES PROVIDERS UNDER SUBTITLE 10 OF THIS TITLE** shall be included in the State budget.

(2) Any expenditures from the Fund to cover costs and expenses of the Commissioner may be made only:

(i) By an appropriation from the Fund approved by the General Assembly in the annual State budget; or

(ii) By the budget amendment procedure provided for in § 7–209 of the State Finance and Procurement Article.

(3) If, in any fiscal year, the amount of the revenue collected by the Commissioner and deposited into the Fund exceeds the actual appropriation for the Commissioner to regulate the debt management services business under this subtitle **AND TO REGISTER DEBT SETTLEMENT SERVICES PROVIDERS UNDER SUBTITLE 10 OF THIS TITLE**, the excess amount shall be carried forward within the Fund.

(g) The Office of Legislative Audits shall audit the accounts and transactions of the Fund under § 2–1220 of the State Government Article.

SUBTITLE 10. MARYLAND DEBT SETTLEMENT SERVICES ACT.

12–1001.

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

(B) "CONSUMER" MEANS AN INDIVIDUAL WHO:

(1) RESIDES IN THE STATE; AND

(2) IS SEEKING DEBT SETTLEMENT SERVICES OR HAS ENTERED INTO A DEBT SETTLEMENT SERVICES AGREEMENT <u>IN CONNECTION WITH DEBTS THAT ARE CONSUMER DEBTS, AS DEFINED IN § 13–101 OF THE COMMERCIAL LAW ARTICLE</u>.

(C) "DEBT MANAGEMENT SERVICES" HAS THE MEANING STATED IN § 12–901 OF THIS TITLE.

(D) (1) "DEBT SETTLEMENT SERVICES" MEANS ANY SERVICE OR PROGRAM REPRESENTED, DIRECTLY OR BY IMPLICATION, TO RENEGOTIATE, SETTLE, REDUCE, OR IN ANY WAY ALTER THE TERMS OF PAYMENT OR OTHER TERMS OF A DEBT BETWEEN A CONSUMER AND ONE OR MORE UNSECURED CREDITORS OR DEBT COLLECTORS, INCLUDING A REDUCTION IN THE BALANCE, INTEREST RATE, OR FEES OWED BY A CONSUMER TO AN UNSECURED CREDITOR OR DEBT COLLECTOR.

(2) "DEBT SETTLEMENT SERVICES" DOES NOT INCLUDE DEBT MANAGEMENT SERVICES.

(E) "DEBT SETTLEMENT SERVICES AGREEMENT" MEANS A WRITTEN CONTRACT, PLAN, OR AGREEMENT BETWEEN A DEBT SETTLEMENT SERVICES PROVIDER AND A CONSUMER FOR THE PERFORMANCE OF DEBT SETTLEMENT SERVICES.

(F) "DEBT SETTLEMENT SERVICES FEE" MEANS A FEE CHARGED TO A CONSUMER BY A DEBT SETTLEMENT SERVICES PROVIDER FOR PROVIDING DEBT SETTLEMENT SERVICES FOR A CONSUMER.

(G) "DEBT SETTLEMENT SERVICES PROVIDER" MEANS A PERSON THAT PROVIDES OR OFFERS TO PROVIDE DEBT SETTLEMENT SERVICES FOR A CONSUMER REGARDLESS OF WHETHER THE PERSON PROVIDES THE DEBT SETTLEMENT SERVICES ON A FOR–PROFIT OR NOT–FOR–PROFIT BASIS.

(H) "DEDICATED ACCOUNT" MEANS AN ACCOUNT DESCRIBED IN § 12–1010(D) OF THIS SUBTITLE.

(I) "OFFER, PROVIDE, OR ATTEMPT TO PROVIDE DEBT SETTLEMENT SERVICES" MEANS PROVIDING DEBT SETTLEMENT SERVICES:

(1) TO CONSUMERS THROUGH ANY MEANS, INCLUDING TELEPHONE TELEMARKETING, INTERNET SOLICITATION, AND FACE–TO–FACE MEETINGS; AND

(2) ON AN INTRASTATE OR INTERSTATE BASIS.

(J) "PRINCIPAL AMOUNT OF THE DEBT" MEANS THE AMOUNT OF A DEBT AT THE TIME THE DEBT IS INCLUDED IN A DEBT SETTLEMENT SERVICES AGREEMENT.

(K) "REGISTRANT" MEANS A PERSON REGISTERED UNDER THIS SUBTITLE TO PROVIDE DEBT SETTLEMENT SERVICES.

12–1002.

(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE PROVISIONS OF THIS SUBTITLE ARE IN ADDITION TO AND NOT IN SUBSTITUTION FOR ANY OTHER PROVISION OF LAW.

(B) A PERSON WHO PERIODICALLY RECEIVES FUNDS FROM CONSUMERS TO BE USED IN CONNECTION WITH PROVIDING DEBT SETTLEMENT SERVICES IS NOT ENGAGED IN PROVIDING DEBT MANAGEMENT SERVICES, AND IS NOT SUBJECT TO SUBTITLE 9 OF THIS TITLE, IF THE PERSON:

(1) COMPLIES WITH THE REQUIREMENTS OF THIS SUBTITLE;

(2) (I) NEGOTIATES TO SETTLE A CONSUMER'S DEBTS BY REDUCING THE PRINCIPAL AMOUNT OF THE DEBTS OWED; AND

(II) MAKES NO MORE THAN SIX SETTLEMENT PAYMENTS FOR EACH DEBT; AND

(3) ESTABLISHES A DEDICATED ACCOUNT THAT:

(I) IS SEPARATE FROM ANY TRUST ACCOUNT ESTABLISHED BY THE PERSON UNDER § 12–917 OF THIS TITLE; AND

(II) IS NOT ESTABLISHED SOLELY FOR THE PURPOSE OF HOLDING CONSUMER FUNDS TO BE DISBURSED TO THE DEBT SETTLEMENT SERVICES PROVIDER FOR FEES.

12–1003.

THIS SUBTITLE DOES NOT APPLY TO:

(1) THE FOLLOWING PERSONS WHEN ENGAGED IN THE REGULAR COURSE OF THEIR RESPECTIVE BUSINESSES AND PROFESSIONS:

(I) AN ATTORNEY AT LAW WHO IS ADMITTED TO ~~PRACTICE IN THE STATE AND IS NOT PRINCIPALLY ENGAGED IN PROVIDING DEBT SETTLEMENT SERVICES~~ THE MARYLAND BAR WHILE THE ATTORNEY AT LAW IS PROVIDING PROFESSIONAL LEGAL SERVICES IN AN ATTORNEY–CLIENT RELATIONSHIP;

(II) AN ESCROW AGENT;

(III) A CERTIFIED PUBLIC ACCOUNTANT;

(IV) A BANKING INSTITUTION, OTHER–STATE BANK, NATIONAL BANKING ASSOCIATION, CREDIT UNION, OR SAVINGS AND LOAN ASSOCIATION;

(V) A PERSON THAT:

1. PROVIDES A BILL PAYER SERVICE, AS DEFINED IN § 12–401 OF THIS TITLE;

2. DOES NOT INITIATE ANY CONTRACT WITH INDIVIDUAL CREDITORS OF A DEBTOR TO COMPROMISE A DEBT OR ARRANGE A NEW PAYMENT SCHEDULE; AND

3. DOES NOT PROVIDE ANY DEBT COUNSELING SERVICES;

(VI) A PERSON THAT PROVIDES AN ACCELERATED MORTGAGE PAYMENT SERVICE, AS DEFINED IN § 12–401 OF THIS TITLE;

(VII) A TITLE INSURER, TITLE INSURANCE AGENCY, OR ABSTRACT COMPANY; OR

(VIII) A JUDICIAL OFFICER OR A PERSON ACTING UNDER A COURT ORDER;

(2) A PERSON WHILE PERFORMING SERVICES INCIDENTAL TO THE DISSOLUTION, WINDING UP, OR LIQUIDATION OF A PARTNERSHIP, CORPORATION, OR OTHER BUSINESS ENTERPRISE;

(3) A TRADE OR MERCANTILE ASSOCIATION ACTING IN THE COURSE OF ARRANGING THE ADJUSTMENT OF DEBTS WITH A BUSINESS ESTABLISHMENT;

(4) (I) A MORTGAGE LENDER, AS DEFINED IN § 11–501 OF THIS ARTICLE:

~~(I)~~ 1. THAT IS LICENSED BY THE COMMISSIONER; AND

~~(II)~~ 2. WHILE ENGAGED IN THE MORTGAGE LENDING BUSINESS, AS DEFINED IN § 11–501 OF THIS ARTICLE; OR

(II) AN EMPLOYEE OF A MORTGAGE LENDER; OR

(5) A COLLECTION AGENCY, AS DEFINED IN § 7–101 OF THE BUSINESS REGULATION ARTICLE:

(I) THAT IS LICENSED BY THE STATE COLLECTION AGENCY LICENSING BOARD; AND

(II) WHILE ENGAGED IN THE COLLECTION AGENCY BUSINESS, AS DEFINED IN § 7–101 OF THE BUSINESS REGULATION ARTICLE.

12–1004.

A PERSON MAY NOT OFFER, PROVIDE, OR ATTEMPT TO PROVIDE DEBT SETTLEMENT SERVICES UNLESS THE PERSON:

(1) IS REGISTERED WITH THE COMMISSIONER UNDER THIS SUBTITLE; OR

(2) IS EXEMPT FROM REGISTRATION UNDER THIS SUBTITLE.

12–1005.

TO CARRY OUT THE PROVISIONS OF THIS SUBTITLE, THE COMMISSIONER MAY:

(1) ADOPT REGULATIONS;

(2) ENTER INTO COOPERATIVE AND INFORMATION SHARING AGREEMENTS WITH ANY FEDERAL OR STATE REGULATORY AGENCY HAVING AUTHORITY OVER DEBT SETTLEMENT SERVICES PROVIDERS; AND

(3) EXCHANGE INFORMATION ABOUT A DEBT SETTLEMENT SERVICES PROVIDER, INCLUDING INFORMATION OBTAINED DURING AN EXAMINATION, WITH ANY FEDERAL OR STATE REGULATORY AGENCY HAVING AUTHORITY OVER THE DEBT SETTLEMENT SERVICES PROVIDER.

12–1006.

A PERSON REGISTERING AS A DEBT SETTLEMENT SERVICES PROVIDER WITH THE COMMISSIONER UNDER THIS SUBTITLE SHALL PAY TO THE COMMISSIONER A NONREFUNDABLE FEE IN THE AMOUNT OF:

(1) $1,000 FOR THE ISSUANCE OF A REGISTRATION UNDER THIS SUBTITLE; AND

(2) $1,000 FOR THE RENEWAL OF A REGISTRATION UNDER THIS SUBTITLE.

12–1007.

ALL FEES COLLECTED BY THE COMMISSIONER UNDER THIS SUBTITLE SHALL BE:

(1) DEPOSITED IN THE DEBT MANAGEMENT SERVICES FUND ESTABLISHED UNDER § 12–905 OF THIS TITLE; AND

(2) USED TO COVER THE COSTS AND EXPENSES INCURRED BY THE COMMISSIONER THAT ARE RELATED TO THE REGISTRATION OF DEBT SETTLEMENT SERVICES PROVIDERS.

12–1008.

(A) TO APPLY FOR A REGISTRATION, AN APPLICANT SHALL SUBMIT TO THE COMMISSIONER AN APPLICATION ON THE FORM THAT THE COMMISSIONER PROVIDES.

(B) THE APPLICATION SHALL INCLUDE:

(1) THE APPLICANT'S LEGAL NAME, TRADE NAME, IF ANY, MAIN OFFICE ADDRESS, TELEPHONE NUMBER, ELECTRONIC MAIL ADDRESS, IF ANY, AND WEB SITE ADDRESS, IF ANY;

(2) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE APPLICANT'S DESIGNATED CONTACT FOR RECEIPT OF COMPLAINTS;

(3) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE APPLICANT'S RESIDENT AGENT IN THE STATE; AND

(4) ANY OTHER INFORMATION THAT THE COMMISSIONER REASONABLY REQUIRES.

12–1009.

(A) A REGISTRATION ISSUED UNDER THIS SUBTITLE EXPIRES ON DECEMBER 31 OF EACH ODD–NUMBERED YEAR UNLESS THE REGISTRATION IS RENEWED FOR A 2–YEAR TERM AS PROVIDED IN SUBSECTION (B) OF THIS SECTION.

(B) ON OR BEFORE DECEMBER 1 OF THE YEAR OF EXPIRATION, A REGISTRATION MAY BE RENEWED FOR A 2–YEAR TERM IF THE REGISTRANT:

(1) OTHERWISE IS ENTITLED TO BE REGISTERED;

(2) PAYS TO THE COMMISSIONER THE RENEWAL FEE ESTABLISHED UNDER § 12–1006 OF THIS SUBTITLE; AND

(3) SUBMITS TO THE COMMISSIONER A RENEWAL APPLICATION ON THE FORM THAT THE COMMISSIONER REQUIRES.

12–1010.

(A) EXCEPT AS ALLOWED UNDER THIS SUBTITLE, A REGISTRANT MAY NOT OFFER, PROVIDE, OR ATTEMPT TO PROVIDE DEBT SETTLEMENT SERVICES IN THE STATE.

(B) (1) A REGISTRANT MAY CHARGE A CONSUMER A DEBT SETTLEMENT SERVICES FEE AS PROVIDED UNDER THIS SECTION.

(2) A REGISTRANT MAY NOT:

(I) CHARGE A CONSUMER A FEE FOR CONSULTATION OR FOR OBTAINING A CONSUMER'S CREDIT REPORT; OR

(II) REQUIRE A VOLUNTARY CONTRIBUTION FROM A CONSUMER FOR ANY SERVICE PROVIDED BY THE REGISTRANT.

(C) EXCEPT AS PROVIDED UNDER SUBSECTION (D) OF THIS SECTION, A REGISTRANT MAY NOT CHARGE A CONSUMER A DEBT SETTLEMENT SERVICES FEE UNTIL AFTER:

(1) A DEBT SETTLEMENT SERVICES AGREEMENT HAS BEEN EXECUTED BETWEEN THE REGISTRANT AND THE CONSUMER;

(2) THE REGISTRANT HAS RENEGOTIATED, SETTLED, REDUCED, OR OTHERWISE ALTERED THE TERMS OF AT LEAST ONE INDIVIDUAL DEBT SPECIFIED IN THE DEBT SETTLEMENT SERVICES AGREEMENT; AND

(3) THE CONSUMER HAS MADE AT LEAST ONE PAYMENT IN ACCORDANCE WITH THE DEBT SETTLEMENT SERVICES AGREEMENT.

(D) SUBSECTION (C) OF THIS SECTION DOES NOT PROHIBIT A REGISTRANT FROM REQUESTING OR REQUIRING A CONSUMER TO DEPOSIT

FUNDS IN AN ACCOUNT TO BE USED FOR DEBT SETTLEMENT SERVICES FEES AND FOR PAYMENTS TO CREDITORS OR DEBT COLLECTORS IN CONNECTION WITH A DEBT SETTLEMENT SERVICES AGREEMENT, PROVIDED THAT:

(1) THE FUNDS ARE HELD IN AN ACCOUNT AT AN INSURED FINANCIAL INSTITUTION, AS DEFINED IN § 1–101 OF THIS ARTICLE;

(2) THE CONSUMER OWNS THE FUNDS HELD IN THE ACCOUNT, INCLUDING ANY ACCRUED INTEREST;

(3) THE FINANCIAL INSTITUTION OR ENTITY ADMINISTERING THE ACCOUNT IS NOT OWNED OR CONTROLLED BY, OR IN ANY WAY AFFILIATED WITH, THE REGISTRANT;

(4) THE FINANCIAL INSTITUTION OR ENTITY ADMINISTERING THE ACCOUNT DOES NOT PAY OR ACCEPT ANY MONEY OR OTHER COMPENSATION IN EXCHANGE FOR REFERRALS OF BUSINESS INVOLVING THE REGISTRANT, BUT MAY CHARGE ACCOUNT RELATED FEES; AND

(5) IF THE CONSUMER REQUESTS TO WITHDRAW FROM THE DEBT SETTLEMENT SERVICES AGREEMENT, WITHIN 7 DAYS AFTER THE CONSUMER'S REQUEST, ALL FUNDS IN THE ACCOUNT, INCLUDING ACCRUED INTEREST, LESS ANY DEBT SETTLEMENT SERVICES FEES EARNED BY THE REGISTRANT IN COMPLIANCE WITH THIS SECTION, ARE PAID TO THE CONSUMER.

~~**(E) (1) A REGISTRANT MAY NOT CHARGE A DEBT SETTLEMENT SERVICES FEE THAT EXCEEDS:**~~

~~**(I) WITH RESPECT TO EACH INDIVIDUAL DEBT, 30% OF THE EXCESS OF THE PRINCIPAL AMOUNT OF THE DEBT OVER THE AMOUNT PAID TO THE CREDITOR OR DEBT COLLECTOR TO SETTLE THE INDIVIDUAL DEBT; OR**~~

~~**(II) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, WITH RESPECT TO THE TOTAL DEBT, 20% OF THE PRINCIPAL AMOUNT OF THE TOTAL DEBT.**~~

~~**(2) THE AMOUNT OF A DEBT SETTLEMENT SERVICES FEE UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION FOR EACH INDIVIDUAL DEBT:**~~

~~**(I) MUST BEAR THE SAME PROPORTIONAL RELATIONSHIP TO THE DEBT SETTLEMENT SERVICES FEE FOR THE TOTAL DEBT AS THE INDIVIDUAL DEBT BEARS TO THE TOTAL DEBT; AND**~~

~~(II) MAY NOT EXCEED THE AMOUNT BY WHICH THE CONSUMER'S DEBT IS REDUCED.~~

(E) (1) SUBJECT TO ~~PARAGRAPHS (2) AND (3)~~ *PARAGRAPH (2)* OF THIS SUBSECTION, FOR EACH INDIVIDUAL DEBT, A DEBT SETTLEMENT SERVICES FEE SHALL:

(I) BEAR THE SAME PROPORTIONAL RELATIONSHIP TO THE DEBT SETTLEMENT SERVICES FEE FOR SETTLING THE TOTAL DEBT AS THE INDIVIDUAL DEBT AMOUNT BEARS TO THE TOTAL DEBT; OR

(II) BE CALCULATED AS A PERCENTAGE OF THE ~~DIFFERENCE BETWEEN~~ *AMOUNT BY WHICH* THE PRINCIPAL AMOUNT OF THE DEBT ~~AND~~ *EXCEEDS* THE AMOUNT PAID TO THE CREDITOR OR DEBT COLLECTOR TO SETTLE THE DEBT.

(2) THE PERCENTAGE CHARGED UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION SHALL BE THE SAME FOR EACH INDIVIDUAL DEBT.

~~(3) THE TOTAL DEBT SETTLEMENT SERVICES FEES CHARGED UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY NOT EXCEED 25% OF THE TOTAL PRINCIPAL AMOUNT OF THE DEBT.~~

(F) (1) A REGISTRANT SHALL ALLOW A CONSUMER TO WITHDRAW FROM A DEBT SETTLEMENT SERVICES AGREEMENT AT ANY TIME.

(2) IF A CONSUMER WITHDRAWS FROM THE DEBT SETTLEMENT SERVICES AGREEMENT, THE REGISTRANT:

(I) MAY NOT CHARGE THE CONSUMER A PENALTY; AND

(II) MAY COLLECT DEBT SETTLEMENT SERVICES FEES EARNED BY THE REGISTRANT IN COMPLIANCE WITH THIS SECTION.

12–1011.

A REGISTRANT MAY NOT MISREPRESENT ANY MATERIAL ASPECT OF ANY DEBT SETTLEMENT SERVICE.

12–1012.

(A) A DEBT SETTLEMENT SERVICES AGREEMENT SHALL:

(1) BE SIGNED AND DATED BY THE REGISTRANT AND THE CONSUMER; AND

(2) INCLUDE, IN AT LEAST 12 POINT TYPE:

(I) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE CONSUMER;

(II) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE REGISTRANT;

(III) A DESCRIPTION OF THE DEBT SETTLEMENT SERVICES TO BE PROVIDED TO THE CONSUMER;

(IV) 1. ANY DEBT SETTLEMENT SERVICES FEES TO BE CHARGED TO THE CONSUMER; AND

2. A STATEMENT THAT THE REGISTRANT MAY NOT:

A. CHARGE THE CONSUMER A FEE FOR CONSULTATION OR FOR OBTAINING A CONSUMER'S CREDIT REPORT; OR

B. REQUIRE A VOLUNTARY CONTRIBUTION FROM THE CONSUMER FOR ANY SERVICE PROVIDED BY THE REGISTRANT;

(V) THE IDENTITY OF EACH INDIVIDUAL CREDITOR OR DEBT COLLECTOR WHOSE DEBTS ARE ~~TO BE SETTLED UNDER~~ INCLUDED IN THE DEBT SETTLEMENT SERVICES AGREEMENT AND THE PRINCIPAL AMOUNT OF THE DEBT OWED TO EACH INDIVIDUAL CREDITOR OR DEBT COLLECTOR;

(VI) THE PRINCIPAL AMOUNT OF THE TOTAL DEBT ~~TO BE SETTLED UNDER~~ INCLUDED IN THE DEBT SETTLEMENT SERVICES AGREEMENT;

(VII) A GOOD FAITH ESTIMATE OF THE AMOUNT OF TIME NECESSARY TO ACHIEVE THE REPRESENTED RESULTS;

(VIII) TO THE EXTENT THAT THE DEBT SETTLEMENT SERVICES MAY INCLUDE A DEBT SETTLEMENT OFFER TO ANY OF THE CONSUMER'S CREDITORS OR DEBT COLLECTORS, A GOOD FAITH ESTIMATE OF:

1. THE TIME BY WHICH THE REGISTRANT WILL MAKE A BONA FIDE DEBT SETTLEMENT OFFER TO EACH OF THEM; AND

2. THE AMOUNT OF MONEY OR PERCENTAGE OF EACH DEBT THAT THE CONSUMER MUST ACCUMULATE BEFORE THE REGISTRANT WILL MAKE A BONA FIDE DEBT SETTLEMENT OFFER TO EACH OF THEM;

(IX) A STATEMENT THAT:

1. THE CONSUMER MAY WITHDRAW FROM THE DEBT SETTLEMENT SERVICES AGREEMENT AT ANY TIME; AND

2. IF A CONSUMER WITHDRAWS FROM THE DEBT SETTLEMENT SERVICES AGREEMENT, THE REGISTRANT:

A. MAY NOT CHARGE A PENALTY; AND

B. MAY COLLECT DEBT SETTLEMENT SERVICES FEES EARNED BY THE REGISTRANT;

(X) IF THE REGISTRANT REQUESTS OR REQUIRES THE CONSUMER TO DEPOSIT FUNDS IN A DEDICATED ACCOUNT, A STATEMENT THAT:

1. THE CONSUMER OWNS THE FUNDS HELD IN THE ACCOUNT, INCLUDING ANY ACCRUED INTEREST; AND

2. IF THE CONSUMER REQUESTS TO WITHDRAW FROM THE DEBT SETTLEMENT SERVICES AGREEMENT, WITHIN 7 DAYS AFTER THE REQUEST, ALL FUNDS IN THE ACCOUNT, INCLUDING ACCRUED INTEREST, LESS ANY DEBT SETTLEMENT SERVICES FEES EARNED BY THE REGISTRANT IN COMPLIANCE WITH § 12–1010 OF THIS SUBTITLE, MUST BE PAID TO THE CONSUMER; AND

(XI) A STATEMENT THAT THE CONSUMER MAY BE REQUIRED TO PAY TAXES ON THE AMOUNT BY WHICH THE CONSUMER'S DEBT IS REDUCED.

(B) THE DISCLOSURES REQUIRED UNDER SUBSECTION (A)(2)(VII) THROUGH (XI) OF THIS SECTION SHALL BE PROVIDED TO THE CONSUMER IN A CLEAR AND CONSPICUOUS MANNER IN THE DEBT SETTLEMENT SERVICES AGREEMENT.

12–1013.

AN ADVERTISEMENT FOR DEBT SETTLEMENT SERVICES SHALL INCLUDE CLEARLY AND CONSPICUOUSLY A DISCLOSURE THAT, TO THE EXTENT THAT ANY ASPECT OF THE DEBT SETTLEMENT SERVICES RELIES ON OR RESULTS IN THE

CONSUMER'S FAILURE TO MAKE TIMELY PAYMENTS TO THE CONSUMER'S CREDITORS OR DEBT COLLECTORS, THE USE OF THE DEBT SETTLEMENT SERVICES:

(1) WILL LIKELY ADVERSELY AFFECT THE CONSUMER'S CREDITWORTHINESS;

(2) MAY RESULT IN THE CONSUMER BEING SUBJECT TO COLLECTIONS OR BEING SUED BY CREDITORS OR DEBT COLLECTORS; AND

(3) MAY INCREASE THE AMOUNT OF MONEY THE CONSUMER OWES DUE TO THE ACCRUAL OF FEES AND INTEREST BY CREDITORS OR DEBT COLLECTORS.

12–1014.

(A) A REGISTRANT THAT ESTABLISHES A DEDICATED ACCOUNT IN ACCORDANCE WITH § 12–1010(D) OF THIS SUBTITLE SHALL FILE A SURETY BOND WITH THE COMMISSIONER AT THE TIME THE DEDICATED ACCOUNT IS ESTABLISHED.

(B) A SURETY BOND FILED UNDER THIS SECTION SHALL:

(1) RUN TO THE COMMISSIONER FOR THE BENEFIT OF ANY CONSUMER WHO IS INJURED BY A VIOLATION OF THIS SUBTITLE COMMITTED BY A REGISTRANT;

(2) ~~(I)~~ BE IN ~~AN~~ *THE* AMOUNT ~~NOT LESS THAN~~ *OF* ~~$10,000~~ $50,000 ~~AT THE TIME IT IS FILED; AND~~

~~(II) BEGINNING 3 MONTHS AFTER IT IS FILED, BE IN AN AMOUNT NOT LESS THAN THE AVERAGE OF THE BALANCE OF FUNDS HELD IN A DEDICATED ACCOUNT DURING THE PRECEDING 3 MONTHS, BUT NOT LESS THAN $10,000 AND NOT MORE THAN $1,000,000;~~

(3) ~~ISSUED~~ BE ISSUED BY A BONDING, SURETY, OR INSURANCE COMPANY THAT IS AUTHORIZED TO DO BUSINESS IN THE STATE; AND

(4) ~~CONDITIONED~~ BE CONDITIONED SO THAT THE REGISTRANT SHALL COMPLY WITH ALL STATE AND FEDERAL LAWS AND REGULATIONS GOVERNING THE BUSINESS OF PROVIDING DEBT SETTLEMENT SERVICES.

(C) IF THE AMOUNT OF THE SURETY BOND INITIALLY FILED WITH THE COMMISSIONER MUST BE INCREASED TO MEET THE MINIMUM REQUIREMENTS

UNDER SUBSECTION (B)(2) OF THIS SECTION, THE REGISTRANT SHALL FILE WITH THE COMMISSIONER EVIDENCE OF THE INCREASED BOND AMOUNT IN A FORM SATISFACTORY TO THE COMMISSIONER.

12–1015.

(A) ON OR BEFORE ~~APRIL 30~~ *MARCH 15 OF* EACH YEAR, A REGISTRANT SHALL REPORT TO THE COMMISSIONER ON THE DEBT SETTLEMENT SERVICES BUSINESS OF THE REGISTRANT CONDUCTED DURING THE PRECEDING CALENDAR YEAR.

(B) THE ANNUAL REPORT SHALL BE ON THE FORM THAT THE COMMISSIONER REQUIRES.

12–1016.

A VIOLATION OF THIS SUBTITLE IS:

(1) AN UNFAIR OR DECEPTIVE TRADE PRACTICE WITHIN THE MEANING OF TITLE 13 OF THE COMMERCIAL LAW ARTICLE; AND

(2) SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS OF TITLE 13 OF THE COMMERCIAL LAW ARTICLE.

12–1017.

THIS SUBTITLE MAY BE CITED AS THE MARYLAND DEBT SETTLEMENT SERVICES ACT.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) On or before ~~April 30~~ *March 15* of each year beginning with ~~April 30~~ *March 15*, 2012, and ending with ~~April 30~~ *March 15*, ~~2015~~ *2014*, each debt settlement services provider that is registered with the Commissioner of Financial Regulation, as required under Section 1 of this Act, shall report to the Commissioner on the debt settlement services business the registrant conducted during the preceding calendar year.

(b) The report required under subsection (a) of this section shall include:

(1) for each consumer in Maryland for whom the registrant provided debt settlement services during the reporting period:

(i) the number of debts included in the debt settlement services agreement with the consumer;

(ii) the principal amount of each debt at the time the debt settlement services agreement was signed;

(iii) whether each debt is active, terminated, or settled;

(iv) if a debt has been settled~~,~~*:*

1. the settlement amount of the debt *and the savings amount*;

2. the amount of the debt settlement services fee charged to the consumer and how it was calculated; and

3. the amount of the debt settlement services fee that would have been charged if calculated based on:

A. 30% of the excess of the principal amount of the debt over the amount paid to settle the debt, up to 20% of the principal amount of the total debt; and

B. 25% of the principal amount of the total debt;

(v) the total amount of *debt settlement services* fees paid by the consumer to the registrant;

(vi) for each debt, whether the creditor has filed suit on the debt;

(vii) the date the consumer is expected to complete the debt settlement program; and

(viii) the date the consumer became inactive in, cancelled, or terminated the debt settlement program, if applicable;

(2) for Maryland consumers who completed a debt settlement program during the reporting period, the mean and median percentage of savings to the consumers and the mean and median percentage of fees paid to the registrant;

(3) for Maryland consumers who became inactive in, cancelled, or terminated a debt settlement program during the reporting period, the mean and median percentage of savings to the consumers and the mean and median percentage of fees paid to the registrant;

(4) the percentage of Maryland consumers who became inactive in, cancelled, or terminated a debt settlement program during the reporting period without settlement of all of the consumer's debts; ~~and~~

(5) the total amount of fees collected from Maryland consumers during the reporting period*;*

(6) a profit and loss statement of debt settlement services provided to Maryland consumers for the previous calendar year prepared by an independent certified public accountant in accordance with generally accepted accounting principles; and

(7) any other information the Commissioner reasonably requires.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That, on or before December 1, ~~2012~~ 2014, the Office of the Commissioner of Financial Regulation in the Department of Labor, Licensing, and Regulation, in consultation with the Consumer Protection Division of the Office of the Attorney General, shall report, in accordance with § 2–1246 of the State Government Article, to the Senate Finance Committee and the House Economic Matters Committee on its recommendations regarding changes to the Maryland Debt Settlement Services Act, including:

(1) whether to transition from a registration requirement to a licensure requirement for debt settlement services providers; and

(2) whether ~~the calculation of and~~ *a* cap on debt settlement services fees~~, as provided under § 12–1010(c) of the Financial Institutions Article, as enacted by Section 1 of this Act, should be altered in a way that would be more beneficial to consumers and fair to the debt settlement services industry~~. *would be beneficial to consumers and fair to the debt settlement services industry.*

SECTION ~~3.~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011. *It shall remain effective for a period of 3 years and 9 months 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 10, 2011.

Chapter 281

(House Bill 1022)

AN ACT concerning

Commercial Law – Debt Settlement Services

FOR the purpose of prohibiting a person from offering, providing, or attempting to provide debt settlement services unless the person is registered as a debt settlement services provider with the Commissioner of Financial Regulation or

is exempt from registration; authorizing the Commissioner to adopt regulations, enter into certain cooperative and information sharing agreements, and exchange certain information with certain agencies for a certain purpose; requiring a person registering as a debt settlement services provider or renewing a registration to pay certain fees; requiring certain fees to be deposited in a certain fund and used to cover certain costs and expenses incurred by the Commissioner; requiring an applicant for registration to file a certain application; specifying the information to be included in the application; providing that a registration may be renewed under certain circumstances; prohibiting a registrant from offering, providing, or attempting to provide debt settlement services in the State except as allowed under this Act; authorizing a registrant to charge a certain debt settlement services fee; prohibiting a registrant from charging a certain fee or requiring a certain contribution; prohibiting a registrant from charging a certain debt settlement services fee until after certain actions have been taken; providing that a certain provision of this Act does not prohibit a registrant from requesting or requiring a consumer to deposit certain funds in a certain account under certain circumstances; requiring a registrant to allow a consumer to withdraw from a debt settlement services agreement at any time; prohibiting a registrant from making a certain representation; requiring a debt settlement services agreement to be signed and dated by the registrant and the consumer and to include certain information and disclosures; requiring an advertisement for debt settlement services to include a certain disclosure; requiring a registrant that establishes a certain account to file a certain surety bond with the Commissioner; requiring a registrant to report certain information to the Commissioner, on the form the Commissioner requires, on or before a certain date each year; providing that a violation of this Act is an unfair or deceptive trade practice within the meaning of the Maryland Consumer Protection Act and is subject to certain enforcement and penalty provisions; altering the content and purposes of a certain fund; providing for the application of this Act; providing that, under certain circumstances, certain provisions of this Act are in addition to and not in substitution for any other provision of law; establishing a certain short title; defining certain terms; making certain conforming changes; requiring a registrant to report certain information to the Commissioner on or before a certain date each year for a certain number of years; requiring the Office of the Commissioner of Financial Regulation in the Department of Labor, Licensing, and Regulation, in consultation with the Consumer Protection Division of the Office of the Attorney General, to report certain recommendations to certain committees of the General Assembly on or before a certain date; *providing for the termination of this Act;* and generally relating to debt settlement services and debt settlement services providers.

BY repealing and reenacting, with amendments,
Article – Commercial Law
Section 13–301(14)(xxvi)
Annotated Code of Maryland
(2005 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, without amendments,
Article – Commercial Law
Section 13–301(14)(xxvii)
Annotated Code of Maryland
(2005 Replacement Volume and 2010 Supplement)

BY adding to
Article – Commercial Law
Section 13–301(14)(xxviii)
Annotated Code of Maryland
(2005 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,
Article – Financial Institutions
Section 12–905
Annotated Code of Maryland
(2003 Replacement Volume and 2010 Supplement)

BY adding to
Article – Financial Institutions
Section 12–1001 through 12–1017 to be under the new subtitle "Subtitle 10. Maryland Debt Settlement Services Act"
Annotated Code of Maryland
(2003 Replacement Volume and 2010 Supplement)

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

Article – Commercial Law

13–301.

Unfair or deceptive trade practices include any:

(14) Violation of a provision of:

(xxvi) Title 6, Subtitle 13 of the Environment Article; **[**or**]**

(xxvii) Section 7–405(e)(2)(ii) of the Health Occupations Article; or

(XXVIII) TITLE 12, SUBTITLE 10 OF THE FINANCIAL INSTITUTIONS ARTICLE; OR

Article – Financial Institutions

12–905.

(a) There is a Debt Management Services Fund that consists of:

(1) All revenue received for the licensing of persons that provide debt management services under this subtitle;

(2) ALL REVENUE RECEIVED FOR THE REGISTRATION OF PERSONS THAT PROVIDE DEBT SETTLEMENT SERVICES UNDER SUBTITLE 10 OF THIS TITLE;

(3) Income from investments that the Treasurer makes for the Fund; and

[(3)**] (4)** Except as provided in subsection (b) of this section, any other fee or revenue received by the Commissioner under this subtitle **OR UNDER SUBTITLE 10 OF THIS TITLE**.

(b) The Commissioner shall pay all fines and penalties collected by the Commissioner under this subtitle **AND UNDER SUBTITLE 10 OF THIS TITLE** into the General Fund of the State.

(c) The purpose of the Fund is to pay all the costs and expenses incurred by the Commissioner that are related to the regulation of the debt management services business under this subtitle **AND THAT ARE RELATED TO THE REGISTRATION OF DEBT SETTLEMENT SERVICES PROVIDERS UNDER SUBTITLE 10 OF THIS TITLE**, including:

(1) Expenditures authorized under this subtitle **AND SUBTITLE 10 OF THIS TITLE**; and

(2) Any other expense authorized in the State budget.

(d) (1) The Treasurer is the custodian of the Fund.

(2) The Treasurer shall deposit payments received from the Commissioner into the Fund.

(e) (1) The Fund is a continuing, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article, and may not be deemed a part of the General Fund of the State.

(2) Unless otherwise provided by law, no part of the Fund may revert or be credited to:

(i) The General Fund of the State; or

(ii) A special fund of the State.

(f) (1) All the costs and expenses of the Commissioner relating to the regulation of the debt management services business under this subtitle **AND TO THE REGISTRATION OF DEBT SETTLEMENT SERVICES PROVIDERS UNDER SUBTITLE 10 OF THIS TITLE** shall be included in the State budget.

(2) Any expenditures from the Fund to cover costs and expenses of the Commissioner may be made only:

(i) By an appropriation from the Fund approved by the General Assembly in the annual State budget; or

(ii) By the budget amendment procedure provided for in § 7–209 of the State Finance and Procurement Article.

(3) If, in any fiscal year, the amount of the revenue collected by the Commissioner and deposited into the Fund exceeds the actual appropriation for the Commissioner to regulate the debt management services business under this subtitle **AND TO REGISTER DEBT SETTLEMENT SERVICES PROVIDERS UNDER SUBTITLE 10 OF THIS TITLE**, the excess amount shall be carried forward within the Fund.

(g) The Office of Legislative Audits shall audit the accounts and transactions of the Fund under § 2–1220 of the State Government Article.

SUBTITLE 10. MARYLAND DEBT SETTLEMENT SERVICES ACT.

12–1001.

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

(B) "CONSUMER" MEANS AN INDIVIDUAL WHO:

(1) RESIDES IN THE STATE; AND

(2) IS SEEKING DEBT SETTLEMENT SERVICES OR HAS ENTERED INTO A DEBT SETTLEMENT SERVICES AGREEMENT <u>IN CONNECTION WITH DEBTS THAT ARE CONSUMER DEBTS, AS DEFINED IN § 13–101 OF THE COMMERCIAL LAW ARTICLE</u>.

(C) "DEBT MANAGEMENT SERVICES" HAS THE MEANING STATED IN § 12–901 OF THIS TITLE.

(D) (1) "DEBT SETTLEMENT SERVICES" MEANS ANY SERVICE OR PROGRAM REPRESENTED, DIRECTLY OR BY IMPLICATION, TO RENEGOTIATE, SETTLE, REDUCE, OR IN ANY WAY ALTER THE TERMS OF PAYMENT OR OTHER TERMS OF A DEBT BETWEEN A CONSUMER AND ONE OR MORE UNSECURED CREDITORS OR DEBT COLLECTORS, INCLUDING A REDUCTION IN THE BALANCE, INTEREST RATE, OR FEES OWED BY A CONSUMER TO AN UNSECURED CREDITOR OR DEBT COLLECTOR.

(2) "DEBT SETTLEMENT SERVICES" DOES NOT INCLUDE DEBT MANAGEMENT SERVICES.

(E) "DEBT SETTLEMENT SERVICES AGREEMENT" MEANS A WRITTEN CONTRACT, PLAN, OR AGREEMENT BETWEEN A DEBT SETTLEMENT SERVICES PROVIDER AND A CONSUMER FOR THE PERFORMANCE OF DEBT SETTLEMENT SERVICES.

(F) "DEBT SETTLEMENT SERVICES FEE" MEANS A FEE CHARGED TO A CONSUMER BY A DEBT SETTLEMENT SERVICES PROVIDER FOR PROVIDING DEBT SETTLEMENT SERVICES FOR A CONSUMER.

(G) "DEBT SETTLEMENT SERVICES PROVIDER" MEANS A PERSON THAT PROVIDES OR OFFERS TO PROVIDE DEBT SETTLEMENT SERVICES FOR A CONSUMER REGARDLESS OF WHETHER THE PERSON PROVIDES THE DEBT SETTLEMENT SERVICES ON A FOR–PROFIT OR NOT–FOR–PROFIT BASIS.

(H) "DEDICATED ACCOUNT" MEANS AN ACCOUNT DESCRIBED IN § 12–1010(D) OF THIS SUBTITLE.

(I) "OFFER, PROVIDE, OR ATTEMPT TO PROVIDE DEBT SETTLEMENT SERVICES" MEANS PROVIDING DEBT SETTLEMENT SERVICES:

(1) TO CONSUMERS THROUGH ANY MEANS, INCLUDING TELEPHONE TELEMARKETING, INTERNET SOLICITATION, AND FACE–TO–FACE MEETINGS; AND

(2) ON AN INTRASTATE OR INTERSTATE BASIS.

(J) "PRINCIPAL AMOUNT OF THE DEBT" MEANS THE AMOUNT OF A DEBT AT THE TIME THE DEBT IS INCLUDED IN A DEBT SETTLEMENT SERVICES AGREEMENT.

(K) "REGISTRANT" MEANS A PERSON REGISTERED UNDER THIS SUBTITLE TO PROVIDE DEBT SETTLEMENT SERVICES.

12–1002.

(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE PROVISIONS OF THIS SUBTITLE ARE IN ADDITION TO AND NOT IN SUBSTITUTION FOR ANY OTHER PROVISION OF LAW.

(B) A PERSON WHO PERIODICALLY RECEIVES FUNDS FROM CONSUMERS TO BE USED IN CONNECTION WITH PROVIDING DEBT SETTLEMENT SERVICES IS NOT ENGAGED IN PROVIDING DEBT MANAGEMENT SERVICES, AND IS NOT SUBJECT TO SUBTITLE 9 OF THIS TITLE, IF THE PERSON:

(1) COMPLIES WITH THE REQUIREMENTS OF THIS SUBTITLE;

(2) (I) NEGOTIATES TO SETTLE A CONSUMER'S DEBTS BY REDUCING THE PRINCIPAL AMOUNT OF THE DEBTS OWED; AND

(II) MAKES NO MORE THAN SIX SETTLEMENT PAYMENTS FOR EACH DEBT; AND

(3) ESTABLISHES A DEDICATED ACCOUNT THAT:

(I) IS SEPARATE FROM ANY TRUST ACCOUNT ESTABLISHED BY THE PERSON UNDER § 12–917 OF THIS TITLE; AND

(II) IS NOT ESTABLISHED SOLELY FOR THE PURPOSE OF HOLDING CONSUMER FUNDS TO BE DISBURSED TO THE DEBT SETTLEMENT SERVICES PROVIDER FOR FEES.

12–1003.

THIS SUBTITLE DOES NOT APPLY TO:

(1) THE FOLLOWING PERSONS WHEN ENGAGED IN THE REGULAR COURSE OF THEIR RESPECTIVE BUSINESSES AND PROFESSIONS:

(I) AN ATTORNEY AT LAW WHO IS ADMITTED TO ~~PRACTICE IN THE STATE AND IS NOT PRINCIPALLY ENGAGED IN PROVIDING DEBT SETTLEMENT SERVICES~~ THE MARYLAND BAR WHILE THE ATTORNEY AT LAW IS PROVIDING PROFESSIONAL LEGAL SERVICES IN AN ATTORNEY–CLIENT RELATIONSHIP;

(II) AN ESCROW AGENT;

(III) A CERTIFIED PUBLIC ACCOUNTANT;

(IV) A BANKING INSTITUTION, OTHER–STATE BANK, NATIONAL BANKING ASSOCIATION, CREDIT UNION, OR SAVINGS AND LOAN ASSOCIATION;

(V) A PERSON THAT:

1. PROVIDES A BILL PAYER SERVICE, AS DEFINED IN § 12–401 OF THIS TITLE;

2. DOES NOT INITIATE ANY CONTRACT WITH INDIVIDUAL CREDITORS OF A DEBTOR TO COMPROMISE A DEBT OR ARRANGE A NEW PAYMENT SCHEDULE; AND

3. DOES NOT PROVIDE ANY DEBT COUNSELING SERVICES;

(VI) A PERSON THAT PROVIDES AN ACCELERATED MORTGAGE PAYMENT SERVICE, AS DEFINED IN § 12–401 OF THIS TITLE;

(VII) A TITLE INSURER, TITLE INSURANCE AGENCY, OR ABSTRACT COMPANY; OR

(VIII) A JUDICIAL OFFICER OR A PERSON ACTING UNDER A COURT ORDER;

(2) A PERSON WHILE PERFORMING SERVICES INCIDENTAL TO THE DISSOLUTION, WINDING UP, OR LIQUIDATION OF A PARTNERSHIP, CORPORATION, OR OTHER BUSINESS ENTERPRISE;

(3) A TRADE OR MERCANTILE ASSOCIATION ACTING IN THE COURSE OF ARRANGING THE ADJUSTMENT OF DEBTS WITH A BUSINESS ESTABLISHMENT;

(4) (I) A MORTGAGE LENDER, AS DEFINED IN § 11–501 OF THIS ARTICLE:

~~(II)~~ 1. THAT IS LICENSED BY THE COMMISSIONER; AND

~~(III)~~ 2. WHILE ENGAGED IN THE MORTGAGE LENDING BUSINESS, AS DEFINED IN § 11–501 OF THIS ARTICLE; OR

(II) AN EMPLOYEE OF A MORTGAGE LENDER; OR

(5) A COLLECTION AGENCY, AS DEFINED IN § 7–101 OF THE BUSINESS REGULATION ARTICLE:

(I) THAT IS LICENSED BY THE STATE COLLECTION AGENCY LICENSING BOARD; AND

(II) WHILE ENGAGED IN THE COLLECTION AGENCY BUSINESS, AS DEFINED IN § 7–101 OF THE BUSINESS REGULATION ARTICLE.

12–1004.

A PERSON MAY NOT OFFER, PROVIDE, OR ATTEMPT TO PROVIDE DEBT SETTLEMENT SERVICES UNLESS THE PERSON:

(1) IS REGISTERED WITH THE COMMISSIONER UNDER THIS SUBTITLE; OR

(2) IS EXEMPT FROM REGISTRATION UNDER THIS SUBTITLE.

12–1005.

TO CARRY OUT THE PROVISIONS OF THIS SUBTITLE, THE COMMISSIONER MAY:

(1) ADOPT REGULATIONS;

(2) ENTER INTO COOPERATIVE AND INFORMATION SHARING AGREEMENTS WITH ANY FEDERAL OR STATE REGULATORY AGENCY HAVING AUTHORITY OVER DEBT SETTLEMENT SERVICES PROVIDERS; AND

(3) EXCHANGE INFORMATION ABOUT A DEBT SETTLEMENT SERVICES PROVIDER, INCLUDING INFORMATION OBTAINED DURING AN EXAMINATION, WITH ANY FEDERAL OR STATE REGULATORY AGENCY HAVING AUTHORITY OVER THE DEBT SETTLEMENT SERVICES PROVIDER.

12–1006.

A PERSON REGISTERING AS A DEBT SETTLEMENT SERVICES PROVIDER WITH THE COMMISSIONER UNDER THIS SUBTITLE SHALL PAY TO THE COMMISSIONER A NONREFUNDABLE FEE IN THE AMOUNT OF:

(1) $1,000 FOR THE ISSUANCE OF A REGISTRATION UNDER THIS SUBTITLE; AND

(2) $1,000 FOR THE RENEWAL OF A REGISTRATION UNDER THIS SUBTITLE.

12–1007.

ALL FEES COLLECTED BY THE COMMISSIONER UNDER THIS SUBTITLE SHALL BE:

(1) DEPOSITED IN THE DEBT MANAGEMENT SERVICES FUND ESTABLISHED UNDER § 12–905 OF THIS TITLE; AND

(2) USED TO COVER THE COSTS AND EXPENSES INCURRED BY THE COMMISSIONER THAT ARE RELATED TO THE REGISTRATION OF DEBT SETTLEMENT SERVICES PROVIDERS.

12–1008.

(A) TO APPLY FOR A REGISTRATION, AN APPLICANT SHALL SUBMIT TO THE COMMISSIONER AN APPLICATION ON THE FORM THAT THE COMMISSIONER PROVIDES.

(B) THE APPLICATION SHALL INCLUDE:

(1) THE APPLICANT'S LEGAL NAME, TRADE NAME, IF ANY, MAIN OFFICE ADDRESS, TELEPHONE NUMBER, ELECTRONIC MAIL ADDRESS, IF ANY, AND WEB SITE ADDRESS, IF ANY;

(2) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE APPLICANT'S DESIGNATED CONTACT FOR RECEIPT OF COMPLAINTS;

(3) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE APPLICANT'S RESIDENT AGENT IN THE STATE; AND

(4) ANY OTHER INFORMATION THAT THE COMMISSIONER REASONABLY REQUIRES.

12–1009.

(A) A REGISTRATION ISSUED UNDER THIS SUBTITLE EXPIRES ON DECEMBER 31 OF EACH ODD–NUMBERED YEAR UNLESS THE REGISTRATION IS RENEWED FOR A 2–YEAR TERM AS PROVIDED IN SUBSECTION (B) OF THIS SECTION.

(B) ON OR BEFORE DECEMBER 1 OF THE YEAR OF EXPIRATION, A REGISTRATION MAY BE RENEWED FOR A 2–YEAR TERM IF THE REGISTRANT:

(1) OTHERWISE IS ENTITLED TO BE REGISTERED;

(2) PAYS TO THE COMMISSIONER THE RENEWAL FEE ESTABLISHED UNDER § 12–1006 OF THIS SUBTITLE; AND

(3) SUBMITS TO THE COMMISSIONER A RENEWAL APPLICATION ON THE FORM THAT THE COMMISSIONER REQUIRES.

12–1010.

(A) EXCEPT AS ALLOWED UNDER THIS SUBTITLE, A REGISTRANT MAY NOT OFFER, PROVIDE, OR ATTEMPT TO PROVIDE DEBT SETTLEMENT SERVICES IN THE STATE.

(B) (1) A REGISTRANT MAY CHARGE A CONSUMER A DEBT SETTLEMENT SERVICES FEE AS PROVIDED UNDER THIS SECTION.

(2) A REGISTRANT MAY NOT:

(I) CHARGE A CONSUMER A FEE FOR CONSULTATION OR FOR OBTAINING A CONSUMER'S CREDIT REPORT; OR

(II) REQUIRE A VOLUNTARY CONTRIBUTION FROM A CONSUMER FOR ANY SERVICE PROVIDED BY THE REGISTRANT.

(C) EXCEPT AS PROVIDED UNDER SUBSECTION (D) OF THIS SECTION, A REGISTRANT MAY NOT CHARGE A CONSUMER A DEBT SETTLEMENT SERVICES FEE UNTIL AFTER:

(1) A DEBT SETTLEMENT SERVICES AGREEMENT HAS BEEN EXECUTED BETWEEN THE REGISTRANT AND THE CONSUMER;

(2) THE REGISTRANT HAS RENEGOTIATED, SETTLED, REDUCED, OR OTHERWISE ALTERED THE TERMS OF AT LEAST ONE INDIVIDUAL DEBT SPECIFIED IN THE DEBT SETTLEMENT SERVICES AGREEMENT; AND

(3) THE CONSUMER HAS MADE AT LEAST ONE PAYMENT IN ACCORDANCE WITH THE DEBT SETTLEMENT SERVICES AGREEMENT.

(D) SUBSECTION (C) OF THIS SECTION DOES NOT PROHIBIT A REGISTRANT FROM REQUESTING OR REQUIRING A CONSUMER TO DEPOSIT

FUNDS IN AN ACCOUNT TO BE USED FOR DEBT SETTLEMENT SERVICES FEES AND FOR PAYMENTS TO CREDITORS OR DEBT COLLECTORS IN CONNECTION WITH A DEBT SETTLEMENT SERVICES AGREEMENT, PROVIDED THAT:

(1) THE FUNDS ARE HELD IN AN ACCOUNT AT AN INSURED FINANCIAL INSTITUTION, AS DEFINED IN § 1–101 OF THIS ARTICLE;

(2) THE CONSUMER OWNS THE FUNDS HELD IN THE ACCOUNT, INCLUDING ANY ACCRUED INTEREST;

(3) THE FINANCIAL INSTITUTION OR ENTITY ADMINISTERING THE ACCOUNT IS NOT OWNED OR CONTROLLED BY, OR IN ANY WAY AFFILIATED WITH, THE REGISTRANT;

(4) THE FINANCIAL INSTITUTION OR ENTITY ADMINISTERING THE ACCOUNT DOES NOT PAY OR ACCEPT ANY MONEY OR OTHER COMPENSATION IN EXCHANGE FOR REFERRALS OF BUSINESS INVOLVING THE REGISTRANT, BUT MAY CHARGE ACCOUNT RELATED FEES; AND

(5) IF THE CONSUMER REQUESTS TO WITHDRAW FROM THE DEBT SETTLEMENT SERVICES AGREEMENT, WITHIN 7 DAYS AFTER THE CONSUMER'S REQUEST, ALL FUNDS IN THE ACCOUNT, INCLUDING ACCRUED INTEREST, LESS ANY DEBT SETTLEMENT SERVICES FEES EARNED BY THE REGISTRANT IN COMPLIANCE WITH THIS SECTION, ARE PAID TO THE CONSUMER.

~~**(E) (1) A REGISTRANT MAY NOT CHARGE A DEBT SETTLEMENT SERVICES FEE THAT EXCEEDS:**~~

~~**(I) WITH RESPECT TO EACH INDIVIDUAL DEBT, 30% OF THE EXCESS OF THE PRINCIPAL AMOUNT OF THE DEBT OVER THE AMOUNT PAID TO THE CREDITOR OR DEBT COLLECTOR TO SETTLE THE INDIVIDUAL DEBT; OR**~~

~~**(II) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, WITH RESPECT TO THE TOTAL DEBT, 20% OF THE PRINCIPAL AMOUNT OF THE TOTAL DEBT.**~~

~~**(2) THE AMOUNT OF A DEBT SETTLEMENT SERVICES FEE UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION FOR EACH INDIVIDUAL DEBT:**~~

~~**(I) MUST BEAR THE SAME PROPORTIONAL RELATIONSHIP TO THE DEBT SETTLEMENT SERVICES FEE FOR THE TOTAL DEBT AS THE INDIVIDUAL DEBT BEARS TO THE TOTAL DEBT; AND**~~

~~(II) MAY NOT EXCEED THE AMOUNT BY WHICH THE CONSUMER'S DEBT IS REDUCED.~~

(E) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, FOR EACH INDIVIDUAL DEBT, A DEBT SETTLEMENT SERVICES FEE SHALL:

(I) BEAR THE SAME PROPORTIONAL RELATIONSHIP TO THE DEBT SETTLEMENT SERVICES FEE FOR SETTLING THE TOTAL DEBT AS THE INDIVIDUAL DEBT AMOUNT BEARS TO THE TOTAL DEBT; OR

(II) BE CALCULATED AS A PERCENTAGE OF THE AMOUNT BY WHICH THE PRINCIPAL AMOUNT OF THE DEBT EXCEEDS THE AMOUNT PAID TO THE CREDITOR OR DEBT COLLECTOR TO SETTLE THE DEBT.

(2) THE PERCENTAGE CHARGED UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION SHALL BE THE SAME FOR EACH INDIVIDUAL DEBT.

(F) (1) A REGISTRANT SHALL ALLOW A CONSUMER TO WITHDRAW FROM A DEBT SETTLEMENT SERVICES AGREEMENT AT ANY TIME.

(2) IF A CONSUMER WITHDRAWS FROM THE DEBT SETTLEMENT SERVICES AGREEMENT, THE REGISTRANT:

(I) MAY NOT CHARGE THE CONSUMER A PENALTY; AND

(II) MAY COLLECT DEBT SETTLEMENT SERVICES FEES EARNED BY THE REGISTRANT IN COMPLIANCE WITH THIS SECTION.

12–1011.

A REGISTRANT MAY NOT MISREPRESENT ANY MATERIAL ASPECT OF ANY DEBT SETTLEMENT SERVICE.

12–1012.

(A) A DEBT SETTLEMENT SERVICES AGREEMENT SHALL:

(1) BE SIGNED AND DATED BY THE REGISTRANT AND THE CONSUMER; AND

(2) INCLUDE, IN AT LEAST 12 POINT TYPE:

(I) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE CONSUMER;

(II) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE REGISTRANT;

(III) A DESCRIPTION OF THE DEBT SETTLEMENT SERVICES TO BE PROVIDED TO THE CONSUMER;

(IV) 1. ANY DEBT SETTLEMENT SERVICES FEES TO BE CHARGED TO THE CONSUMER; AND

2. A STATEMENT THAT THE REGISTRANT MAY NOT:

A. CHARGE THE CONSUMER A FEE FOR CONSULTATION OR FOR OBTAINING A CONSUMER'S CREDIT REPORT; OR

B. REQUIRE A VOLUNTARY CONTRIBUTION FROM THE CONSUMER FOR ANY SERVICE PROVIDED BY THE REGISTRANT;

(V) THE IDENTITY OF EACH INDIVIDUAL CREDITOR OR DEBT COLLECTOR WHOSE DEBTS ARE ~~TO BE SETTLED UNDER~~ INCLUDED IN THE DEBT SETTLEMENT SERVICES AGREEMENT AND THE PRINCIPAL AMOUNT OF THE DEBT OWED TO EACH INDIVIDUAL CREDITOR OR DEBT COLLECTOR;

(VI) THE PRINCIPAL AMOUNT OF THE TOTAL DEBT ~~TO BE SETTLED UNDER~~ INCLUDED IN THE DEBT SETTLEMENT SERVICES AGREEMENT;

(VII) A GOOD FAITH ESTIMATE OF THE AMOUNT OF TIME NECESSARY TO ACHIEVE THE REPRESENTED RESULTS;

(VIII) TO THE EXTENT THAT THE DEBT SETTLEMENT SERVICES MAY INCLUDE A DEBT SETTLEMENT OFFER TO ANY OF THE CONSUMER'S CREDITORS OR DEBT COLLECTORS, A GOOD FAITH ESTIMATE OF:

1. THE TIME BY WHICH THE REGISTRANT WILL MAKE A BONA FIDE DEBT SETTLEMENT OFFER TO EACH OF THEM; AND

2. THE AMOUNT OF MONEY OR PERCENTAGE OF EACH DEBT THAT THE CONSUMER MUST ACCUMULATE BEFORE THE REGISTRANT WILL MAKE A BONA FIDE DEBT SETTLEMENT OFFER TO EACH OF THEM;

(IX) A STATEMENT THAT:

1. THE CONSUMER MAY WITHDRAW FROM THE DEBT SETTLEMENT SERVICES AGREEMENT AT ANY TIME; AND

2. IF A CONSUMER WITHDRAWS FROM THE DEBT SETTLEMENT SERVICES AGREEMENT, THE REGISTRANT:

A. MAY NOT CHARGE A PENALTY; AND

B. MAY COLLECT DEBT SETTLEMENT SERVICES FEES EARNED BY THE REGISTRANT;

(X) IF THE REGISTRANT REQUESTS OR REQUIRES THE CONSUMER TO DEPOSIT FUNDS IN A DEDICATED ACCOUNT, A STATEMENT THAT:

1. THE CONSUMER OWNS THE FUNDS HELD IN THE ACCOUNT, INCLUDING ANY ACCRUED INTEREST; AND

2. IF THE CONSUMER REQUESTS TO WITHDRAW FROM THE DEBT SETTLEMENT SERVICES AGREEMENT, WITHIN 7 DAYS AFTER THE REQUEST, ALL FUNDS IN THE ACCOUNT, INCLUDING ACCRUED INTEREST, LESS ANY DEBT SETTLEMENT SERVICES FEES EARNED BY THE REGISTRANT IN COMPLIANCE WITH § 12–1010 OF THIS SUBTITLE, MUST BE PAID TO THE CONSUMER; AND

(XI) A STATEMENT THAT THE CONSUMER MAY BE REQUIRED TO PAY TAXES ON THE AMOUNT BY WHICH THE CONSUMER'S DEBT IS REDUCED.

(B) THE DISCLOSURES REQUIRED UNDER SUBSECTION (A)(2)(VII) THROUGH (XI) OF THIS SECTION SHALL BE PROVIDED TO THE CONSUMER IN A CLEAR AND CONSPICUOUS MANNER IN THE DEBT SETTLEMENT SERVICES AGREEMENT.

12–1013.

AN ADVERTISEMENT FOR DEBT SETTLEMENT SERVICES SHALL INCLUDE CLEARLY AND CONSPICUOUSLY A DISCLOSURE THAT, TO THE EXTENT THAT ANY ASPECT OF THE DEBT SETTLEMENT SERVICES RELIES ON OR RESULTS IN THE CONSUMER'S FAILURE TO MAKE TIMELY PAYMENTS TO THE CONSUMER'S CREDITORS OR DEBT COLLECTORS, THE USE OF THE DEBT SETTLEMENT SERVICES:

(1) WILL LIKELY ADVERSELY AFFECT THE CONSUMER'S CREDITWORTHINESS;

(2) MAY RESULT IN THE CONSUMER BEING SUBJECT TO COLLECTIONS OR BEING SUED BY CREDITORS OR DEBT COLLECTORS; AND

(3) MAY INCREASE THE AMOUNT OF MONEY THE CONSUMER OWES DUE TO THE ACCRUAL OF FEES AND INTEREST BY CREDITORS OR DEBT COLLECTORS.

12–1014.

(A) A REGISTRANT THAT ESTABLISHES A DEDICATED ACCOUNT IN ACCORDANCE WITH § 12–1010(D) OF THIS SUBTITLE SHALL FILE A SURETY BOND WITH THE COMMISSIONER AT THE TIME THE DEDICATED ACCOUNT IS ESTABLISHED.

(B) A SURETY BOND FILED UNDER THIS SECTION SHALL:

(1) RUN TO THE COMMISSIONER FOR THE BENEFIT OF ANY CONSUMER WHO IS INJURED BY A VIOLATION OF THIS SUBTITLE COMMITTED BY A REGISTRANT;

(2) ~~(I)~~ BE IN ~~AN~~ THE AMOUNT ~~NOT LESS THAN $10,000 AT THE TIME IT IS FILED~~ OF $50,000; ~~AND~~

~~(II) BEGINNING 3 MONTHS AFTER IT IS FILED, BE IN AN AMOUNT NOT LESS THAN THE AVERAGE OF THE BALANCE OF FUNDS HELD IN A DEDICATED ACCOUNT DURING THE PRECEDING 3 MONTHS, BUT NOT LESS THAN $10,000 AND NOT MORE THAN $1,000,000;~~

(3) ~~ISSUED~~ BE ISSUED BY A BONDING, SURETY, OR INSURANCE COMPANY THAT IS AUTHORIZED TO DO BUSINESS IN THE STATE; AND

(4) ~~CONDITIONED~~ BE CONDITIONED SO THAT THE REGISTRANT SHALL COMPLY WITH ALL STATE AND FEDERAL LAWS AND REGULATIONS GOVERNING THE BUSINESS OF PROVIDING DEBT SETTLEMENT SERVICES.

(C) IF THE AMOUNT OF THE SURETY BOND INITIALLY FILED WITH THE COMMISSIONER MUST BE INCREASED TO MEET THE MINIMUM REQUIREMENTS UNDER SUBSECTION (B)(2) OF THIS SECTION, THE REGISTRANT SHALL FILE WITH THE COMMISSIONER EVIDENCE OF THE INCREASED BOND AMOUNT IN A FORM SATISFACTORY TO THE COMMISSIONER.

12–1015.

(A) ON OR BEFORE ~~APRIL 30~~ *MARCH 15 OF* EACH YEAR, A REGISTRANT SHALL REPORT TO THE COMMISSIONER ON THE DEBT SETTLEMENT SERVICES BUSINESS OF THE REGISTRANT CONDUCTED DURING THE PRECEDING CALENDAR YEAR.

(B) THE ANNUAL REPORT SHALL BE ON THE FORM THAT THE COMMISSIONER REQUIRES.

12–1016.

A VIOLATION OF THIS SUBTITLE IS:

(1) AN UNFAIR OR DECEPTIVE TRADE PRACTICE WITHIN THE MEANING OF TITLE 13 OF THE COMMERCIAL LAW ARTICLE; AND

(2) SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS OF TITLE 13 OF THE COMMERCIAL LAW ARTICLE.

12–1017.

THIS SUBTITLE MAY BE CITED AS THE MARYLAND DEBT SETTLEMENT SERVICES ACT.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) On or before ~~April 30~~ *March 15* of each year beginning with ~~April 30~~ *March 15*, 2012, and ending with ~~April 30~~ *March 15*, ~~2015~~ *2014*, each debt settlement services provider that is registered with the Commissioner of Financial Regulation, as required under Section 1 of this Act, shall report to the Commissioner on the debt settlement services business the registrant conducted during the preceding calendar year.

(b) The report required under subsection (a) of this section shall include:

(1) for each consumer in Maryland for whom the registrant provided debt settlement services during the reporting period:

(i) the number of debts included in the debt settlement services agreement with the consumer;

(ii) the principal amount of each debt at the time the debt settlement services agreement was signed;

(iii) whether each debt is active, terminated, or settled;

(iv) if a debt has been settled~~,~~*:*

1. the settlement amount of the debt *and the savings amount*;

2. the amount of the debt settlement services fee charged to the consumer and how it was calculated; and

3. the amount of the debt settlement services fee that would have been charged if calculated based on:

A. 30% of the excess of the principal amount of the debt over the amount paid to settle the debt, up to 20% of the principal amount of the total debt; and

B. 25% of the principal amount of the total debt;

(v) the total amount of *debt settlement services* fees paid by the consumer to the registrant;

(vi) for each debt, whether the creditor has filed suit on the debt;

(vii) the date the consumer is expected to complete the debt settlement program; and

(viii) the date the consumer became inactive in, cancelled, or terminated the debt settlement program, if applicable;

(2) for Maryland consumers who completed a debt settlement program during the reporting period, the mean and median percentage of savings to the consumers and the mean and median percentage of fees paid to the registrant;

(3) for Maryland consumers who became inactive in, cancelled, or terminated a debt settlement program during the reporting period, the mean and median percentage of savings to the consumers and the mean and median percentage of fees paid to the registrant;

(4) the percentage of Maryland consumers who became inactive in, cancelled, or terminated a debt settlement program during the reporting period without settlement of all of the consumer's debts; ~~and~~

(5) the total amount of fees collected from Maryland consumers during the reporting period*;*

(6) a profit and loss statement of debt settlement services provided to Maryland consumers for the previous calendar year prepared by an independent certified public accountant in accordance with generally accepted accounting principles; and

(7) any other information the Commissioner reasonably requires.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That, on or before December 1, ~~2012~~ ~~2013~~ *2014*, the Office of the Commissioner of Financial Regulation in the Department of Labor, Licensing, and Regulation, in consultation with the Consumer Protection Division of the Office of the Attorney General, shall report, in accordance with § 2–1246 of the State Government Article, to the Senate Finance Committee and the House Economic Matters Committee on its recommendations regarding changes to the Maryland Debt Settlement Services Act, including:

(1) whether to transition from a registration requirement to a licensure requirement for debt settlement services providers; and

(2) whether ~~the calculation of and~~ *a* cap on debt settlement services fees~~, as provided under § 12–1010(e) of the Financial Institutions Article, as enacted by Section 1 of this Act, should be altered~~. *would be beneficial to consumers and fair to the debt settlement services industry.*

SECTION ~~3.~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011. *It shall remain effective for a period of 3 years and 9 months 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 10, 2011.

Chapter 282

(Senate Bill 746)

AN ACT concerning

Economic Development – Task Force on *Industrial* Job Creation *in Baltimore County*

FOR the purpose of establishing the Task Force on *Industrial* Job Creation *in Baltimore County*; specifying the membership, chair, and staffing of the Task Force; specifying that a member of the Task Force may not receive compensation, but may receive certain reimbursement; requiring the Task Force to determine the causes of the loss of employment opportunities in ~~the State~~ *certain industries and businesses in Baltimore County* and make certain recommendations; requiring the Task Force to ~~inventory~~ *identify* current State ~~and local agencies, laws, regulations, and~~ policies on job creation *in certain sectors* ~~that are duplicative, operate at cross-purposes, or are ineffective as to job creation and retention~~ for a certain purpose; *requiring the Task Force to*

consider certain findings of the Maryland Economic Development Commission and the Governor's Commission on Small Business in carrying out its activities; requiring the Task Force, on or before certain dates, to submit certain preliminary and final reports to the Governor and the General Assembly; providing for the termination of this Act; and generally relating to the Task Force on *Industrial* Job Creation *in Baltimore County*.

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

(a) There is a Task Force on *Industrial* Job Creation *in Baltimore County*.

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

(1) one member of the Senate of Maryland, appointed by the President of the Senate;

(2) one member of the House of Delegates, appointed by the Speaker of the House;

(3) the Secretary of Business and Economic Development, or the Secretary's designee;

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

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

(i) three representatives of businesses located in ~~the State~~ *Baltimore County*; and

(ii) three representatives of labor organizations, including one representative from a building trades labor organization.

(c) The Secretary of Business and Economic Development, or the Secretary's designee who serves on the Task Force, shall chair the Task Force.

(d) The Department of Business and Economic Development shall provide staff for the Task Force.

(e) A member of the Task Force:

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

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

(f) The Task Force shall:

(1) determine the causes of the loss of employment opportunities in ~~the private sector in the State, including employment opportunities in manufacturing, heavy~~ industry, ship building and repair, and businesses that supply industry in ~~the State~~ *Baltimore County*;

(2) ~~inventory~~ *identify* current State ~~and local agencies, laws, regulations, and~~ policies on job creation in ~~the private sector~~ *industry, ship building and repair, and businesses that supply industry in Baltimore County* to determine ~~whether they are duplicative, operate at cross-purposes, or are ineffective as to job creation or retention in Maryland~~ ~~the effectiveness of the agencies, laws, regulations, and policies~~ *their effectiveness*; and

(3) make recommendations, including legislative and policy proposals, regarding ways the State can:

(i) encourage new employers to locate in ~~the State~~ *Baltimore County*;

(ii) keep employers that are located in ~~the State~~ *Baltimore County* from moving to locations outside ~~the State~~ *Baltimore County*;

(iii) encourage employers that have left ~~the State~~ *Baltimore County* to return to ~~the State~~ *Baltimore County*; and

(iv) encourage employers in ~~the State~~ *Baltimore County* to maintain or grow the number of employees they have in ~~the State~~ *Baltimore County*.

(g) In carrying out the activities described in subsection (f) of this Act, the Task Force shall consider the relevant findings of the Maryland Economic Development Commission, established in accordance with § 2–202(a) of the Economic Development Article, and of the Governor's Commission on Small Business, established by Executive Order 01.01.2010.13.

~~(g)~~ *(h)* The Task Force shall submit, on or before December 31, 2011, a preliminary report and, on or before June 1, 2012, a final report with its findings and recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011. It shall remain effective for a period of 1 year and, at the end of June 30, 2012, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 10, 2011.

Chapter 283

(Senate Bill 747)

AN ACT concerning

Domestic Violence – ~~Cruelty Toward a Pet or Service Animal~~ *Additional Relief – Award of Temporary Possession of Pet*

FOR the purpose of authorizing a District Court Commissioner, in a certain interim protective order, and a judge, in a temporary protective order or final protective order, to ~~order a respondent to remain away from a certain pet or service animal, to refrain from cruelty or aggravated cruelty toward the pet or service animal, or in certain circumstances, to give the pet or service animal to a certain person; providing certain penalties for failure to comply with certain relief ordered in a certain interim protective order, temporary protective order, or final protective order;~~ *award temporary possession of any pet of a person eligible for relief or a respondent;* defining ~~certain terms~~ *a certain term*; and generally relating to domestic violence ~~and cruelty toward a pet or service animal~~.

~~BY repealing and reenacting, without amendments,~~
~~Article – Criminal Law~~
~~Section 10–601(a), (b), and (c), 10–604(a), and 10–606(a)~~
~~Annotated Code of Maryland~~
~~(2002 Volume and 2010 Supplement)~~

BY repealing and reenacting, without amendments,
Article – Family Law
Section 4–501(a) and (l)
Annotated Code of Maryland
(2006 Replacement Volume and 2010 Supplement)

BY adding to
Article – Family Law
Section 4–501(m) ~~and (q)~~, 4–504.1(c)(9), 4–505(a)(2)(ix), and 4–506(d)(13)
Annotated Code of Maryland
(2006 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,
Article – Family Law
Section 4–501(m), (n), (o), (p), (q), and (r), 4–504.1(c)(7) and (8), 4–505(a)(2)(vii) and (viii), *and* 4–506(d)(11) and (12)~~, and 4–509(a)~~
Annotated Code of Maryland
(2006 Replacement Volume and 2010 Supplement)

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

~~**Article – Criminal Law**~~

~~10–601.~~

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

~~(b) "Animal" means a living creature except a human being.~~

~~(c) (1) "Cruelty" means the unnecessary or unjustifiable physical pain or suffering caused or allowed by an act, omission, or neglect.~~

~~(2) "Cruelty" includes torture and torment.~~

~~10–604.~~

~~(a) A person may not:~~

~~(1) overdrive or overload an animal;~~

~~(2) deprive an animal of necessary sustenance;~~

~~(3) inflict unnecessary suffering or pain on an animal;~~

~~(4) cause, procure, or authorize an act prohibited under item (1), (2), or (3) of this subsection; or~~

~~(5) if the person has charge or custody of an animal, as owner or otherwise, unnecessarily fail to provide the animal with nutritious food in sufficient quantity, necessary veterinary care, proper drink, air, space, shelter, or protection from the weather.~~

~~10–606.~~

~~(a) A person may not:~~

~~(1) intentionally mutilate, torture, cruelly beat, or cruelly kill an animal;~~

~~(2) cause, procure, or authorize an act prohibited under item (1) of this subsection; or~~

~~(3) except in the case of self–defense, intentionally inflict bodily harm, permanent disability, or death on an animal owned or used by a law enforcement unit.~~

Article – Family Law

4–501.

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

(l) "Person eligible for relief" includes:

(1) the current or former spouse of the respondent;

(2) a cohabitant of the respondent;

(3) a person related to the respondent by blood, marriage, or adoption;

(4) a parent, stepparent, child, or stepchild of the respondent or the person eligible for relief who resides or resided with the respondent or person eligible for relief for at least 90 days within 1 year before the filing of the petition;

(5) a vulnerable adult; or

(6) an individual who has a child in common with the respondent.

(M) (1) "PET" MEANS A DOMESTICATED ANIMAL.

(2) "PET" DOES NOT INCLUDE LIVESTOCK.

[(m)**] (N)** (1) "Petitioner" means an individual who files a petition.

(2) "Petitioner" includes:

(i) a person eligible for relief; or

(ii) the following persons who may seek relief from abuse on behalf of a minor or vulnerable adult:

1. the State's Attorney for the county where the child or vulnerable adult lives, or, if different, where the abuse is alleged to have taken place;

2. the department of social services that has jurisdiction in the county where the child or vulnerable adult lives, or, if different, where the abuse is alleged to have taken place;

3. a person related to the child or vulnerable adult by blood, marriage, or adoption; or

4. an adult who resides in the home.

[(n)**] (O)** "Residence" includes the yard, grounds, outbuildings, and common areas surrounding the residence.

[(o)**] (P)** "Respondent" means the person alleged in the petition to have committed the abuse.

~~**(Q) "SERVICE ANIMAL" MEANS A GUIDE DOG, SIGNAL DOG, OR OTHER ANIMAL INDIVIDUALLY TRAINED TO DO WORK OR PERFORM TASKS FOR THE BENEFIT OF AN INDIVIDUAL WITH A DISABILITY, INCLUDING:**~~

~~**(1) GUIDING INDIVIDUALS WITH IMPAIRED VISION;**~~

~~**(2) ALERTING INDIVIDUALS WITH IMPAIRED HEARING TO AN INTRUDER OR SOUNDS;**~~

~~**(3) PROVIDING MINIMAL PROTECTION OR RESCUE WORK;**~~

~~**(4) PULLING A WHEELCHAIR; OR**~~

~~**(5) FETCHING DROPPED ITEMS.**~~

[(p)**]** ~~**(R)**~~ ***(Q)*** "Temporary protective order" means a protective order issued under § 4–505 of this subtitle.

[(q)**]** ~~**(S)**~~ ***(R)*** "Victim" includes a person eligible for relief.

[(r)**]** ~~**(T)**~~ ***(S)*** "Vulnerable adult" has the meaning provided in § 14–101(q) of this article.

4–504.1.

(c) An interim protective order may:

(7) order the respondent to remain away from the place of employment, school, or temporary residence of a person eligible for relief; **[**or**]**

(8) order the respondent to remain away from the residence of any family member of a person eligible for relief**; OR**

(9) ~~**IF THE PERSON ELIGIBLE FOR RELIEF OR A FAMILY MEMBER OF THE PERSON ELIGIBLE FOR RELIEF HAS A PET OR SERVICE ANIMAL OR THE RESPONDENT HAS POSSESSION OF A PET OR SERVICE ANIMAL OF THE PERSON ELIGIBLE FOR RELIEF OR OF A FAMILY MEMBER OF THE PERSON ELIGIBLE FOR RELIEF, ORDER THE RESPONDENT TO:**~~

~~(I) REMAIN AWAY FROM THE PET OR SERVICE ANIMAL;~~

~~(II) REFRAIN FROM CRUELTY OR AGGRAVATED CRUELTY TOWARD THE PET OR SERVICE ANIMAL AS PROHIBITED UNDER § 10–604(A) OR § 10–606(A) OF THE CRIMINAL LAW ARTICLE; OR~~

~~(III) IF THE RESPONDENT HAS POSSESSION OF THE PET OR SERVICE ANIMAL, GIVE THE PET OR SERVICE ANIMAL TO THE PERSON ELIGIBLE FOR RELIEF, TO A FAMILY MEMBER OF THE PERSON ELIGIBLE FOR RELIEF, OR TO A SUITABLE THIRD PARTY~~ ***AWARD TEMPORARY POSSESSION OF ANY PET OF THE PERSON ELIGIBLE FOR RELIEF OR THE RESPONDENT***.

4–505.

(a) (2) The temporary protective order may order any or all of the following relief:

(vii) award temporary custody of a minor child of the person eligible for relief and the respondent; **[**and**]**

(viii) order the respondent to surrender to law enforcement authorities any firearm in the respondent's possession, and to refrain from possession of any firearm, for the duration of the temporary protective order if the abuse consisted of:

1. the use of a firearm by the respondent against a person eligible for relief;

2. a threat by the respondent to use a firearm against a person eligible for relief;

3. serious bodily harm to a person eligible for relief caused by the respondent; or

4. a threat by the respondent to cause serious bodily harm to a person eligible for relief**; AND**

(IX) ~~IF THE PERSON ELIGIBLE FOR RELIEF OR A FAMILY MEMBER OF THE PERSON ELIGIBLE FOR RELIEF HAS A PET OR SERVICE ANIMAL OR THE RESPONDENT HAS POSSESSION OF A PET OR SERVICE ANIMAL OF THE PERSON ELIGIBLE FOR RELIEF OR OF A FAMILY MEMBER OF THE PERSON ELIGIBLE FOR RELIEF, ORDER THE RESPONDENT TO:~~

~~**1. REMAIN AWAY FROM THE PET OR SERVICE ANIMAL;**~~

~~**2. REFRAIN FROM CRUELTY OR AGGRAVATED CRUELTY TOWARD THE PET OR SERVICE ANIMAL AS PROHIBITED UNDER § 10–604(A) OR § 10–606(A) OF THE CRIMINAL LAW ARTICLE; OR**~~

~~**3. IF THE RESPONDENT HAS POSSESSION OF THE PET OR SERVICE ANIMAL, GIVE THE PET OR SERVICE ANIMAL TO THE PERSON ELIGIBLE FOR RELIEF, TO A FAMILY MEMBER OF THE PERSON ELIGIBLE FOR RELIEF, OR TO A SUITABLE THIRD PARTY**~~ ***AWARD TEMPORARY POSSESSION OF ANY PET OF THE PERSON ELIGIBLE FOR RELIEF OR THE RESPONDENT***.

4–506.

(d) The final protective order may include any or all of the following relief:

(11) direct the respondent or any or all of the persons eligible for relief to participate in professionally supervised counseling or a domestic violence program; **[**or**]**

(12) order the respondent to pay filing fees and costs of a proceeding under this subtitle**; OR**

(13) ~~**IF THE PERSON ELIGIBLE FOR RELIEF OR A FAMILY MEMBER OF THE PERSON ELIGIBLE FOR RELIEF HAS A PET OR SERVICE ANIMAL OR THE RESPONDENT HAS POSSESSION OF A PET OR SERVICE ANIMAL OF THE PERSON ELIGIBLE FOR RELIEF OR OF A FAMILY MEMBER OF THE PERSON ELIGIBLE FOR RELIEF, ORDER THE RESPONDENT TO:**~~

~~**(I) REMAIN AWAY FROM THE PET OR SERVICE ANIMAL;**~~

~~**(II) REFRAIN FROM CRUELTY OR AGGRAVATED CRUELTY TOWARD THE PET OR SERVICE ANIMAL AS PROHIBITED UNDER § 10–604(A) OR § 10–606(A) OF THE CRIMINAL LAW ARTICLE; OR**~~

~~**(III) IF THE RESPONDENT HAS POSSESSION OF THE PET OR SERVICE ANIMAL, GIVE THE PET OR SERVICE ANIMAL TO THE PERSON ELIGIBLE FOR RELIEF, TO A FAMILY MEMBER OF THE PERSON ELIGIBLE FOR RELIEF, OR TO A SUITABLE THIRD PARTY**~~ ***AWARD TEMPORARY POSSESSION OF ANY PET OF THE PERSON ELIGIBLE FOR RELIEF OR THE RESPONDENT***.

~~4–509.~~

~~(a) A person who fails to comply with the relief granted in an interim protective order under § 4–504.1(c)(1), (2), (3), (4)(i), (7), [or] (8), OR (9) of this subtitle, a temporary protective order under § 4–505(a)(2)(i), (ii), (iii), (iv), (v), [or] (viii), OR (IX) of this subtitle, or a final protective order under § 4–506(d)(1), (2), (3), (4), [or] (5), OR (13), or (e) of this subtitle is guilty of a misdemeanor and on conviction is subject, for each offense, to:~~

~~(1) for a first offense, a fine not exceeding $1,000 or imprisonment not exceeding 90 days or both; and~~

~~(2) for a second or subsequent offense, a fine not exceeding $2,500 or imprisonment not exceeding 1 year or both.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 284

(House Bill 407)

AN ACT concerning

Domestic Violence – ~~Cruelty Toward a Pet or Service Animal~~ Additional Relief – Award of Temporary Possession of Pet

FOR the purpose of authorizing a District Court Commissioner, in a certain interim protective order, and a judge, in a temporary protective order or final protective order, to ~~order a respondent to remain away from a certain pet or service animal, to refrain from cruelty or aggravated cruelty toward the pet or service animal, or in certain circumstances, to give the pet or service animal to a certain person; providing certain penalties for failure to comply with certain relief ordered in a certain interim protective order, temporary protective order, or final protective order~~ award temporary possession of any pet of a person eligible for relief or a respondent; defining ~~certain terms~~ a certain term; and generally relating to domestic violence ~~and cruelty toward a pet or service animal~~.

~~BY repealing and reenacting, without amendments,~~
~~Article – Criminal Law~~
~~Section 10–601(a), (b), and (c), 10–604(a), and 10–606(a)~~
~~Annotated Code of Maryland~~
~~(2002 Volume and 2010 Supplement)~~

BY repealing and reenacting, without amendments,
Article – Family Law
Section 4–501(a) and (l)
Annotated Code of Maryland
(2006 Replacement Volume and 2010 Supplement)

BY adding to
Article – Family Law
Section 4–501(m) ~~and (q)~~, 4–504.1(c)(9), 4–505(a)(2)(ix), and 4–506(d)(13)
Annotated Code of Maryland
(2006 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,
Article – Family Law
Section 4–501(m), (n), (o), (p), (q), and (r), 4–504.1(c)(7) and (8), 4–505(a)(2)(vii) and (viii), <u>and</u> 4–506(d)(11) and (12)~~, and 4–509(a)~~
Annotated Code of Maryland
(2006 Replacement Volume and 2010 Supplement)

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

~~**Article – Criminal Law**~~

~~10–601.~~

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

~~(b) "Animal" means a living creature except a human being.~~

~~(c) (1) "Cruelty" means the unnecessary or unjustifiable physical pain or suffering caused or allowed by an act, omission, or neglect.~~

~~(2) "Cruelty" includes torture and torment.~~

~~10–604.~~

~~(a) A person may not:~~

~~(1) overdrive or overload an animal;~~

~~(2) deprive an animal of necessary sustenance;~~

~~(3) inflict unnecessary suffering or pain on an animal;~~

~~(4) cause, procure, or authorize an act prohibited under item (1), (2), or (3) of this subsection; or~~

~~(5) if the person has charge or custody of an animal, as owner or otherwise, unnecessarily fail to provide the animal with nutritious food in sufficient quantity, necessary veterinary care, proper drink, air, space, shelter, or protection from the weather.~~

~~10–606.~~

~~(a) A person may not:~~

~~(1) intentionally mutilate, torture, cruelly beat, or cruelly kill an animal;~~

~~(2) cause, procure, or authorize an act prohibited under item (1) of this subsection; or~~

~~(3) except in the case of self–defense, intentionally inflict bodily harm, permanent disability, or death on an animal owned or used by a law enforcement unit.~~

Article – Family Law

4–501.

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

(l) "Person eligible for relief" includes:

(1) the current or former spouse of the respondent;

(2) a cohabitant of the respondent;

(3) a person related to the respondent by blood, marriage, or adoption;

(4) a parent, stepparent, child, or stepchild of the respondent or the person eligible for relief who resides or resided with the respondent or person eligible for relief for at least 90 days within 1 year before the filing of the petition;

(5) a vulnerable adult; or

(6) an individual who has a child in common with the respondent.

(M) (1) "PET" MEANS A DOMESTICATED ANIMAL.

(2) "PET" DOES NOT INCLUDE LIVESTOCK.

[(m)**] (N)** (1) "Petitioner" means an individual who files a petition.

(2) "Petitioner" includes:

(i) a person eligible for relief; or

(ii) the following persons who may seek relief from abuse on behalf of a minor or vulnerable adult:

1. the State's Attorney for the county where the child or vulnerable adult lives, or, if different, where the abuse is alleged to have taken place;

2. the department of social services that has jurisdiction in the county where the child or vulnerable adult lives, or, if different, where the abuse is alleged to have taken place;

3. a person related to the child or vulnerable adult by blood, marriage, or adoption; or

4. an adult who resides in the home.

[(n)**] (O)** "Residence" includes the yard, grounds, outbuildings, and common areas surrounding the residence.

[(o)**] (P)** "Respondent" means the person alleged in the petition to have committed the abuse.

~~**(Q) "SERVICE ANIMAL" MEANS A GUIDE DOG, SIGNAL DOG, OR OTHER ANIMAL INDIVIDUALLY TRAINED TO DO WORK OR PERFORM TASKS FOR THE BENEFIT OF AN INDIVIDUAL WITH A DISABILITY, INCLUDING:**~~

~~**(1) GUIDING INDIVIDUALS WITH IMPAIRED VISION;**~~

~~**(2) ALERTING INDIVIDUALS WITH IMPAIRED HEARING TO AN INTRUDER OR SOUNDS;**~~

~~**(3) PROVIDING MINIMAL PROTECTION OR RESCUE WORK;**~~

~~**(4) PULLING A WHEELCHAIR; OR**~~

~~**(5) FETCHING DROPPED ITEMS.**~~

[(p)**]** ~~**(R)**~~ **(Q)** "Temporary protective order" means a protective order issued under § 4–505 of this subtitle.

[(q)**]** ~~**(S)**~~ **(R)** "Victim" includes a person eligible for relief.

[(r)**]** ~~**(T)**~~ **(S)** "Vulnerable adult" has the meaning provided in § 14–101(q) of this article.

4–504.1.

(c) An interim protective order may:

(7) order the respondent to remain away from the place of employment, school, or temporary residence of a person eligible for relief; **[**or**]**

(8) order the respondent to remain away from the residence of any family member of a person eligible for relief**; OR**

(9) ~~**IF THE PERSON ELIGIBLE FOR RELIEF OR A FAMILY MEMBER OF THE PERSON ELIGIBLE FOR RELIEF HAS A PET OR SERVICE ANIMAL OR THE RESPONDENT HAS POSSESSION OF A PET OR SERVICE ANIMAL OF THE PERSON ELIGIBLE FOR RELIEF OR OF A FAMILY MEMBER OF THE PERSON ELIGIBLE FOR RELIEF, ORDER THE RESPONDENT TO:**~~

~~**(I) REMAIN AWAY FROM THE PET OR SERVICE ANIMAL;**~~

~~**(II) REFRAIN FROM CRUELTY OR AGGRAVATED CRUELTY TOWARD THE PET OR SERVICE ANIMAL AS PROHIBITED UNDER § 10–604(A) OR § 10–606(A) OF THE CRIMINAL LAW ARTICLE; OR**~~

~~**(III) IF THE RESPONDENT HAS POSSESSION OF THE PET OR SERVICE ANIMAL, GIVE THE PET OR SERVICE ANIMAL TO THE PERSON ELIGIBLE FOR RELIEF, TO A FAMILY MEMBER OF THE PERSON ELIGIBLE FOR RELIEF, OR TO A SUITABLE THIRD PARTY**~~ **AWARD TEMPORARY POSSESSION OF ANY PET OF THE PERSON ELIGIBLE FOR RELIEF OR THE RESPONDENT**.

4–505.

(a) (2) The temporary protective order may order any or all of the following relief:

(vii) award temporary custody of a minor child of the person eligible for relief and the respondent; **[**and**]**

(viii) order the respondent to surrender to law enforcement authorities any firearm in the respondent's possession, and to refrain from possession of any firearm, for the duration of the temporary protective order if the abuse consisted of:

1. the use of a firearm by the respondent against a person eligible for relief;

2. a threat by the respondent to use a firearm against a person eligible for relief;

3. serious bodily harm to a person eligible for relief caused by the respondent; or

4. a threat by the respondent to cause serious bodily harm to a person eligible for relief**; AND**

(IX) ~~**IF THE PERSON ELIGIBLE FOR RELIEF OR A FAMILY MEMBER OF THE PERSON ELIGIBLE FOR RELIEF HAS A PET OR SERVICE ANIMAL OR THE RESPONDENT HAS POSSESSION OF A PET OR SERVICE ANIMAL OF THE PERSON ELIGIBLE FOR RELIEF OR OF A FAMILY MEMBER OF THE PERSON ELIGIBLE FOR RELIEF, ORDER THE RESPONDENT TO:**~~

~~**1. REMAIN AWAY FROM THE PET OR SERVICE ANIMAL;**~~

~~**2. REFRAIN FROM CRUELTY OR AGGRAVATED CRUELTY TOWARD THE PET OR SERVICE ANIMAL AS PROHIBITED UNDER § 10–604(A) OR § 10–606(A) OF THE CRIMINAL LAW ARTICLE; OR**~~

~~**3. IF THE RESPONDENT HAS POSSESSION OF THE PET OR SERVICE ANIMAL, GIVE THE PET OR SERVICE ANIMAL TO THE PERSON ELIGIBLE FOR RELIEF, TO A FAMILY MEMBER OF THE PERSON ELIGIBLE FOR RELIEF, OR TO A SUITABLE THIRD PARTY**~~ **AWARD TEMPORARY POSSESSION OF ANY PET OF THE PERSON ELIGIBLE FOR RELIEF OR THE RESPONDENT**.

4–506.

(d) The final protective order may include any or all of the following relief:

(11) direct the respondent or any or all of the persons eligible for relief to participate in professionally supervised counseling or a domestic violence program; **[**or**]**

(12) order the respondent to pay filing fees and costs of a proceeding under this subtitle**; OR**

(13) ~~**IF THE PERSON ELIGIBLE FOR RELIEF OR A FAMILY MEMBER OF THE PERSON ELIGIBLE FOR RELIEF HAS A PET OR SERVICE ANIMAL OR THE RESPONDENT HAS POSSESSION OF A PET OR SERVICE ANIMAL OF THE PERSON**~~

~~**ELIGIBLE FOR RELIEF OR OF A FAMILY MEMBER OF THE PERSON ELIGIBLE FOR RELIEF, ORDER THE RESPONDENT TO:**~~

~~**(I) REMAIN AWAY FROM THE PET OR SERVICE ANIMAL;**~~

~~**(II) REFRAIN FROM CRUELTY OR AGGRAVATED CRUELTY TOWARD THE PET OR SERVICE ANIMAL AS PROHIBITED UNDER § 10–604(A) OR § 10–606(A) OF THE CRIMINAL LAW ARTICLE; OR**~~

~~**(III) IF THE RESPONDENT HAS POSSESSION OF THE PET OR SERVICE ANIMAL, GIVE THE PET OR SERVICE ANIMAL TO THE PERSON ELIGIBLE FOR RELIEF, TO A FAMILY MEMBER OF THE PERSON ELIGIBLE FOR RELIEF, OR TO A SUITABLE THIRD PARTY**~~ **AWARD TEMPORARY POSSESSION OF ANY PET OF THE PERSON ELIGIBLE FOR RELIEF OR THE RESPONDENT**.

~~4–509.~~

~~(a) A person who fails to comply with the relief granted in an interim protective order under § 4–504.1(c)(1), (2), (3), (4)(i), (7), **[**or**]** (8)**, OR (9)** of this subtitle, a temporary protective order under § 4–505(a)(2)(i), (ii), (iii), (iv), (v), **[**or**]** (viii)**, OR (IX)** of this subtitle, or a final protective order under § 4–506(d)(1), (2), (3), (4), **[**or**]** (5), **OR (13),** or (e) of this subtitle is guilty of a misdemeanor and on conviction is subject, for each offense, to:~~

~~(1) for a first offense, a fine not exceeding $1,000 or imprisonment not exceeding 90 days or both; and~~

~~(2) for a second or subsequent offense, a fine not exceeding $2,500 or imprisonment not exceeding 1 year or both.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 285

(Senate Bill 751)

AN ACT concerning

Environment – Dishwashing Detergent Containing Phosphorus – Penalties

FOR the purpose of ~~altering the~~ establishing a certain penalty for knowingly selling~~,~~ ~~manufacturing,~~ or distributing for use or sale within the State certain household dishwashing detergents ~~after a certain date~~; ~~establishing that each pound of a cleaning agent sold, distributed, or manufactured in violation of a certain provision of law is a separate violation;~~ repealing obsolete language; and generally relating to dishwashing detergents containing phosphorus.

BY repealing and reenacting, with amendments,
Article – Environment
Section 9–1503 and 9–1505
Annotated Code of Maryland
(2007 Replacement Volume and 2010 Supplement)

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

Article – Environment

9–1503.

(a) Except as provided in subsection (b) of this section, a person may not use, sell, manufacture, or distribute for use or sale within the State any cleaning agent that contains more than 0.0 percent phosphorus by weight expressed as elemental phosphorus except for an amount not exceeding 0.5 percent phosphorus that is incidental to manufacturing.

(b) Except as provided in subsection (c) of this section, a person may use, sell, manufacture, or distribute for use or sale a cleaning agent that contains greater than 0.0 percent phosphorus by weight, but does not exceed 8.7 percent phosphorus by weight that is:

(1) A detergent used in a dishwashing machine, whether commercial or household; or

(2) A substance the Secretary, by rule and regulation, excludes from the 0.0 percent phosphorus limitation of subsection (a) of this section based on a finding that compliance with this section would:

(i) Create a significant hardship on the user; or

(ii) Be unreasonable because of the lack of an adequate substitute cleaning agent.

(c) **[**After July 1, 2010, a**]** **A** person may not use, sell, manufacture, or distribute for use or sale within the State any detergent for use in a household dishwashing machine that contains more than 0.5 percent phosphorus by weight.

9–1505.

(a) (1) Any person who uses a cleaning agent in violation of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $100.

(2) **(I)** **[**Any**]** **EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, ANY** person who sells, distributes, or manufactures a cleaning agent in violation of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000.

(II) ~~**1.**~~ **ANY PERSON WHO KNOWINGLY SELLS~~,~~ OR DISTRIBUTES~~, OR MANUFACTURES A CLEANING AGENT~~ FOR USE OR SALE WITHIN THE STATE A DETERGENT FOR USE IN A HOUSEHOLD DISHWASHING MACHINE IN VIOLATION OF § 9–1503(C) OF THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO ~~A FINE OF $1,000 FOR EACH VIOLATION BUT NOT EXCEEDING A TOTAL OF $500,000.~~**

~~**2. EACH POUND OF A CLEANING AGENT SOLD, DISTRIBUTED, OR MANUFACTURED IN VIOLATION OF § 19–1503(C) OF THIS SUBTITLE IS A SEPARATE VIOLATION.**~~**:**

1. FOR A FIRST OFFENSE, A FINE NOT EXCEEDING $1,000; OR

2. FOR A SECOND OR SUBSEQUENT OFFENSE, A FINE *OF NOT LESS THAN $1,000 AND* NOT EXCEEDING ~~$50,000~~ *$25,000.*

(b) The Department may seize any cleaning agent held for sale or distribution in violation of this subtitle. The seized cleaning agents are considered forfeited.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 286

(Senate Bill 755)

AN ACT concerning

Task Force to Study High School Dropout Rates of Persons in the Criminal Justice System

FOR the purpose of establishing the Task Force to Study High School Dropout Rates of Persons in the Criminal Justice System; providing for the membership and staffing of the Task Force; requiring the Governor to designate the chair of the Task Force; providing that a member of the Task Force may not receive compensation as a member of the Task Force but is entitled to a certain reimbursement; requiring the Task Force to study certain issues, obtain certain data, and make certain recommendations and to ~~make certain reports~~ report its findings and recommendations to the Governor and General Assembly; providing for the termination of this Act; and generally relating to the Task Force to Study High School Dropout Rates of Persons in the Criminal Justice System.

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

(a) There is a Task Force to Study High School Dropout Rates of Persons in the Criminal Justice System.

(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 Superintendent of Education, or the Superintendent's designee;

(4) the Secretary of Public Safety and Correctional Services, or the Secretary's designee;

(5) one representative of the Office of the Public Defender; ~~and~~

(6) one representative of the Office of the Attorney General;

(7) one representative from the Department of Juvenile Services;

(8) one representative from the Maryland Association of Boards of Education; and

(9) one representative of the Public School Superintendents Association of Maryland.

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

(d) The ~~Department of Budget and Management~~ Governor's Office of Crime Control and Prevention shall provide staff for the Task Force.

(e) A member of the Task Force:

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

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

(f) The Task Force shall:

(1) study the high school dropout statistics of people who have been incarcerated, arrested, or otherwise processed through the criminal justice system; ~~and~~

(2) study the fiscal impact on the criminal justice system of people who have dropped out of high school;

(3) obtain existing statistical data from:

(i) the Department of Juvenile Services regarding the percentage of individuals served by the Department who have dropped out of high school; and

(ii) the Department of Labor, Licensing, and Regulation on adults in the State who have dropped out of high school; and

(4) make recommendations on:

(i) how individuals can be kept in high school until graduation;

(ii) the availability of continuing education options for individuals who have not received a high school diploma while those individuals are incarcerated; and

(iii) how individuals can be informed of alternative high school education or work–related programs.

(g) On or before December 31, ~~2011~~ 2012, the Task Force shall report its findings and recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2011. It shall remain effective for a period of ~~1 year~~ 2 years and, at the end of May 31, ~~2012~~ 2013, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 10, 2011.

Chapter 287

(Senate Bill 757)

AN ACT concerning

Election Law – Electronic Media – Electronic Contributions and Expenditures

FOR the purpose of repealing certain requirements that a campaign finance entity make a disbursement only by check; requiring a campaign finance entity to make a disbursement by certain methods; requiring an electronic method of making a disbursement that the State Board of Elections authorizes by regulation to satisfy certain requirements; repealing a requirement that a contribution in excess of a certain amount be made only by check or credit card; requiring that a contribution be made by certain methods; requiring an electronic method of making a contribution that the State Board authorizes by regulation to satisfy certain requirements; requiring the State Board to adopt regulations governing the application of certain disclosure and retention requirements to campaign material transmitted through electronic media; requiring the regulations adopted by the State Board to satisfy certain requirements; authorizing the regulations adopted by the State Board to modify certain statutory requirements as they relate to electronic media as necessary to accommodate particular technologies; and generally relating to conforming election law to electronic methods of disseminating campaign material and electronic methods of making contributions and expenditures.

BY repealing and reenacting, without amendments,
Article – Election Law
Section 1–101(k), 13–401, and 13–403
Annotated Code of Maryland
(2010 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Election Law
Section 13–220 and 13–226(b)
Annotated Code of Maryland
(2010 Replacement Volume)

BY adding to
Article – Election Law
Section 13–234 and 13–404

Annotated Code of Maryland
(2010 Replacement Volume)

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

Article – Election Law

1–101.

(k) (1) "Campaign material" means any material that:

(i) contains text, graphics, or other images;

(ii) relates to a candidate, a prospective candidate, or the approval or rejection of a question; and

(iii) is published or distributed.

(2) "Campaign material" includes:

(i) material transmitted by or appearing on the Internet or other electronic medium; and

(ii) an oral commercial campaign advertisement.

13–220.

(a) (1) Each campaign finance entity shall designate one or more campaign accounts.

(2) Each designated campaign account shall:

(i) be in a financial institution; and

(ii) be registered in a manner that identifies it as the account of a campaign finance entity.

(3) A campaign finance entity shall deposit all funds received in a designated campaign account.

(b) (1) Subject to paragraph (2) of this subsection and subsection (c) of this section, a campaign finance entity may not directly or indirectly make a disbursement except **[**by check**]** from a campaign account designated under subsection (a) of this section.

(2) A campaign finance entity, or a person authorized by the campaign finance entity, may pay an expense of the campaign finance entity from funds other than a campaign account if:

(i) the expense is supported by a receipt that is provided to the campaign finance entity; and

(ii) the campaign finance entity reimburses the person who paid the expense **[**by check**]** from the campaign account and reports the expense as an expenditure of the campaign finance entity in accordance with Subtitle 3 of this title.

(c) (1) A campaign finance entity may maintain a petty cash fund.

(2) The campaign finance entity shall maintain a separate account book for the petty cash fund.

(3) The petty cash fund:

(i) may not exceed $250 at any time; and

(ii) may be replenished only by check from a campaign account designated under subsection (a) of this section.

(4) Not more than $25 may be disbursed from the petty cash fund in a primary or general election to a single recipient.

(5) Each petty cash expenditure shall be supported by a receipt and reported by category on the appropriate campaign finance report.

(6) This subsection does not authorize an expenditure that otherwise is unlawful under this article.

(D) (1) A CAMPAIGN FINANCE ENTITY MAY MAKE A DISBURSEMENT ONLY BY:

(I) CHECK; OR

(II) AN ELECTRONIC METHOD THAT THE STATE BOARD AUTHORIZES BY REGULATION.

(2) AN ELECTRONIC METHOD OF MAKING A DISBURSEMENT THAT THE STATE BOARD AUTHORIZES UNDER THIS SUBSECTION SHALL ENSURE THAT:

(I) THE IDENTITY OF THE PERSON MAKING THE DISBURSEMENT MAY BE VERIFIED;

(II) THE TRANSACTION IS SECURE; AND

(III) THERE IS AN ADEQUATE RECORD OF THE TRANSACTION.

13–226.

(b) Subject to subsection (c) of this section, a person may not, either directly or indirectly, in an election cycle make**[**:

(1)**]** aggregate contributions in excess of:

[(i)**]****(1)** $4,000 to any one campaign finance entity; or

[(ii)**]****(2)** $10,000 to all campaign finance entities**[**; or

(2) a contribution of money in excess of $100 except by check or credit card**]**.

13–234.

(A) A CONTRIBUTION OF MONEY MAY BE MADE ONLY BY:

(1) CHECK;

(2) CREDIT CARD;

(3) CASH, IF THE CONTRIBUTION DOES NOT EXCEED $100; OR

(4) AN ELECTRONIC METHOD THAT THE STATE BOARD AUTHORIZES BY REGULATION.

(B) AN ELECTRONIC METHOD OF MAKING A CONTRIBUTION THAT THE STATE BOARD AUTHORIZES UNDER THIS SECTION SHALL ENSURE THAT:

(1) THE IDENTITY OF THE PERSON MAKING THE CONTRIBUTION MAY BE VERIFIED;

(2) THE TRANSACTION IS SECURE; AND

(3) THERE IS AN ADEQUATE RECORD OF THE TRANSACTION.

13–401.

(a) (1) Except as otherwise provided in this section, each item of campaign material shall contain, set apart from any other message, an authority line that states:

(i) as to campaign material published or distributed by a campaign finance entity:

1. the name and address of the treasurer of each campaign finance entity responsible for the campaign material; and

2. as to each treasurer named under item 1 of this item, the name of each campaign finance entity for which the treasurer is acting; and

(ii) as to campaign material published or distributed by any other person, the name and address of the person responsible for the campaign material.

(2) The authority line may omit an address that is on file with the State Board or a local board.

(3) If the campaign material is too small to include all the information specified in paragraph (1) of this subsection in a legible manner, the authority line need only contain the name and title of the treasurer or other person responsible for it.

(4) The authority line for campaign material that is a commercial advertisement need only contain the information specified in paragraphs (1) and (2) of this subsection for one campaign finance entity or other person responsible for the advertisement.

(b) Campaign material that is published or distributed in support of or in opposition to a candidate, but is not authorized by the candidate, shall include the following statement:

"This message has been authorized and paid for by (name of payor or any organization affiliated with the payor), (name and title of treasurer or president). This message has not been authorized or approved by any candidate."

13–403.

(a) (1) Subject to paragraph (2) of this subsection, each campaign finance entity responsible for, publisher of, and distributor of, an item of campaign material shall keep a sample copy of the item for at least 1 year after the general election next following the date when the item was published or distributed.

(2) For each item of campaign material disseminated through the Internet, the sample copy shall be:

(i) a paper facsimile; or

(ii) a copy on an electronic medium that can be produced as a paper facsimile on request.

(b) Subsection (a) of this section does not apply to a billboard or a sign.

13–404.

(A) IN THIS SECTION, "ELECTRONIC MEDIA" MEANS ANY ELECTRONIC MEDIUM, EXCEPT TELEVISION OR RADIO, THAT MAY BE USED TO TRANSMIT CAMPAIGN MATERIAL.

(B) THE STATE BOARD SHALL ADOPT REGULATIONS GOVERNING THE APPLICATION OF §§ 13–401 AND 13–403 OF THIS SUBTITLE TO CAMPAIGN MATERIAL TRANSMITTED THROUGH ELECTRONIC MEDIA.

(C) THE REGULATIONS ADOPTED BY THE STATE BOARD UNDER THIS SECTION:

(1) SHALL DEFINE WHAT CONSTITUTES "PUBLICATION" OR "DISTRIBUTION" OF CAMPAIGN MATERIAL THROUGH ELECTRONIC MEDIA UNDER § 1–101(K) OF THIS ARTICLE;

(2) SHALL REQUIRE PUBLIC DISCLOSURE OF THE IDENTITY OF PERSONS WHO ARE RESPONSIBLE FOR TRANSMITTING CAMPAIGN MATERIAL THROUGH ELECTRONIC MEDIA; AND

(3) MAY MODIFY THE REQUIREMENTS OF §§ 13–401 AND 13–403 OF THIS SUBTITLE AS THEY APPLY TO ELECTRONIC MEDIA TO THE EXTENT NECESSARY TO ACCOMMODATE A PARTICULAR TECHNOLOGY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 288

(Senate Bill 765)

AN ACT concerning

Election Law – Voter Registration – Exchange of Information

FOR the purpose of requiring State agencies to provide certain data to the State Board of Elections for the purpose of maintaining an accurate statewide voter registration list; prohibiting the State Board from disclosing certain data it receives except under certain circumstances; authorizing the State Board to enter into agreements with other states to exchange certain data that is relevant to maintaining accurate voter registration lists; authorizing the State Board to exchange certain data that is not subject to public disclosure under the Public Information Act with other persons for the purpose of maintaining accurate voter registration lists; prohibiting a person who receives certain data that is not subject to public disclosure under the Public Information Act from using or redisclosing that data except for the purpose of maintaining accurate voter registration lists; *requiring the State Board and the Motor Vehicle Administration jointly to submit a report to certain committees of the General Assembly concerning the implementation of a fully automated voter registration system at the Motor Vehicle Administration by a certain date;* and generally relating to the exchange of data for the purpose of maintaining accurate voter registration lists.

BY repealing and reenacting, with amendments,
Article – Election Law
Section 3–101
Annotated Code of Maryland
(2010 Replacement Volume)

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

Article – Election Law

3–101.

(a) There shall be a statewide voter registration list.

(b) The statewide voter registration list shall:

(1) be the official voter registration list for the State;

(2) contain the name and other information for every legally registered voter in the State;

(3) allow each local board to obtain immediate electronic access to the information contained in the list;

(4) be coordinated with other agency databases in the State;

(5) be used to produce precinct registers for use in polling places on election day; and

(6) include voting history information on a current basis for a period covering at least the 5 preceding years.

(c) The State Administrator shall:

(1) define, maintain, and administer the statewide voter registration list;

(2) with the local boards, ensure the currency and accuracy of each individual voter's registration record;

(3) instruct the local boards on:

(i) processing voter registration applications and name and address changes;

(ii) entering voter registration information into the statewide voter registration list; and

(iii) removing from the statewide voter registration list information about voters who are no longer eligible to be registered voters; and

(4) subject to relevant federal law and to regulations adopted by the State Board, establish and conduct a program to identify voters who have changed their addresses.

(d) Registration shall be conducted continuously under the supervision of the State Administrator and in accordance with the provisions of this title, applicable federal law, and regulations adopted by the State Board.

(E) (1) A STATE AGENCY SHALL PROVIDE ANY DATA TO THE STATE BOARD THAT THE STATE ADMINISTRATOR DETERMINES IS NECESSARY TO MAINTAIN AN ACCURATE STATEWIDE VOTER REGISTRATION LIST.

(2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE STATE BOARD MAY NOT DISCLOSE DATA PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION EXCEPT AS PROVIDED IN TITLE 10, SUBTITLE 6, PART III OF THE STATE GOVERNMENT ARTICLE.

(3) (I) THE STATE BOARD MAY ENTER INTO AGREEMENTS WITH OTHER STATES TO EXCHANGE ANY DATA THAT THE STATE ADMINISTRATOR DETERMINES IS RELEVANT TO MAINTAINING ACCURATE VOTER REGISTRATION LISTS.

(II) THE STATE BOARD MAY EXCHANGE DATA THAT IS NOT SUBJECT TO PUBLIC DISCLOSURE UNDER TITLE 10, SUBTITLE 6, PART III OF THE STATE GOVERNMENT ARTICLE WITH OTHER PERSONS AS THE STATE ADMINISTRATOR DETERMINES IS NECESSARY FOR THE SOLE PURPOSE OF MAINTAINING ACCURATE VOTER REGISTRATION LISTS.

(III) A PERSON WHO RECEIVES DATA THAT IS NOT SUBJECT TO PUBLIC DISCLOSURE UNDER TITLE 10, SUBTITLE 6, PART III OF THE STATE GOVERNMENT ARTICLE UNDER THIS PARAGRAPH MAY NOT USE OR REDISCLOSE THAT DATA EXCEPT FOR THE PURPOSE OF MAINTAINING ACCURATE VOTER REGISTRATION LISTS.

[(e)**] (F)** A registered voter:

(1) shall remain registered when the voter moves to another county in the State; and

(2) may not be required to register again unless the voter's registration is canceled in accordance with Subtitle 5 of this title.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) In this section, "fully automated voter registration system" means a voter registration system at the Motor Vehicle Administration that:

(1) eliminates the use of paper voter registration forms by requiring each applicant who wishes to register to vote or update a voter registration record during a driver's license or identification card transaction or other transaction to electronically submit all the information required to register or update the applicant's registration at the time of the transaction; and

(2) transmits the information submitted under item (1) of this subsection electronically directly to elections officials.

(b) The State Board of Elections and the Motor Vehicle Administration shall jointly submit a report to the House Committee on Ways and Means, Senate Education, Health, and Environmental Affairs Committee, House Appropriations Committee, and Senate Budget and Taxation Committee by October 1, 2011, concerning actions taken and plans made to implement a fully automated voter registration system at the Motor Vehicle Administration.

(c) The report submitted under this section shall include:

(1) a detailed timeline for complete implementation of a fully automated voter registration system at the Motor Vehicle Administration;

(2) a detailed estimate of the fiscal impact of implementing a fully automated voter registration system; and

(3) any other issues relating to the implementation of a fully automated voter registration system that the State Board of Elections and the Motor Vehicle Administration consider relevant.

SECTION ~~2.~~ *3.* AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 289

(House Bill 561)

AN ACT concerning

Election Law – Voter Registration – Exchange of Information

FOR the purpose of requiring State agencies to provide certain data to the State Board of Elections for the purpose of maintaining an accurate statewide voter registration list; prohibiting the State Board from disclosing certain data it receives except under certain circumstances; authorizing the State Board to enter into agreements with other states to exchange certain data that is relevant to maintaining accurate voter registration lists; authorizing the State Board to exchange certain data that is not subject to public disclosure under the Public Information Act with other persons for the purpose of maintaining accurate voter registration lists; prohibiting a person who receives certain data that is not subject to public disclosure under the Public Information Act from using or redisclosing that data except for the purpose of maintaining accurate voter registration lists; requiring the State Board and the Motor Vehicle Administration jointly to submit a report to certain committees of the General Assembly concerning the implementation of a fully automated voter registration system at the Motor Vehicle Administration by a certain date; and generally relating to the exchange of data for the purpose of maintaining accurate voter registration lists.

BY repealing and reenacting, with amendments,
Article – Election Law
Section 3–101
Annotated Code of Maryland
(2010 Replacement Volume)

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

Article – Election Law

3–101.

(a) There shall be a statewide voter registration list.

(b) The statewide voter registration list shall:

(1) be the official voter registration list for the State;

(2) contain the name and other information for every legally registered voter in the State;

(3) allow each local board to obtain immediate electronic access to the information contained in the list;

(4) be coordinated with other agency databases in the State;

(5) be used to produce precinct registers for use in polling places on election day; and

(6) include voting history information on a current basis for a period covering at least the 5 preceding years.

(c) The State Administrator shall:

(1) define, maintain, and administer the statewide voter registration list;

(2) with the local boards, ensure the currency and accuracy of each individual voter's registration record;

(3) instruct the local boards on:

(i) processing voter registration applications and name and address changes;

(ii) entering voter registration information into the statewide voter registration list; and

(iii) removing from the statewide voter registration list information about voters who are no longer eligible to be registered voters; and

(4) subject to relevant federal law and to regulations adopted by the State Board, establish and conduct a program to identify voters who have changed their addresses.

(d) Registration shall be conducted continuously under the supervision of the State Administrator and in accordance with the provisions of this title, applicable federal law, and regulations adopted by the State Board.

(E) (1) A STATE AGENCY SHALL PROVIDE ANY DATA TO THE STATE BOARD THAT THE STATE ADMINISTRATOR DETERMINES IS NECESSARY TO MAINTAIN AN ACCURATE STATEWIDE VOTER REGISTRATION LIST.

(2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE STATE BOARD MAY NOT DISCLOSE DATA PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION EXCEPT AS PROVIDED IN TITLE 10, SUBTITLE 6, PART III OF THE STATE GOVERNMENT ARTICLE.

(3) (I) THE STATE BOARD MAY ENTER INTO AGREEMENTS WITH OTHER STATES TO EXCHANGE ANY DATA THAT THE STATE ADMINISTRATOR DETERMINES IS RELEVANT TO MAINTAINING ACCURATE VOTER REGISTRATION LISTS.

(II) THE STATE BOARD MAY EXCHANGE DATA THAT IS NOT SUBJECT TO PUBLIC DISCLOSURE UNDER TITLE 10, SUBTITLE 6, PART III OF THE STATE GOVERNMENT ARTICLE WITH OTHER PERSONS AS THE STATE ADMINISTRATOR DETERMINES IS NECESSARY FOR THE SOLE PURPOSE OF MAINTAINING ACCURATE VOTER REGISTRATION LISTS.

(III) A PERSON WHO RECEIVES DATA THAT IS NOT SUBJECT TO PUBLIC DISCLOSURE UNDER TITLE 10, SUBTITLE 6, PART III OF THE STATE GOVERNMENT ARTICLE UNDER THIS PARAGRAPH MAY NOT USE OR REDISCLOSE THAT DATA EXCEPT FOR THE PURPOSE OF MAINTAINING ACCURATE VOTER REGISTRATION LISTS.

[(e)**] (F)** A registered voter:

(1) shall remain registered when the voter moves to another county in the State; and

(2) may not be required to register again unless the voter's registration is canceled in accordance with Subtitle 5 of this title.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) In this section, "fully automated voter registration system" means a voter registration system at the Motor Vehicle Administration that:

(1) eliminates the use of paper voter registration forms by requiring each applicant who wishes to register to vote or update a voter registration record during a driver's license or identification card transaction or other transaction to electronically submit all the information required to register or update the applicant's registration at the time of the transaction; and

(2) transmits the information submitted under item (1) of this subsection electronically directly to elections officials.

(b) The State Board of Elections and the Motor Vehicle Administration shall jointly submit a report to the House Committee on Ways and Means, Senate Education, Health, and Environmental Affairs Committee, House Appropriations Committee, and Senate Budget and Taxation Committee by October 1, 2011, concerning actions taken and plans made to implement a fully automated voter registration system at the Motor Vehicle Administration.

(c) The report submitted under this section shall include:

(1) a detailed timeline for complete implementation of a fully automated voter registration system at the Motor Vehicle Administration;

(2) a detailed estimate of the fiscal impact of implementing a fully automated voter registration system; and

(3) any other issues relating to the implementation of a fully automated voter registration system that the State Board of Elections and the Motor Vehicle Administration consider relevant.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 290

(Senate Bill 787)

AN ACT concerning

Juvenile Services – Services and Programs for Females

FOR the purpose of requiring the Department of Juvenile Services to ~~serve children in the juvenile services system with programming that provides females with certain services and programs; requiring the Department to~~ provide a certain report to the General Assembly on or before a certain date; requiring the report to include certain information; and generally relating to juvenile services.

~~BY repealing and reenacting, with amendments,~~
~~Article – Human Services~~
~~Section 9–238.1~~
~~Annotated Code of Maryland~~
~~(2007 Volume and 2010 Supplement)~~

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

~~**Article – Human Services**~~

~~9–238.1.~~

~~(a) The Department shall serve children in the juvenile services system with programming that:~~

~~(1) ensures the safety of the community and the children served;~~

~~(2) holds delinquent children accountable to victims and communities;~~

~~(3) assists children to develop competencies to become successful members of society;~~

~~(4) delivers services on a regional basis through at least four operational regions;~~

~~(5) (i) ensures that each committed facility owned by the Department serves no more than 48 children at one time; and~~

~~(ii) ensures that each committed facility licensed by the Department serves no more than 48 children at one time, unless the Secretary finds good cause for a committed facility licensed by the Department to serve more than 48 children at one time; **[**and**]**~~

~~(6) uses detention and committed facilities that are operationally separate from each other and that do not share common program space, including dining halls and educational or recreational facilities**; AND**~~

~~**(7) PROVIDES FEMALES WITH A RANGE AND QUALITY OF SERVICES AND PROGRAMS SUBSTANTIALLY EQUIVALENT TO THOSE OFFERED TO MALES.**~~

~~(b) A region shall:~~

~~(1) include at least one secure facility used solely for children pending court disposition and children awaiting placement after disposition;~~

~~(2) except for specialized services as provided in subsection (c) of this section, include a number of committed facilities estimated to be necessary to diagnose, care for, train, educate, and properly rehabilitate every child from the region in the custody of the Department; and~~

~~(3) include a nonpublic facility only if the Department determines that the facility:~~

~~(i) has provided or will efficiently and effectively provide adequate care for the children placed in the facility; and~~

~~(ii) has demonstrated or will demonstrate a record of success based on standards promulgated by the Department.~~

~~(c) The Department may place a child into a committed facility outside the child's region if a determination is made by the Department that specialized services for the child require the placement in the best interests of the child.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That~~:

(a) On or before ~~January 1, 2012~~ December 1, 2011, the Department of Juvenile Services shall report to the General Assembly, in accordance with § 2–1246 of the State Government Article, on the manner in which the Department will use existing resources to ensure that females receive services that are substantially equivalent to those offered to males in fiscal 2013 and subsequent years.

(b) The report shall include statewide and regional information on the utilization of:

(1) prevention and diversion services;

(2) alternatives to detention, including day and evening reporting and shelter care;

(3) the continuum of services for those committed to the Department for probation or residential placement, including evidence–based programs; and

(4) educational and vocational training services.

SECTION ~~3.~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 291

(House Bill 511)

AN ACT concerning

Juvenile Services – Services and Programs for Females

FOR the purpose of requiring the Department of Juvenile Services to ~~serve children in the juvenile services system with programming that provides females with certain services and programs; requiring the Department to~~ provide a certain report to the General Assembly on or before a certain date; requiring the report to include certain information; and generally relating to juvenile services.

~~BY repealing and reenacting, with amendments,~~
~~Article – Human Services~~
~~Section 9–238.1~~
~~Annotated Code of Maryland~~
~~(2007 Volume and 2010 Supplement)~~

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

~~**Article – Human Services**~~

~~9–238.1.~~

~~(a) The Department shall serve children in the juvenile services system with programming that:~~

~~(1) ensures the safety of the community and the children served;~~

~~(2) holds delinquent children accountable to victims and communities;~~

~~(3) assists children to develop competencies to become successful members of society;~~

~~(4) delivers services on a regional basis through at least four operational regions;~~

~~(5) (i) ensures that each committed facility owned by the Department serves no more than 48 children at one time; and~~

~~(ii) ensures that each committed facility licensed by the Department serves no more than 48 children at one time, unless the Secretary finds good cause for a committed facility licensed by the Department to serve more than 48 children at one time; [and]~~

~~(6) uses detention and committed facilities that are operationally separate from each other and that do not share common program space, including dining halls and educational or recreational facilities; AND~~

~~(7) PROVIDES FEMALES WITH A RANGE AND QUALITY OF SERVICES AND PROGRAMS SUBSTANTIALLY EQUIVALENT TO THOSE OFFERED TO MALES.~~

~~(b) A region shall:~~

~~(1) include at least one secure facility used solely for children pending court disposition and children awaiting placement after disposition;~~

~~(2) except for specialized services as provided in subsection (c) of this section, include a number of committed facilities estimated to be necessary to diagnose, care for, train, educate, and properly rehabilitate every child from the region in the custody of the Department; and~~

~~(3) include a nonpublic facility only if the Department determines that the facility:~~

~~(i) has provided or will efficiently and effectively provide adequate care for the children placed in the facility; and~~

~~(ii) has demonstrated or will demonstrate a record of success based on standards promulgated by the Department.~~

~~(c) The Department may place a child into a committed facility outside the child's region if a determination is made by the Department that specialized services for the child require the placement in the best interests of the child.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That~~:

(a) On or before ~~January 1, 2012~~ December 1, 2011, the Department of Juvenile Services shall report to the General Assembly, in accordance with § 2–1246 of the State Government Article, on the manner in which the Department will use existing resources to ensure that females receive services that are substantially equivalent to those offered to males in fiscal 2013 and subsequent years.

(b) The report shall include statewide and regional information on the utilization of:

(1) prevention and diversion services;

(2) alternatives to detention, including day and evening reporting and shelter care;

(3) the continuum of services for those committed to the Department for probation or residential placement, including evidence–based programs; and

(4) educational and vocational training services.

SECTION ~~3.~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 292

(Senate Bill 806)

AN ACT concerning

Election Law – Online Voter Registration

FOR the purpose of authorizing an individual to apply to become a registered voter through an online voter registration system; ~~requiring~~ authorizing the State Board of Elections to operate an online voter registration system that allows an individual to apply to register to vote and make certain changes in the individual's existing voter registration record; requiring an individual who applies to register to vote through the online voter registration system, or who makes certain changes in the individual's existing voter registration record through the online voter registration system, to follow certain procedures and provide certain information; requiring the Motor Vehicle Administration to transmit to the State Board an electronic copy of the signature of an individual who submits a voter registration application through the online voter registration system within a certain period of time; authorizing the State Board to take certain actions to ensure the accuracy and integrity of voter registration applications submitted through the online voter registration system; authorizing the State Board to adopt regulations as necessary to administer the online voter registration system; clarifying that notification of a change of party affiliation or a change to or from a decline may be made by certain methods, including through the online voter registration system; making conforming changes; requiring that not more than a certain amount of the funds in the Fair Campaign Financing Fund be transferred to the State Board of Elections for certain fiscal years for the purpose of implementing an online voter registration system; requiring that funds transferred from the Fair Campaign Financing Fund be used to pay certain costs that would otherwise be paid by local

governments; requiring that any funds transferred from the Fair Campaign Financing Fund that are not used to implement an online voter registration system revert to the Fair Campaign Financing Fund; and generally relating to online voter registration.

BY repealing and reenacting, with amendments,
Article – Election Law
Section 3–201 and 3–303
Annotated Code of Maryland
(2010 Replacement Volume)

BY adding to
Article – Election Law
Section 3–204.1
Annotated Code of Maryland
(2010 Replacement Volume)

BY repealing and reenacting, without amendments,
Chapter 487 of the Acts of the General Assembly of 2009, as amended by Chapter 484 of the Acts of the General Assembly of 2010
Section 38(a) and (c)

BY adding to
Chapter 487 of the Acts of the General Assembly of 2009, as amended by Chapter 484 of the Acts of the General Assembly of 2010
Section 38(l)

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

Article – Election Law

3–201.

(a) An individual may apply to become a registered voter:

(1) at a local board office or the State Board office;

(2) at a registration site administered by a local board;

(3) by mail;

(4) when applying to the Motor Vehicle Administration for the issuance, renewal, or modification of a driver's license or identification card;

(5) when applying for services at a voter registration agency; **[**or**]**

(6) THROUGH THE STATE BOARD'S ONLINE VOTER REGISTRATION SYSTEM; OR

[(6)**] (7)** with the assistance of a volunteer authorized by the State or local board.

(b) An individual who is at least 18 years old or will be 18 years old on or before the day of the next succeeding general or special election may be a volunteer under subsection **[**(a)(6)**](A)(7)** of this section.

3–204.1.

(A) THE STATE BOARD ~~SHALL~~ MAY OPERATE AN ONLINE VOTER REGISTRATION SYSTEM THAT ALLOWS AN INDIVIDUAL TO ELECTRONICALLY:

(1) APPLY TO BECOME A REGISTERED VOTER; OR

(2) CHANGE THE INDIVIDUAL'S NAME, ADDRESS, OR PARTY AFFILIATION IN THE INDIVIDUAL'S EXISTING VOTER REGISTRATION RECORD.

(B) TO APPLY TO REGISTER TO VOTE THROUGH THE ONLINE VOTER REGISTRATION SYSTEM, AN INDIVIDUAL SHALL:

(1) COMPLETE THE ELECTRONIC VOTER REGISTRATION APPLICATION;

(2) AFFIRMATIVELY ATTEST, SUBJECT TO THE PENALTIES OF PERJURY, THAT THE INFORMATION CONTAINED IN THE VOTER REGISTRATION APPLICATION IS TRUE AND THAT THE APPLICANT MEETS ALL OF THE QUALIFICATIONS TO BECOME A REGISTERED VOTER;

(3) PROVIDE ONE OF THE FOLLOWING:

(I) A MARYLAND DRIVER'S LICENSE NUMBER OR MARYLAND IDENTIFICATION CARD NUMBER; OR

(II) IF THE INDIVIDUAL IS AN ABSENT UNIFORMED SERVICES VOTER OR OVERSEAS VOTER AS DEFINED IN THE FEDERAL UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTING ACT AND DOES NOT HAVE A MARYLAND DRIVER'S LICENSE OR MARYLAND IDENTIFICATION CARD, A SOCIAL SECURITY NUMBER; AND

(4) AFFIRMATIVELY CONSENT TO THE USE OF ONE OF THE FOLLOWING AS THE INDIVIDUAL'S SIGNATURE FOR THE APPLICATION BEING SUBMITTED:

(I) THE ELECTRONIC COPY OF THE INDIVIDUAL'S SIGNATURE THAT IS ON FILE WITH THE MOTOR VEHICLE ADMINISTRATION; OR

(II) THE INDIVIDUAL'S SOCIAL SECURITY NUMBER.

(C) TO CHANGE AN INDIVIDUAL'S NAME, ADDRESS, OR PARTY AFFILIATION IN THE INDIVIDUAL'S EXISTING VOTER REGISTRATION RECORD, AN INDIVIDUAL SHALL:

(1) COMPLETE THE ELECTRONIC VOTER REGISTRATION APPLICATION;

(2) AFFIRMATIVELY ATTEST, SUBJECT TO THE PENALTIES OF PERJURY, THAT THE INFORMATION CONTAINED IN THE VOTER REGISTRATION APPLICATION IS TRUE AND THAT THE APPLICANT MEETS ALL OF THE QUALIFICATIONS TO BE A REGISTERED VOTER;

(3) PROVIDE ONE OF THE FOLLOWING:

(I) A MARYLAND DRIVER'S LICENSE NUMBER OR MARYLAND IDENTIFICATION CARD NUMBER;

(II) A MARYLAND VOTER IDENTIFICATION NUMBER ON THE INDIVIDUAL'S VOTER NOTIFICATION CARD; OR

(III) IF THE INDIVIDUAL IS AN ABSENT UNIFORMED SERVICES VOTER OR OVERSEAS VOTER AS DEFINED IN THE FEDERAL UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTING ACT AND DOES NOT HAVE A MARYLAND DRIVER'S LICENSE OR MARYLAND IDENTIFICATION CARD, A SOCIAL SECURITY NUMBER; AND

(4) AFFIRMATIVELY CONSENT TO THE USE OF ONE OF THE FOLLOWING AS THE INDIVIDUAL'S SIGNATURE FOR THE APPLICATION BEING SUBMITTED:

(I) THE ELECTRONIC COPY OF THE INDIVIDUAL'S SIGNATURE THAT IS ON FILE WITH THE MOTOR VEHICLE ADMINISTRATION;

(II) THE ELECTRONIC COPY OF THE INDIVIDUAL'S SIGNATURE THAT IS ON FILE IN THE STATEWIDE VOTER REGISTRATION LIST; OR

(III) THE INDIVIDUAL'S SOCIAL SECURITY NUMBER.

(D) THE MOTOR VEHICLE ADMINISTRATION SHALL TRANSMIT AN ELECTRONIC COPY OF AN INDIVIDUAL'S DRIVER'S LICENSE OR IDENTIFICATION CARD SIGNATURE TO THE STATE BOARD WITHIN 5 DAYS OF BEING NOTIFIED BY THE STATE BOARD THAT THE INDIVIDUAL SUBMITTED A VOTER REGISTRATION APPLICATION THROUGH THE ONLINE VOTER REGISTRATION SYSTEM.

(E) THE STATE BOARD MAY:

(1) TAKE ANY ADDITIONAL MEASURES IT DEEMS NECESSARY TO ENSURE THE INTEGRITY AND ACCURACY OF VOTER REGISTRATION APPLICATIONS SUBMITTED THROUGH THE ONLINE VOTER REGISTRATION SYSTEM; AND

(2) ADOPT ANY REGULATIONS NECESSARY TO ADMINISTER THE ONLINE VOTER REGISTRATION SYSTEM.

3–303.

(a) **[**A local board, at the signed request of a registered voter, shall change that voter's party affiliation, or change the voter to or from a decline, at any time that registration is open.**] NOTIFICATION OF A CHANGE OF PARTY AFFILIATION OR A CHANGE TO OR FROM A DECLINE MAY BE MADE:**

(1) BY INFORMATION PROVIDED ON A VOTER REGISTRATION APPLICATION BY THE SAME METHODS PROVIDED FOR REGISTRATION UNDER SUBTITLE 2 OF THIS TITLE;

(2) BY WRITTEN NOTICE, SIGNED BY THE VOTER AND SENT BY MAIL OR OTHERWISE DELIVERED TO THE LOCAL BOARD IN THE COUNTY WHERE THE VOTER'S CURRENT VOTER REGISTRATION ADDRESS IS LOCATED OR TO WHICH THE VOTER HAS MOVED;

(3) BY MAKING APPLICATION IN PERSON AT THE OFFICE OF THE LOCAL BOARD IN THE COUNTY WHERE THE VOTER'S CURRENT VOTER REGISTRATION ADDRESS IS LOCATED OR TO WHICH THE VOTER HAS MOVED;

(4) BY INFORMATION ON A VOTER AUTHORITY CARD OR OTHER APPROPRIATE FORM FILLED OUT IN A POLLING PLACE; OR

(5) BY CHANGING A NAME OR ADDRESS WITH THE MOTOR VEHICLE ADMINISTRATION.

(B) PARTY AFFILIATION CHANGES OR CHANGES TO OR FROM A DECLINE:

(1) SHALL BE PROCESSED AT ANY TIME THAT REGISTRATION IS OPEN; AND

(2) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, MAY NOT BE PROCESSED WHEN REGISTRATION IS CLOSED.

[(b)**] (C)** If a local board receives a request for a party affiliation change after the close of registration, the local board shall make the change and it shall become effective for the next election provided:

(1) there is sufficient evidence, as determined by the local boards pursuant to regulations adopted by the State Board, that the request was mailed on or before the close of registration for that election; or

(2) the request was submitted by the voter to the Motor Vehicle Administration, a voter registration agency, another local board, or the State Board on or before the close of registration for that election.

Chapter 487 of the Acts of 2009, as amended by Chapter 484 of the Acts of 2010

SECTION 38. AND BE IT FURTHER ENACTED, That, notwithstanding any other provision of law:

(a) The General Assembly finds that the Fair Campaign Financing Fund established under § 15–103 of the Election Law Article cannot operate as originally contemplated.

(c) A transfer under this section may not reduce the balance in the Fund below $1,000,000.

(L) (1) SUBJECT TO SUBSECTION (C) OF THIS SECTION, FOR FISCAL YEAR 2012 AND FISCAL YEAR 2013, A CUMULATIVE SUM IN THE AMOUNT OF NOT MORE THAN $250,000 OF THE BALANCE IN THE FUND SHALL BE TRANSFERRED TO THE STATE BOARD OF ELECTIONS FOR THE PURPOSE OF IMPLEMENTING AN ONLINE VOTER REGISTRATION SYSTEM.

(2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, FUNDS TRANSFERRED UNDER THIS SUBSECTION SHALL BE USED TO PAY COSTS ASSOCIATED WITH IMPLEMENTATION OF AN ONLINE VOTER REGISTRATION SYSTEM THAT WOULD OTHERWISE BE PAID BY LOCAL GOVERNMENTS.

(3) ANY FUNDS TRANSFERRED FROM THE FAIR CAMPAIGN FINANCING FUND TO THE STATE BOARD OF ELECTIONS UNDER THIS SUBSECTION THAT ARE NOT USED TO PAY THE COST OF IMPLEMENTING AN ONLINE VOTER REGISTRATION SYSTEM MAY NOT BE RETAINED BY THE STATE BOARD OF ELECTIONS AND SHALL REVERT TO THE FAIR CAMPAIGN FINANCING FUND.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 293

(House Bill 740)

AN ACT concerning

Election Law – Online Voter Registration

FOR the purpose of authorizing an individual to apply to become a registered voter through an online voter registration system; ~~requiring~~ authorizing the State Board of Elections to operate an online voter registration system that allows an individual to apply to register to vote and make certain changes in the individual's existing voter registration record; requiring an individual who applies to register to vote through the online voter registration system, or who makes certain changes in the individual's existing voter registration record through the online voter registration system, to follow certain procedures and provide certain information; requiring the Motor Vehicle Administration to transmit to the State Board an electronic copy of the signature of an individual who submits a voter registration application through the online voter registration system within a certain period of time; authorizing the State Board to take certain actions to ensure the accuracy and integrity of voter registration applications submitted through the online voter registration system; authorizing the State Board to adopt regulations as necessary to administer the online voter registration system; clarifying that notification of a change of party affiliation or a change to or from a decline may be made by certain methods, including through the online voter registration system; making conforming changes; *requiring that not more than a certain amount of the funds in the Fair Campaign Financing Fund be transferred to the State Board of Elections for certain fiscal years for the purpose of implementing an online voter registration system; requiring that funds transferred from the Fair Campaign Financing Fund be used to pay certain costs that would otherwise be paid by local governments; requiring that any funds transferred from the Fair Campaign*

Financing Fund that are not used to implement an online voter registration system revert to the Fair Campaign Financing Fund; and generally relating to online voter registration.

BY repealing and reenacting, with amendments,
Article – Election Law
Section 3–201 and 3–303
Annotated Code of Maryland
(2010 Replacement Volume)

BY adding to
Article – Election Law
Section 3–204.1
Annotated Code of Maryland
(2010 Replacement Volume)

BY repealing and reenacting, without amendments,
Chapter 487 of the Acts of the General Assembly of 2009, as amended by Chapter 484 of the Acts of the General Assembly of 2010
Section 38(a) and (c)

BY adding to
Chapter 487 of the Acts of the General Assembly of 2009, as amended by Chapter 484 of the Acts of the General Assembly of 2010
Section 38(l)

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

Article – Election Law

3–201.

(a) An individual may apply to become a registered voter:

(1) at a local board office or the State Board office;

(2) at a registration site administered by a local board;

(3) by mail;

(4) when applying to the Motor Vehicle Administration for the issuance, renewal, or modification of a driver's license or identification card;

(5) when applying for services at a voter registration agency; **[**or**]**

(6) THROUGH THE STATE BOARD'S ONLINE VOTER REGISTRATION SYSTEM; OR

[(6)**] (7)** with the assistance of a volunteer authorized by the State or local board.

(b) An individual who is at least 18 years old or will be 18 years old on or before the day of the next succeeding general or special election may be a volunteer under subsection **[**(a)(6)**](A)(7)** of this section.

3–204.1.

(A) THE STATE BOARD ~~SHALL~~ MAY OPERATE AN ONLINE VOTER REGISTRATION SYSTEM THAT ALLOWS AN INDIVIDUAL TO ELECTRONICALLY:

(1) APPLY TO BECOME A REGISTERED VOTER; OR

(2) CHANGE THE INDIVIDUAL'S NAME, ADDRESS, OR PARTY AFFILIATION IN THE INDIVIDUAL'S EXISTING VOTER REGISTRATION RECORD.

(B) TO APPLY TO REGISTER TO VOTE THROUGH THE ONLINE VOTER REGISTRATION SYSTEM, AN INDIVIDUAL SHALL:

(1) COMPLETE THE ELECTRONIC VOTER REGISTRATION APPLICATION;

(2) AFFIRMATIVELY ATTEST, SUBJECT TO THE PENALTIES OF PERJURY, THAT THE INFORMATION CONTAINED IN THE VOTER REGISTRATION APPLICATION IS TRUE AND THAT THE APPLICANT MEETS ALL OF THE QUALIFICATIONS TO BECOME A REGISTERED VOTER;

(3) PROVIDE ONE OF THE FOLLOWING:

(I) A MARYLAND DRIVER'S LICENSE NUMBER OR MARYLAND IDENTIFICATION CARD NUMBER; OR

(II) IF THE INDIVIDUAL IS AN ABSENT UNIFORMED SERVICES VOTER OR OVERSEAS VOTER AS DEFINED IN THE FEDERAL UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTING ACT AND DOES NOT HAVE A MARYLAND DRIVER'S LICENSE OR MARYLAND IDENTIFICATION CARD, A SOCIAL SECURITY NUMBER; AND

(4) AFFIRMATIVELY CONSENT TO THE USE OF ONE OF THE FOLLOWING AS THE INDIVIDUAL'S SIGNATURE FOR THE APPLICATION BEING SUBMITTED:

(I) THE ELECTRONIC COPY OF THE INDIVIDUAL'S SIGNATURE THAT IS ON FILE WITH THE MOTOR VEHICLE ADMINISTRATION; OR

(II) THE INDIVIDUAL'S SOCIAL SECURITY NUMBER.

(C) TO CHANGE AN INDIVIDUAL'S NAME, ADDRESS, OR PARTY AFFILIATION IN THE INDIVIDUAL'S EXISTING VOTER REGISTRATION RECORD, AN INDIVIDUAL SHALL:

(1) COMPLETE THE ELECTRONIC VOTER REGISTRATION APPLICATION;

(2) AFFIRMATIVELY ATTEST, SUBJECT TO THE PENALTIES OF PERJURY, THAT THE INFORMATION CONTAINED IN THE VOTER REGISTRATION APPLICATION IS TRUE AND THAT THE APPLICANT MEETS ALL OF THE QUALIFICATIONS TO BE A REGISTERED VOTER;

(3) PROVIDE ONE OF THE FOLLOWING:

(I) A MARYLAND DRIVER'S LICENSE NUMBER OR MARYLAND IDENTIFICATION CARD NUMBER;

(II) A MARYLAND VOTER IDENTIFICATION NUMBER ON THE INDIVIDUAL'S VOTER NOTIFICATION CARD; OR

(III) IF THE INDIVIDUAL IS AN ABSENT UNIFORMED SERVICES VOTER OR OVERSEAS VOTER AS DEFINED IN THE FEDERAL UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTING ACT AND DOES NOT HAVE A MARYLAND DRIVER'S LICENSE OR MARYLAND IDENTIFICATION CARD, A SOCIAL SECURITY NUMBER; AND

(4) AFFIRMATIVELY CONSENT TO THE USE OF ONE OF THE FOLLOWING AS THE INDIVIDUAL'S SIGNATURE FOR THE APPLICATION BEING SUBMITTED:

(I) THE ELECTRONIC COPY OF THE INDIVIDUAL'S SIGNATURE THAT IS ON FILE WITH THE MOTOR VEHICLE ADMINISTRATION;

(II) THE ELECTRONIC COPY OF THE INDIVIDUAL'S SIGNATURE THAT IS ON FILE IN THE STATEWIDE VOTER REGISTRATION LIST; OR

(III) THE INDIVIDUAL'S SOCIAL SECURITY NUMBER.

(D) THE MOTOR VEHICLE ADMINISTRATION SHALL TRANSMIT AN ELECTRONIC COPY OF AN INDIVIDUAL'S DRIVER'S LICENSE OR IDENTIFICATION CARD SIGNATURE TO THE STATE BOARD WITHIN 5 DAYS OF BEING NOTIFIED BY THE STATE BOARD THAT THE INDIVIDUAL SUBMITTED A VOTER REGISTRATION APPLICATION THROUGH THE ONLINE VOTER REGISTRATION SYSTEM.

(E) THE STATE BOARD MAY:

(1) TAKE ANY ADDITIONAL MEASURES IT DEEMS NECESSARY TO ENSURE THE INTEGRITY AND ACCURACY OF VOTER REGISTRATION APPLICATIONS SUBMITTED THROUGH THE ONLINE VOTER REGISTRATION SYSTEM; AND

(2) ADOPT ANY REGULATIONS NECESSARY TO ADMINISTER THE ONLINE VOTER REGISTRATION SYSTEM.

3–303.

(a) **[**A local board, at the signed request of a registered voter, shall change that voter's party affiliation, or change the voter to or from a decline, at any time that registration is open.**] NOTIFICATION OF A CHANGE OF PARTY AFFILIATION OR A CHANGE TO OR FROM A DECLINE MAY BE MADE:**

(1) BY INFORMATION PROVIDED ON A VOTER REGISTRATION APPLICATION BY THE SAME METHODS PROVIDED FOR REGISTRATION UNDER SUBTITLE 2 OF THIS TITLE;

(2) BY WRITTEN NOTICE, SIGNED BY THE VOTER AND SENT BY MAIL OR OTHERWISE DELIVERED TO THE LOCAL BOARD IN THE COUNTY WHERE THE VOTER'S CURRENT VOTER REGISTRATION ADDRESS IS LOCATED OR TO WHICH THE VOTER HAS MOVED;

(3) BY MAKING APPLICATION IN PERSON AT THE OFFICE OF THE LOCAL BOARD IN THE COUNTY WHERE THE VOTER'S CURRENT VOTER REGISTRATION ADDRESS IS LOCATED OR TO WHICH THE VOTER HAS MOVED;

(4) BY INFORMATION ON A VOTER AUTHORITY CARD OR OTHER APPROPRIATE FORM FILLED OUT IN A POLLING PLACE; OR

(5) BY CHANGING A NAME OR ADDRESS WITH THE MOTOR VEHICLE ADMINISTRATION.

(B) PARTY AFFILIATION CHANGES OR CHANGES TO OR FROM A DECLINE:

(1) SHALL BE PROCESSED AT ANY TIME THAT REGISTRATION IS OPEN; AND

(2) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, MAY NOT BE PROCESSED WHEN REGISTRATION IS CLOSED.

[(b)**] (C)** If a local board receives a request for a party affiliation change after the close of registration, the local board shall make the change and it shall become effective for the next election provided:

(1) there is sufficient evidence, as determined by the local boards pursuant to regulations adopted by the State Board, that the request was mailed on or before the close of registration for that election; or

(2) the request was submitted by the voter to the Motor Vehicle Administration, a voter registration agency, another local board, or the State Board on or before the close of registration for that election.

Chapter 487 of the Acts of 2009, as amended by Chapter 484 of the Acts of 2010

SECTION 38. AND BE IT FURTHER ENACTED, That, notwithstanding any other provision of law:

(a) The General Assembly finds that the Fair Campaign Financing Fund established under § 15–103 of the Election Law Article cannot operate as originally contemplated.

(c) A transfer under this section may not reduce the balance in the Fund below $1,000,000.

(L) (1) SUBJECT TO SUBSECTION (C) OF THIS SECTION, FOR FISCAL YEAR 2012 AND FISCAL YEAR 2013, A CUMULATIVE SUM IN THE AMOUNT OF NOT MORE THAN $250,000 OF THE BALANCE IN THE FUND SHALL BE TRANSFERRED TO THE STATE BOARD OF ELECTIONS FOR THE PURPOSE OF IMPLEMENTING AN ONLINE VOTER REGISTRATION SYSTEM.

(2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, FUNDS TRANSFERRED UNDER THIS SUBSECTION SHALL BE USED TO PAY COSTS ASSOCIATED WITH IMPLEMENTATION OF AN ONLINE VOTER REGISTRATION SYSTEM THAT WOULD OTHERWISE BE PAID BY LOCAL GOVERNMENTS.

(3) ANY FUNDS TRANSFERRED FROM THE FAIR CAMPAIGN FINANCING FUND TO THE STATE BOARD OF ELECTIONS UNDER THIS SUBSECTION THAT ARE NOT USED TO PAY THE COST OF IMPLEMENTING AN ONLINE VOTER REGISTRATION SYSTEM MAY NOT BE RETAINED BY THE STATE BOARD OF ELECTIONS AND SHALL REVERT TO THE FAIR CAMPAIGN FINANCING FUND.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 294

(Senate Bill 821)

AN ACT concerning

Frederick County – Winery Special Event Permits – Farmers' Markets

FOR the purpose of authorizing the issuance of a certain number of additional winery special event permits to certain wineries for use in certain farmers' markets in Frederick County; prohibiting a holder of a permit from selling wine by the glass; requiring that a certain individual who is certified by an alcohol awareness program be present during the hours when wine may be sold; and generally relating to farmers' markets in Frederick County.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 2–101(u)(1)
Annotated Code of Maryland
(2005 Replacement Volume and 2010 Supplement)

BY adding to
Article 2B – Alcoholic Beverages
Section 2–101(u)(9)
Annotated Code of Maryland
(2005 Replacement Volume and 2010 Supplement)

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

Article 2B – Alcoholic Beverages

2–101.

(u) (1) The Office of the Comptroller may issue a winery special event permit to a licensed Class 4 Maryland limited winery, provided that:

(i) Except as provided in paragraphs (6), (7), **[**and**]** (8)**, AND (9)** of this subsection, no more than 12 winery special event permits are issued to the Class 4 Maryland limited winery in any given calendar year;

(ii) The permit does not exceed 3 consecutive days; and

(iii) Except as provided in paragraphs (6), (7), **[**and**]** (8)**, AND (9)** of this subsection, no more than three winery special event permits are issued in any calendar year to any given limited winery for use in the same political subdivision.

(9) (I) IN ADDITION TO THE WINERY SPECIAL EVENT PERMITS THAT MAY BE ISSUED UNDER PARAGRAPH (1)(I) AND (III) OF THIS SUBSECTION, A CLASS 4 MARYLAND LIMITED WINERY MAY BE ISSUED NOT MORE THAN 12 WINERY SPECIAL EVENT PERMITS FOR USE AT FARMERS' MARKETS IN FREDERICK COUNTY THAT ARE LISTED ON THE FARMERS' MARKET DIRECTORY OF THE MARYLAND DEPARTMENT OF AGRICULTURE.

(II) IF A WINERY SPECIAL EVENT PERMIT IS ISSUED UNDER THIS PARAGRAPH:

1. THE HOLDER OF THE PERMIT MAY NOT SELL WINE BY THE GLASS; AND

2. THE FARMERS' MARKET ADMINISTRATOR OR THE ADMINISTRATOR'S DESIGNEE AND THE HOLDER OF THE PERMIT OR THE HOLDER'S DESIGNEE SHALL BE:

A. CERTIFIED BY AN ALCOHOL AWARENESS PROGRAM APPROVED BY THE COMPTROLLER; AND

B. PRESENT DURING THE HOURS WHEN WINE MAY BE SOLD.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 295

(Senate Bill 822)

AN ACT concerning

Maryland Communities for a Lifetime Act

FOR the purpose of establishing the Maryland Communities for a Lifetime Program within the Department of Aging; ~~altering the membership of the Interagency Committee on Aging Services; providing for the term of a representative of a Community for a Lifetime on the Interagency Committee; prohibiting the reappointment of a representative of a Community for a Lifetime for more than a certain number of terms; requiring the Interagency Committee to plan for assisting Communities for a Lifetime annually; altering the composition of local interagency committees; requiring the Secretary of Aging to determine the amount of a grant for a proposed or existing senior activities center capital improvement after considering whether a Community for a Lifetime is affected by the project; requiring the Senior Citizen Activities Center Operating Fund to be used to benefit Communities for a Lifetime in a certain manner;~~ requiring the Secretary of Aging, with the advice of the Innovations in Aging Services Advisory Council, to include provisions for funding grants sought by Communities for a Lifetime within an Innovations in Aging Services Program plan in a certain manner; altering the membership of the Innovations in Aging Services Advisory Council; establishing the purpose of certain provisions of this Act; requiring the Department of Aging~~, in consultation with area agencies on aging and the Interagency Committee on Aging Services, to establish, oversee, and coordinate the Maryland Communities for a Lifetime Program; requiring the Department of Aging~~ to collect and make available certain best practices; authorizing a county or municipal corporation to establish a certification process for Communities for a Lifetime; requiring the Department of Aging to ~~consider~~ recommend certain criteria ~~in its~~ for the certification process for Communities for a Lifetime; requiring a Community for a Lifetime to report to the Department of Aging on certain progress and plans by a certain date each year; ~~requiring a Community for a Lifetime to be considered a priority funding area;~~ defining a certain term; and generally relating to establishing a Maryland Communities for a Lifetime Program.

BY repealing and reenacting, with amendments,
Article – Human Services
Section 10–101, ~~10–302, 10–306, 10–504, 10–514,~~ 10–603, and 10–604
Annotated Code of Maryland
(2007 Volume and 2010 Supplement)

BY repealing and reenacting, without amendments,
Article – Human Services
Section ~~10–301, 10–501, 10–502, and~~ 10–602

Annotated Code of Maryland
(2007 Volume and 2010 Supplement)

BY adding to
Article – Human Services
Section 10–801 through 10–804 to be under the new subtitle "Subtitle 8. Maryland Communities for a Lifetime Program"
Annotated Code of Maryland
(2007 Volume and 2010 Supplement)

~~BY repealing and reenacting, with amendments,~~
~~Article – State Finance and Procurement~~
~~Section 5–7B–02~~
~~Annotated Code of Maryland~~
~~(2009 Replacement Volume and 2010 Supplement)~~

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

Article – Human Services

10–101.

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

(b) "Area agency" means the local agency that the Department designates in accordance with the Older Americans Act of 1965 to administer the delivery of a comprehensive and coordinated plan of social and other services and activities for seniors in a planning and service area.

(C) "COMMUNITY FOR A LIFETIME" MEANS A COMMUNITY CERTIFIED UNDER § 10–804 OF THIS TITLE.

[(c)**] (D)** "Congregate housing services" means services provided in an apartment building that promote independent living for an eligible individual.

[(d)**] (E)** "Department" means the Department of Aging.

[(e)**] (F)** "Interagency Committee" means the unit established in § 10–301 of this title to oversee the coordination and consolidation of services for seniors in the State.

[(f)**] (G)** "Planning and service area" means an area of the State that the Department designates in accordance with the Older Americans Act of 1965 for the planning and administration of social, health, and other services for seniors.

[(g)**] (H)** "Secretary" means the Secretary of Aging.

~~10–301.~~

~~There is an Interagency Committee on Aging Services in the Executive Department.~~

~~10–302.~~

~~(a) The Interagency Committee consists of the following members:~~

~~(1) the Secretary of Aging;~~

~~(2) the Secretary of Disabilities;~~

~~(3) the Secretary of Health and Mental Hygiene;~~

~~(4) the Secretary of Housing and Community Development;~~

~~(5) the Secretary of Human Resources;~~

~~(6) the Secretary of Labor, Licensing, and Regulation;~~

~~(7) the Secretary of Transportation;~~

~~(8) the Secretary of Veterans Affairs;~~

~~(9) the Director of the Governor's Office of the Deaf and Hard of Hearing;~~

~~(10) the Chair of the Commission on Aging;~~

~~(11) a representative from an area agency appointed by the Governor from a list submitted by the Maryland Association of Area Agencies on Aging; **[**and**]**~~

~~**(12) A REPRESENTATIVE OF A COMMUNITY FOR A LIFETIME APPOINTED BY THE GOVERNOR; AND**~~

~~**[**(12)**] (13)** a member of the public appointed by the Governor.~~

~~(b) (1) The term of a member appointed by the Governor under subsection (a)(11) **[**or**]**, (12)**, OR (13)** of this section is 2 years.~~

~~(2) A member appointed by the Governor under subsection (a)(11) **[**or**]**, (12)**, OR (13)** of this section may not be reappointed for more than 2 additional terms.~~

~~10–306.~~

~~(a) (1) The Interagency Committee shall develop and update annually a plan for~~ **ASSISTING COMMUNITIES FOR A LIFETIME AND FOR** ~~providing coordinated health services, social services, transportation, housing, and employment services to seniors in the State consistent with the priorities that the Department establishes.~~

~~(2) If the members of the Interagency Committee cannot agree on a plan, the chair shall refer the matter to the Governor for resolution.~~

~~(b) Annually on or before a date that the Governor sets, the Interagency Committee shall develop and present to the Governor and the General Assembly a consolidated operating budget for services to seniors that:~~

~~(1) sets forth the relevant portions of the operating budget of any unit responsible for services to seniors; and~~

~~(2) is consistent with the plan developed under subsection (a) of this section.~~

~~(c) The Interagency Committee shall establish interagency agreements and adopt regulations to:~~

~~(1) implement and coordinate services to seniors consistent with the plan developed under subsection (a) of this section;~~

~~(2) maximize the sharing of resources among units of State government for services to seniors;~~

~~(3) consolidate planning and evaluation efforts at the State and local levels; and~~

~~(4) coordinate and expedite the delivery of services to seniors by providing technical assistance to local agencies.~~

~~(d) (1) The Interagency Committee shall assist county agencies to establish local interagency committees composed of:~~

~~(i) the directors of the local health department, local department of social services, and area agency;~~ **[**~~and~~**]**

~~**(II) REPRESENTATIVES OF COMMUNITIES FOR A LIFETIME; AND**~~

~~[(ii)] (III) officials from housing, transportation, mental health, employment, and economic development agencies.~~

~~(2) Local interagency committees shall coordinate and expedite the delivery of services to seniors at the local level.~~

~~10–501.~~

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

~~(b) "Capital equipment" means essential fixed equipment and furnishings with an expected useful life of at least 15 years.~~

~~(c) (1) "Cost" means all expenses incident to the construction, acquisition, conversion, renovation, or improvement of a project.~~

~~(2) "Cost" includes:~~

~~(i) the cost to acquire any interest in real or personal property in connection with a project;~~

~~(ii) the cost of financial, technical, professional, engineering, and legal services in connection with a project whether the expenses are incurred before or after any bond, note, or other evidence of indebtedness or obligation is issued by the State to finance the project;~~

~~(iii) the cost of development of a senior citizen activities center master plan; and~~

~~(iv) the cost of plans, specifications, surveys, estimates of costs and revenues, feasibility or practicability reports, machinery, equipment, and administrative expenses, and other expenses that are necessary and incident to the financing authorized for the project.~~

~~(d) "Grant" means a grant from the State under the Program.~~

~~(e) "Improvement" means construction, replacement, extension, or betterment of a project or real property.~~

~~(f) "Master plan" means a comprehensive plan for a local government's projected need for funds for senior citizen activities centers over 15 years.~~

~~(g) "Program" means the Senior Citizen Activities Centers Capital Improvement Grants Program.~~

~~(h) "Project" means a proposed or existing senior citizen activities center that:~~

~~(1) receives or has received a grant for work that is eligible under this part;~~

~~(2) is operated under the authority of a unit of local government; and~~

~~(3) is:~~

~~(i) wholly owned by the unit of local government; or~~

~~(ii) leased by a unit of local government if:~~

~~1. the lease is for a minimum term of 15 years after completion of the project or gives the lessee the right of purchase; and~~

~~2. the lessor consents to the recording of a notice of the right of recovery under § 10–506 of this subtitle in the land records of the county in which the facility is located.~~

~~(i) "Senior citizen activities center" means a community or neighborhood facility in which a broad spectrum of services are organized and provided to individuals at least 60 years old or their spouses, including health, social, nutritional, educational, and recreational services.~~

~~10–502.~~

~~(a) A unit of local government may apply to the Secretary for a grant for the cost of:~~

~~(1) planning, design, construction, acquisition, conversion, renovation, or improvement of a project;~~

~~(2) developing a master plan;~~

~~(3) purchasing capital equipment for a project;~~

~~(4) leasing a project as a lessee or lessor; or~~

~~(5) making a subgrant to a nonprofit organization for a purpose described in item (1), (2), (3), or (4) of this subsection.~~

~~(b) If the Secretary approves an application for a grant, the Secretary shall file with the Board of Public Works a report describing the scope of the project and a recommendation that the Board make the requested funds available.~~

~~10–504.~~

~~(a) (1) Any federal grant that is received for a project shall be applied first to the cost of the project.~~

~~(2) Except as provided in subsection (b) of this section, a State grant for a project may not exceed the lesser of $800,000 or 50% of the cost of eligible work remaining unpaid after any federal grant is applied.~~

~~(3) A State grant to develop a master plan may not exceed the lesser of $15,000 or 50% of the cost of development of the plan.~~

~~(b) The Board of Public Works may authorize a grant for a project that exceeds 50% of the cost of eligible work remaining unpaid after any federal grant is applied, if:~~

~~(1) the project involves the conversion, acquisition, renovation, construction, or improvement of a building for use as a senior citizen activities center;~~

~~(2) the value of real property and existing improvements made available by the local government equals or exceeds the amount of the State grant; and~~

~~(3) the residual value of the real property and existing improvements made available by the local government exceeds the sum of:~~

~~(i) any prior amounts used for matching funds under this Program;~~

~~(ii) any outstanding State debt relating to the property from another program;~~

~~(iii) any prior grant under this Program; and~~

~~(iv) any other tangible State investment in the property.~~

~~(c) The amount of a State grant for a project shall be determined after consideration of:~~

~~(1) the density of the senior population in the area affected by the project;~~

~~(2) the proximity of the proposed center to an existing senior citizen activities center; [and]~~

~~**(3) WHETHER A COMMUNITY FOR A LIFETIME IS AFFECTED BY THE PROJECT; AND**~~

~~[(3)]~~ ~~(4)~~ ~~other localities eligible for State funding that have not received previous funding under the Program or similar programs.~~

~~(d) A grantee who received funds for a project under this subtitle or a prior act authorizing grants for senior citizen activities centers may receive additional grants for the project, but only in an amount that does not exceed the difference between the sum of any prior grants and the maximum funding allowable.~~

~~10–514.~~

~~(a) There is a Senior Citizen Activities Center Operating Fund.~~

~~(b) The Fund shall be used to supplement, but may not be used to supplant, any existing funding for senior citizen activities centers in the State budget.~~

~~(C) TO THE EXTENT PRACTICABLE, THE FUND SHALL BE USED TO INCREASE THE ABILITY OF SENIORS LIVING IN COMMUNITIES FOR A LIFETIME TO AGE IN PLACE.~~

10–602.

(a) There is an Innovations in Aging Services Program in the Department.

(b) The purposes of the Program are to:

(1) provide competitive funding grants to design and test innovative ideas in programs and services for seniors;

(2) publicly disseminate the results of the tests; and

(3) help meet the need for personnel trained to provide services to seniors in the State.

10–603.

(a) (1) With the advice of the Council, the Secretary shall:

(i) develop annually a Program plan; and

(ii) submit the plan to the Governor and General Assembly for approval as part of the annual State budget.

(2) The plan shall set forth priorities for:

(i) funding grants for innovative services to seniors; and

(ii) training personnel who provide services to seniors in the State.

(3) The plan shall include provisions for**:**

(I) FUNDING GRANTS THAT ARE SOUGHT BY COMMUNITIES FOR A LIFETIME TO THE EXTENT PRACTICABLE; AND

(II) evaluating any program funded under the plan.

(b) The Secretary may accept money from any public or private source to fund grants awarded under this subtitle.

10–604.

(a) There is an Innovations in Aging Services Advisory Council in the Department.

(b) The Council consists of the following **[**14**] 15** members:

(1) the Secretary of Aging;

(2) the chair of the Maryland Commission on Aging or the chair's designee;

(3) the Secretary of Health and Mental Hygiene or the Secretary's designee;

(4) one member of the Senate of Maryland, appointed by the President of the Senate;

(5) one member of the Maryland House of Delegates, appointed by the Speaker; and

(6) the following **[**nine**] 10** members appointed by the Secretary of Aging:

(i) five representatives of organizations providing services to seniors;

(ii) two representatives of senior consumers of services to seniors;

(iii) a director of an area agency; **[**and**]**

(IV) A REPRESENTATIVE OF A COMMUNITY FOR A LIFETIME; AND

[(iv)**] (V)** a representative of the University of Maryland ***CENTER ON AGING***.

(c) The Secretary is the chair of the Council.

(d) (1) The term of a member of the Council is 4 years.

(2) The terms of the members appointed by the Secretary are staggered as required by the terms provided for members of the Council on October 1, 2007.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

SUBTITLE 8. MARYLAND COMMUNITIES FOR A LIFETIME PROGRAM.

10–801.

THE PURPOSE OF THIS SUBTITLE IS TO:

(1) ESTABLISH A COMPREHENSIVE, STRATEGIC STATE PLAN TO ADDRESS THE AGING–IN–PLACE PREFERENCE OF CURRENT AND FUTURE SENIORS;

(2) ~~DIRECT FINANCIAL AND REGULATORY INCENTIVES~~ PROVIDE AVAILABLE RESOURCES TO LOCAL COMMUNITIES TO ENHANCE AGING–IN–PLACE SERVICES AND FACILITATE THE INDEPENDENCE OF OLDER ADULTS; AND

(3) PROMOTE A STATE AGING–IN–PLACE PROGRAM THAT OVERCOMES BARRIERS IN HOUSING, TRANSPORTATION, HEALTH CARE, EMPLOYMENT, AND SOCIAL AND CIVIC ENGAGEMENT.

10–802.

THERE IS A MARYLAND COMMUNITIES FOR A LIFETIME PROGRAM IN THE DEPARTMENT.

10–803.

THE DEPARTMENT SHALL~~, IN CONSULTATION WITH AREA AGENCIES AND THE INTERAGENCY COMMITTEE, ESTABLISH, OVERSEE, AND COORDINATE THE MARYLAND COMMUNITIES FOR A LIFETIME PROGRAM~~ COLLECT AND MAKE AVAILABLE BEST PRACTICES ON POLICIES TO ENCOURAGE AGING–IN–PLACE.

10–804.

(A) ~~THE DEPARTMENT SHALL~~ A COUNTY OR MUNICIPAL CORPORATION MAY ESTABLISH A PROCESS TO CERTIFY COMMUNITIES AS COMMUNITIES FOR A LIFETIME UNDER THE MARYLAND COMMUNITIES FOR A LIFETIME PROGRAM.

(B) THE DEPARTMENT SHALL ~~INCLUDE THE FOLLOWING~~ RECOMMEND CRITERIA ~~IN ITS CERTIFICATION PROCESS FOR~~ THAT LOCAL JURISDICTIONS MAY USE TO CERTIFY COMMUNITIES FOR A LIFETIME, INCLUDING:

(1) THE EXTENT TO WHICH A COMMUNITY HAS SOUGHT AND PLANS TO EXPAND PUBLIC HEALTH, PREVENTION, AND WELLNESS PROGRAMS THAT SERVE OLDER ADULTS;

(2) THE EXTENT TO WHICH A COMMUNITY HAS SOUGHT AND PLANS TO EXPAND AFFORDABLE TRANSPORTATION OPTIONS;

(3) THE EXTENT TO WHICH A COMMUNITY HAS SOUGHT AND PLANS TO EXPAND AFFORDABLE RENTAL HOUSING AND THE ABILITY TO OWN AFFORDABLE HOMES;

(4) THE EXTENT TO WHICH A COMMUNITY HAS SOUGHT AND PLANS TO EXPAND EMPLOYMENT, CIVIC ENGAGEMENT, RECREATION, AND LEISURE OPTIONS FOR OLDER ADULTS; AND

(5) THE EXTENT TO WHICH A COMMUNITY HAS SOUGHT AND PLANS TO EXPAND OTHER INITIATIVES THAT BOOST THE ABILITIES OF OLDER ADULTS TO AGE IN PLACE.

(C) A COMMUNITY FOR A LIFETIME SHALL SUBMIT TO THE DEPARTMENT ON OR BEFORE SEPTEMBER 1 EACH YEAR A PROGRESS REPORT ON THE COMMUNITY'S EFFORTS TO ENABLE AGING IN PLACE AND A REPORT ON THE COMMUNITY'S PLANS TO ENABLE AGING IN PLACE IN THE FUTURE.

~~**Article – State Finance and Procurement**~~

~~**5–7B–02.**~~

~~The following areas shall be considered priority funding areas under this subtitle:~~

~~(1) a municipal corporation, including Baltimore City, except that:~~

~~(i) those areas annexed by a municipal corporation after January 1, 1997 but before October 1, 2006 shall satisfy requirements relating to density and service by water and sewer set forth in § 5–7B–03 of this subtitle; and~~

~~(ii) those areas annexed by a municipal corporation after September 30, 2006, shall satisfy all of the requirements set forth in § 5–7B–03 of this subtitle;~~

~~(2) a designated neighborhood, as defined in § 6–301 of the Housing and Community Development Article;~~

~~(3) an enterprise zone as designated under Title 5, Subtitle 7 of the Economic Development Article, or by the United States government;~~

~~(4) a certified heritage area as defined in §§ 13–1101 and 13–1111 of the Financial Institutions Article that is located within a locally designated growth area;~~

~~(5) those areas of the State located between Interstate Highway 495 and the District of Columbia;~~

~~(6) those areas of the State located between Interstate Highway 695 and Baltimore City; **[**and**]**~~

~~(7) an area designated by the governing body of a county or municipal corporation under § 5–7B–03 of this subtitle**; AND**~~

~~**(8) A COMMUNITY FOR A LIFETIME UNDER TITLE 10, SUBTITLE 8 OF THE HUMAN SERVICES ARTICLE.**~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 296

(Senate Bill 836)

AN ACT concerning

Baltimore City – 45th District – Alcoholic Beverages – ~~Class C~~ Licenses

FOR the purpose of authorizing the Board of Liquor License Commissioners for Baltimore City to issue a Class C beer, wine and liquor license in the 45th alcoholic beverages district; authorizing the holder of a Class A license to exercise off–sale privileges on a certain number of additional Sundays during a calendar year; requiring that a certain license fee be paid before a certain time; increasing the number of Sundays during which certain Class D licensees may sell alcoholic beverages during a calendar year; making a certain stylistic change; and generally relating to alcoholic beverages in Baltimore City.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 9–204.1(a), (b), (c), and (d)(1) and 11–503(a)
Annotated Code of Maryland
(2005 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 9–204.1(d)(2), 11–403(a)(3), and 11–503(b)(2)(i)
Annotated Code of Maryland
(2005 Replacement Volume and 2010 Supplement)

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

Article 2B – Alcoholic Beverages

9–204.1.

(a) In this section, "Board" means the Board of Liquor License Commissioners for Baltimore City.

(b) This section applies only in Baltimore City.

(c) The alcoholic beverages districts described in this section at all times shall be coterminous with the legislative districts in the Legislative Districting Plan of 2002 as ordered by the Maryland Court of Appeals on June 21, 2002.

(d) (1) Except as provided in paragraph (2) of this subsection, new licenses for the sale of alcoholic beverages may not be issued in the following areas:

(i) The 40th alcoholic beverages district (entire district);

(ii) The 41st alcoholic beverages district (entire district);

(iii) The 43rd alcoholic beverages district (entire district);

(iv) The 44th alcoholic beverages district (entire district);

(v) The 45th alcoholic beverages district (entire district); and

(vi) The 46th alcoholic beverages district (entire district).

(2) The Board may issue:

(i) Special 1–day licenses; **[**or**]**

(ii) Class B beer, wine and liquor restaurant licenses to bona fide restaurants having:

1. A minimum capital investment, not including the cost of land and buildings, of $200,000 for restaurant facilities except in the 46th alcoholic beverages district;

2. A minimum seating capacity of 75 persons; and

3. Additional requirements for Class B beer, wine and liquor licenses issued in the 46th alcoholic beverages district as provided in § 6–201(d) of this article**; OR**

(III) A CLASS C BEER, WINE AND LIQUOR LICENSE IN THE 45TH ALCOHOLIC BEVERAGES DISTRICT.

11–403.

(a) (3) (i) Except for the Class B Sunday off–sale license prohibition in the 47th alcoholic beverages district in Baltimore City as provided for in § 6–201(d) of this article, in Baltimore City a Class B and a Class C beer and light wine or beer, wine and liquor licensee may sell alcoholic beverages at a bar or counter on Sunday.

(ii) 1. Subject to the conditions provided in **SUBSUBPARAGRAPH 2 OF** this subparagraph **AND IN ADDITION TO SUBPARAGRAPH (III) OF THIS PARAGRAPH**, in Baltimore City, a holder of a Class A retail alcoholic beverages license may exercise the off–sale license privilege on the Sundays that fall between Thanksgiving Day and New Year's Day from 1 p.m. to 9 p.m.

2. The holder of a Class A retail off–sale license may exercise the additional privilege authorized by this subparagraph in any year in which a supplementary license fee of $75 has been paid prior to October 1 for each day the additional privilege is to be exercised.

(III) 1. THE HOLDER OF A CLASS A RETAIL ALCOHOLIC BEVERAGES LICENSE IN BALTIMORE CITY MAY EXERCISE THE OFF–SALE PRIVILEGE ON TWO ADDITIONAL SUNDAYS DURING THE CALENDAR YEAR.

2. A HOLDER SHALL PAY A LICENSE FEE OF $75 AT LEAST 2 WEEKS BEFORE EACH TIME THE PRIVILEGE IS EXERCISED UNDER THIS SUBPARAGRAPH.

11–503.

(a) In Baltimore City an amusement license shall authorize the holder thereof to keep for sale and sell all alcoholic beverages at all hours except between the hours of 2 o'clock a.m. and 6 o'clock a.m. of each day.

(b) (2) (i) The Board may issue a supplemental license no more than **[**two**]** **FOUR** times during any calendar year to a holder of a Class D beer, wine and liquor license authorizing the holder to sell alcoholic beverages between the hours of 6 a.m. on Sunday and 1 a.m. the following day.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 297

(Senate Bill 839)

AN ACT concerning

Counties – Kennel Licenses – Requirements for Breeders

FOR the purpose of requiring a certain person to obtain a kennel license under certain circumstances; requiring each county to collect and maintain certain information for each kennel license issued; requiring each county to report certain information to the Department of Labor, Licensing, and Regulation on or before a certain date each year; authorizing a county to establish additional kennel license fees to cover certain costs; providing for the construction of this Act; and generally relating to kennel license requirements.

BY repealing and reenacting, with amendments,
Article 24 – Political Subdivisions – Miscellaneous Provisions
Section 11–501(a)

Annotated Code of Maryland
(2005 Replacement Volume and 2010 Supplement)

BY adding to
Article 24 – Political Subdivisions – Miscellaneous Provisions
Section 11–501(a–1)
Annotated Code of Maryland
(2005 Replacement Volume and 2010 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

11–501.

(a) Except in Calvert County, Carroll County, Cecil County, Montgomery County, Howard County, Talbot County, and Washington County, on or before the first day of July of each year, the owner of any dog, six months old or over, shall apply either orally or in writing, to the county treasurer or to the tax collecting officer in said county for a license for each such dog owned or kept by him, and such application shall be accompanied by a fee of one dollar ($1.00) for each male dog or each spayed female dog, and a fee of two dollars ($2.00) for each unspayed female dog, and provided that kennel license shall be issued for ten dollars ($10.00) to persons owning or keeping not in excess of twenty–five dogs and that a kennel license fee of twenty dollars ($20.00) shall be issued to persons keeping more than twenty–five dogs. **[**The**]** **EXCEPT AS PROVIDED IN SUBSECTION (A–1) OF THIS SECTION, THE** said license or fee shall be the only license or tax required for the ownership or keeping of said dog or dogs. Such license shall be issued on a form prepared and supplied by the county commissioners. Such license shall be dated and numbered, and shall contain a description of the dog licensed. Except in Calvert County, Carroll County, Cecil County, Montgomery County, Howard County, Talbot County, and Washington County, all licenses shall be void upon the first day of July of the following year. The county commissioners shall also furnish, and the county treasurer, or tax collecting officer issuing the license, shall issue, with each license, a metal tag. Such tag shall be affixed to a substantial collar. The collar shall be furnished by the owner, and with the tag attached shall at all times be kept on the dog for which the license is issued, except when confined in the kennel or when hunting in charge of an attendant.

(A–1) (1) THIS SUBSECTION APPLIES IN ALL COUNTIES.

(2) NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS SECTION, A PERSON SHALL OBTAIN A KENNEL LICENSE FROM THE LOCAL LICENSING AGENCY IF THE PERSON:

(I) OWNS OR HAS CUSTODY OF ~~10~~ 15 OR MORE UNSPAYED FEMALE DOGS OVER THE AGE OF 6 MONTHS KEPT FOR THE PURPOSE OF BREEDING THE DOGS AND SELLING THEIR OFFSPRING; AND

(II) ~~INTENDS TO BREED ANY OF THE DOGS AND SELL ANY OFFSPRING~~ SELLS DOGS FROM SIX OR MORE LITTERS IN A YEAR.

(3) EACH COUNTY SHALL COLLECT AND MAINTAIN A RECORD OF THE FOLLOWING INFORMATION FOR EACH KENNEL LICENSE ISSUED IN THE COUNTY:

(I) NAME OF THE LICENSEE;

(II) ADDRESS OF THE LICENSEE;

(III) NUMBER OF DOGS MAINTAINED BY THE LICENSEE; AND

(IV) NUMBER OF PUPPIES SOLD BY THE LICENSEE IN THE PRECEDING YEAR~~; AND~~

~~(V) SALES TAX IDENTIFICATION NUMBER OF THE LICENSEE, IF APPLICABLE~~.

(4) ON OR BEFORE JANUARY 15 OF EACH YEAR, EACH COUNTY SHALL REPORT TO THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION THE INFORMATION COLLECTED UNDER PARAGRAPH (3) OF THIS SUBSECTION FOR THE PRECEDING YEAR.

(5) A COUNTY MAY ESTABLISH ADDITIONAL KENNEL LICENSE FEES TO COVER THE COST OF COLLECTING, MAINTAINING, AND SUBMITTING THE RECORDS AND REPORTS REQUIRED BY PARAGRAPHS (3) AND (4) OF THIS SUBSECTION.

(6) THIS SECTION MAY NOT BE CONSTRUED TO PROHIBIT A COUNTY FROM ENACTING MORE STRINGENT KENNEL LICENSING ORDINANCES.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 298

(Senate Bill 841)

AN ACT concerning

Arts and Entertainment Districts – Artistic Work – Design

FOR the purpose of altering the definition of "artistic work" for the purpose of designating an arts and entertainment district to include original and creative work that falls into the category of original design; and generally relating to the definition of artistic work.

BY repealing and reenacting, with amendments,
Article – Economic Development
Section 4–701(b)(2)(ix)
Annotated Code of Maryland
(2008 Volume and 2010 Supplement)

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

Article – Economic Development

4–701.

(b) "Artistic work" means an original and creative work that:

(2) falls into one of the following categories:

(ix) the creation of original jewelry, clothing, or **[**clothing**]** design; or

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 299

(House Bill 1281)

AN ACT concerning

Arts and Entertainment Districts – Artistic Work – Design

FOR the purpose of altering the definition of "artistic work" for the purpose of designating an arts and entertainment district to include original and creative work that falls into the category of original design; and generally relating to the definition of artistic work.

BY repealing and reenacting, with amendments,
Article – Economic Development
Section 4–701(b)(2)(ix)
Annotated Code of Maryland
(2008 Volume and 2010 Supplement)

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

Article – Economic Development

4–701.

(b) "Artistic work" means an original and creative work that:

(2) falls into one of the following categories:

(ix) the creation of original jewelry, clothing, or **[**clothing**]** design; or

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 300

(Senate Bill 850)

AN ACT concerning

~~Health Insurance – Public Health Plans – Education and Disclosure Requirements~~ Licensed Insurance Producers – Information on State Health Programs

FOR the purpose of ~~requiring that, in the case of an applicant for a license as an insurance producer for health insurance, a certain program of studies shall include a course designed to familiarize the applicant with certain public health plans available to residents of the State; requiring certain applicants to pass a~~

~~certain examination to determine the familiarity of the applicant with certain public health plans; requiring certain insurance producers to receive continuing education that directly relates to certain public health plans; requiring~~ authorizing a licensed insurance producer to provide to a certain small employer information about certain ~~public health plans on a certain form and at a certain time~~ State health programs in accordance with regulations adopted by the Maryland Insurance Commissioner; ~~requiring a certain small employer, under certain circumstances, to agree to provide information about certain public health plans on a certain form and to certain employees; defining a certain term; and generally relating to education and disclosure requirements relating to public health plans~~ and generally relating to licensed insurance producers and information on State health programs.

~~BY repealing and reenacting, without amendments,~~
~~Article – Insurance~~
~~Section 10–101(a), 10–105(e)(1), and 10–116(a)(1) and (4)(i)~~
~~Annotated Code of Maryland~~
~~(2003 Replacement Volume and 2010 Supplement)~~

~~BY adding to~~
~~Article – Insurance~~
~~Section 10–101(h–1), 10–105(e)(5), and 10–116(a)(4)(v)~~
~~Annotated Code of Maryland~~
~~(2003 Replacement Volume and 2010 Supplement)~~

~~BY repealing and reenacting, with amendments,~~
~~Article – Insurance~~
~~Section 10–109(b)(1)~~
~~Annotated Code of Maryland~~
~~(2003 Replacement Volume and 2010 Supplement)~~

BY adding to
Article – Insurance
Section 15–1206(h)
Annotated Code of Maryland
(2006 Replacement Volume and 2010 Supplement)

~~BY repealing and reenacting, with amendments,~~
~~Article – Insurance~~
~~Section 15–1209(e)~~
~~Annotated Code of Maryland~~
~~(2006 Replacement Volume and 2010 Supplement)~~

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

Article – Insurance

~~10–101.~~

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

~~(H–1) "PUBLIC HEALTH PLAN" MEANS:~~

~~(1) THE MARYLAND MEDICAL ASSISTANCE PROGRAM;~~

~~(2) THE MARYLAND CHILDREN'S HEALTH INSURANCE PLAN; AND~~

~~(3) ANY OTHER SIMILAR STATE PLAN OR PROGRAM SPECIFIED IN REGULATIONS ADOPTED BY THE COMMISSIONER, IN CONSULTATION WITH THE SECRETARY OF HEALTH AND MENTAL HYGIENE.~~

~~10–105.~~

~~(e) (1) So that the applicant is reasonably familiar with the kind or subdivision of insurance for which the applicant wants to be licensed:~~

~~(i) the applicant must complete successfully a program of studies that has been established or approved by the Commissioner;~~

~~(ii) during the 3 years immediately preceding the date of application, the applicant must have been employed regularly for periods totaling at least 1 year:~~

~~1. by the Administration as an employee or by an insurer or insurance producer; and~~

~~2. in responsible insurance duties in connection with the kind or subdivision of insurance for which the applicant wants to be licensed; or~~

~~(iii) during the 3 years immediately preceding the date of entering or immediately after discharge from the armed forces of the United States, the applicant must have been employed regularly for periods totaling at least 1 year:~~

~~1. by an insurer or insurance producer; and~~

~~2. in connection with the kind or subdivision of insurance for which the applicant wants to be licensed.~~

~~(5) IN THE CASE OF AN APPLICANT FOR A LICENSE AS AN INSURANCE PRODUCER FOR HEALTH INSURANCE, THE PROGRAM OF STUDIES REQUIRED UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION SHALL INCLUDE A~~

~~COURSE DESIGNED TO FAMILIARIZE THE APPLICANT WITH PUBLIC HEALTH PLANS AVAILABLE TO RESIDENTS OF THE STATE.~~

~~10–109.~~

~~(b) (1) Each individual applicant must pass a personal written examination to determine:~~

~~(i) the competence of the applicant as to life insurance, health insurance, or annuities or to any subdivision of them, including contracts for nonprofit health service plans, vision plans, dental plan organizations, and health maintenance organizations; [and]~~

~~(ii) the familiarity of the applicant with the applicable laws of the State; AND~~

~~(III) THE FAMILIARITY OF THE APPLICANT WITH PUBLIC HEALTH PLANS AVAILABLE TO RESIDENTS OF THE STATE.~~

~~10–116.~~

~~(a) (1) Subject to subsections (b) and (c) of this section, the Commissioner shall require an insurance producer to receive continuing education as a condition of renewing the license of the insurance producer.~~

~~(4) (i) To increase the level of education of insurance producers, an insurance producer shall obtain continuing education in the kind or subdivision of insurance for which the insurance producer has received a license.~~

~~(V) EACH INSURANCE PRODUCER WHO POSSESSES A LICENSE TO SELL HEALTH INSURANCE SHALL RECEIVE CONTINUING EDUCATION THAT DIRECTLY RELATES TO PUBLIC HEALTH PLANS AVAILABLE TO RESIDENTS OF THE STATE.~~

15–1206.

(H) (1) ~~IN THIS SUBSECTION, "PUBLIC HEALTH PLAN" HAS THE MEANING STATED IN § 10–101 OF THIS ARTICLE.~~

~~(2) A LICENSED INSURANCE PRODUCER SHALL PROVIDE TO A SMALL EMPLOYER INFORMATION ABOUT PUBLIC HEALTH PLANS AVAILABLE TO RESIDENTS OF THE STATE.~~

~~(3) THE INFORMATION SHALL BE PROVIDED:~~

~~(I) ON A FORM APPROVED BY THE COMMISSIONER; AND~~

~~(II) AT THE TIME THE SMALL EMPLOYER ENROLLS IN A HEALTH BENEFIT PLAN SOLD TO THE SMALL EMPLOYER BY THE LICENSED INSURANCE PRODUCER~~ **IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE COMMISSIONER, A LICENSED INSURANCE PRODUCER MAY PROVIDE TO A SMALL EMPLOYER INFORMATION ABOUT THE MARYLAND MEDICAL ASSISTANCE PROGRAM AND THE MARYLAND CHILDREN'S HEALTH PROGRAM FOR THE SMALL EMPLOYER TO DISTRIBUTE TO ITS EMPLOYEES DURING THE ENROLLMENT PERIOD.**

(2) THE INFORMATION PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE RESTRICTED TO GENERAL INFORMATION ABOUT THE MARYLAND MEDICAL ASSISTANCE PROGRAM AND THE MARYLAND CHILDREN'S HEALTH PROGRAM, INCLUDING:

(I) INCOME ELIGIBILITY THRESHOLDS; AND

(II) APPLICATION INSTRUCTIONS.

~~15–1209.~~

~~(c) (1) Nothing in this subsection requires a small employer to contribute to the premium payments for coverage of a dependent of an eligible employee.~~

~~(2) To be covered under a health benefit plan offered by a carrier, a small employer shall:~~

~~(i) elect to be covered;~~

~~(ii) agree to pay the premiums;~~

~~(iii) agree to offer coverage to any dependent of an eligible employee when coverage is sought by the eligible employee, in accordance with provisions governing late enrollees and any other provisions of this subtitle that apply to coverage;~~

~~(iv) agree to collect payments for premiums through payroll deductions for coverage of eligible employees and dependents and transmit those payments to the carrier; and~~

~~(v) satisfy other reasonable provisions of the health benefit plan as approved by the Commissioner.~~

~~(3) (I) IN THIS PARAGRAPH, "PUBLIC HEALTH PLAN" HAS THE MEANING STATED IN § 10–101 OF THIS ARTICLE.~~

~~(II) IN ADDITION TO THE REQUIREMENTS UNDER PARAGRAPH (2) OF THIS SUBSECTION, TO BE COVERED UNDER A HEALTH BENEFIT PLAN OFFERED BY A CARRIER, A SMALL EMPLOYER SHALL AGREE TO PROVIDE INFORMATION ABOUT PUBLIC HEALTH PLANS AVAILABLE TO RESIDENTS OF THE STATE:~~

~~1. ON A FORM APPROVED BY THE COMMISSIONER; AND~~

~~2. TO ELIGIBLE EMPLOYEES OF THE SMALL EMPLOYER WHO ELECT NOT TO BE COVERED UNDER THE SMALL EMPLOYER'S HEALTH BENEFIT PLAN AND HAVE NO OTHER HEALTH INSURANCE COVERAGE.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 301

(House Bill 1178)

AN ACT concerning

~~Health Insurance – Public Health Plans – Education and Disclosure Requirements~~
Licensed Insurance Producers – Information on State Health Programs

FOR the purpose of ~~requiring that, in the case of an applicant for a license as an insurance producer for health insurance, a certain program of studies shall include a course designed to familiarize the applicant with certain public health plans available to residents of the State; requiring certain applicants to pass a certain examination to determine the familiarity of the applicant with certain public health plans; requiring certain insurance producers to receive continuing education that directly relates to certain public health plans; requiring~~ authorizing a licensed insurance producer to provide to a certain small employer information about certain ~~public health plans on a certain form and at a certain time~~ State health programs in accordance with regulations adopted by the Maryland Insurance Commissioner; ~~requiring a certain small employer, under certain circumstances, to agree to provide information about certain public health plans on a certain form and to certain employees; defining a certain~~

~~term; and generally relating to education and disclosure requirements relating to public health plans~~ and generally relating to licensed insurance producers and information on State health programs.

~~BY repealing and reenacting, without amendments,~~
~~Article – Insurance~~
~~Section 10–101(a), 10–105(c)(1), and 10–116(a)(1) and (4)(i)~~
~~Annotated Code of Maryland~~
~~(2003 Replacement Volume and 2010 Supplement)~~

~~BY adding to~~
~~Article – Insurance~~
~~Section 10–101(h–1), 10–105(c)(5), and 10–116(a)(4)(v)~~
~~Annotated Code of Maryland~~
~~(2003 Replacement Volume and 2010 Supplement)~~

~~BY repealing and reenacting, with amendments,~~
~~Article – Insurance~~
~~Section 10–109(b)(1)~~
~~Annotated Code of Maryland~~
~~(2003 Replacement Volume and 2010 Supplement)~~

BY adding to
Article – Insurance
Section 15–1206(h)
Annotated Code of Maryland
(2006 Replacement Volume and 2010 Supplement)

~~BY repealing and reenacting, with amendments,~~
~~Article – Insurance~~
~~Section 15–1209(c)~~
~~Annotated Code of Maryland~~
~~(2006 Replacement Volume and 2010 Supplement)~~

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

Article – Insurance

~~10–101.~~

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

~~**(H–1) "PUBLIC HEALTH PLAN" MEANS:**~~

~~**(1) THE MARYLAND MEDICAL ASSISTANCE PROGRAM;**~~

~~(2) THE MARYLAND CHILDREN'S HEALTH INSURANCE PLAN; AND~~

~~(3) ANY OTHER SIMILAR STATE PLAN OR PROGRAM SPECIFIED IN REGULATIONS ADOPTED BY THE COMMISSIONER, IN CONSULTATION WITH THE SECRETARY OF HEALTH AND MENTAL HYGIENE.~~

~~10–105.~~

~~(c) (1) So that the applicant is reasonably familiar with the kind or subdivision of insurance for which the applicant wants to be licensed:~~

~~(i) the applicant must complete successfully a program of studies that has been established or approved by the Commissioner;~~

~~(ii) during the 3 years immediately preceding the date of application, the applicant must have been employed regularly for periods totaling at least 1 year:~~

~~1. by the Administration as an employee or by an insurer or insurance producer; and~~

~~2. in responsible insurance duties in connection with the kind or subdivision of insurance for which the applicant wants to be licensed; or~~

~~(iii) during the 3 years immediately preceding the date of entering or immediately after discharge from the armed forces of the United States, the applicant must have been employed regularly for periods totaling at least 1 year:~~

~~1. by an insurer or insurance producer; and~~

~~2. in connection with the kind or subdivision of insurance for which the applicant wants to be licensed.~~

~~(5) IN THE CASE OF AN APPLICANT FOR A LICENSE AS AN INSURANCE PRODUCER FOR HEALTH INSURANCE, THE PROGRAM OF STUDIES REQUIRED UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION SHALL INCLUDE A COURSE DESIGNED TO FAMILIARIZE THE APPLICANT WITH PUBLIC HEALTH PLANS AVAILABLE TO RESIDENTS OF THE STATE.~~

~~10–109.~~

~~(b) (1) Each individual applicant must pass a personal written examination to determine:~~

~~(i) the competence of the applicant as to life insurance, health insurance, or annuities or to any subdivision of them, including contracts for nonprofit health service plans, vision plans, dental plan organizations, and health maintenance organizations; [and]~~

~~(ii) the familiarity of the applicant with the applicable laws of the State; AND~~

~~(III) THE FAMILIARITY OF THE APPLICANT WITH PUBLIC HEALTH PLANS AVAILABLE TO RESIDENTS OF THE STATE.~~

~~10–116.~~

~~(a) (1) Subject to subsections (b) and (c) of this section, the Commissioner shall require an insurance producer to receive continuing education as a condition of renewing the license of the insurance producer.~~

~~(4) (i) To increase the level of education of insurance producers, an insurance producer shall obtain continuing education in the kind or subdivision of insurance for which the insurance producer has received a license.~~

~~(V) EACH INSURANCE PRODUCER WHO POSSESSES A LICENSE TO SELL HEALTH INSURANCE SHALL RECEIVE CONTINUING EDUCATION THAT DIRECTLY RELATES TO PUBLIC HEALTH PLANS AVAILABLE TO RESIDENTS OF THE STATE.~~

15–1206.

(H) (1) ~~IN THIS SUBSECTION, "PUBLIC HEALTH PLAN" HAS THE MEANING STATED IN § 10–101 OF THIS ARTICLE.~~

~~(2) A LICENSED INSURANCE PRODUCER SHALL PROVIDE TO A SMALL EMPLOYER INFORMATION ABOUT PUBLIC HEALTH PLANS AVAILABLE TO RESIDENTS OF THE STATE.~~

~~(3) THE INFORMATION SHALL BE PROVIDED:~~

~~(I) ON A FORM APPROVED BY THE COMMISSIONER; AND~~

~~(II) AT THE TIME THE SMALL EMPLOYER ENROLLS IN A HEALTH BENEFIT PLAN SOLD TO THE SMALL EMPLOYER BY THE LICENSED INSURANCE PRODUCER~~ IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE COMMISSIONER, A LICENSED INSURANCE PRODUCER MAY PROVIDE TO A SMALL EMPLOYER INFORMATION ABOUT THE MARYLAND MEDICAL ASSISTANCE PROGRAM AND THE MARYLAND CHILDREN'S HEALTH PROGRAM FOR THE

SMALL EMPLOYER TO DISTRIBUTE TO ITS EMPLOYEES DURING THE ENROLLMENT PERIOD.

(2) THE INFORMATION PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE RESTRICTED TO GENERAL INFORMATION ABOUT THE MARYLAND MEDICAL ASSISTANCE PROGRAM AND THE MARYLAND CHILDREN'S HEALTH PROGRAM, INCLUDING:

(I) INCOME ELIGIBILITY THRESHOLDS; AND

(II) APPLICATION INSTRUCTIONS.

~~15–1209.~~

~~(e) (1) Nothing in this subsection requires a small employer to contribute to the premium payments for coverage of a dependent of an eligible employee.~~

~~(2) To be covered under a health benefit plan offered by a carrier, a small employer shall:~~

~~(i) elect to be covered;~~

~~(ii) agree to pay the premiums;~~

~~(iii) agree to offer coverage to any dependent of an eligible employee when coverage is sought by the eligible employee, in accordance with provisions governing late enrollees and any other provisions of this subtitle that apply to coverage;~~

~~(iv) agree to collect payments for premiums through payroll deductions for coverage of eligible employees and dependents and transmit those payments to the carrier; and~~

~~(v) satisfy other reasonable provisions of the health benefit plan as approved by the Commissioner.~~

~~**(3) (I) IN THIS PARAGRAPH, "PUBLIC HEALTH PLAN" HAS THE MEANING STATED IN § 10–101 OF THIS ARTICLE.**~~

~~**(II) IN ADDITION TO THE REQUIREMENTS UNDER PARAGRAPH (2) OF THIS SUBSECTION, TO BE COVERED UNDER A HEALTH BENEFIT PLAN OFFERED BY A CARRIER, A SMALL EMPLOYER SHALL AGREE TO PROVIDE INFORMATION ABOUT PUBLIC HEALTH PLANS AVAILABLE TO RESIDENTS OF THE STATE:**~~

~~1. ON A FORM APPROVED BY THE COMMISSIONER; AND~~

~~2. TO ELIGIBLE EMPLOYEES OF THE SMALL EMPLOYER WHO ELECT NOT TO BE COVERED UNDER THE SMALL EMPLOYER'S HEALTH BENEFIT PLAN AND HAVE NO OTHER HEALTH INSURANCE COVERAGE.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 302

(Senate Bill 875)

AN ACT concerning

Alcoholic Beverages – Baltimore County ~~Executive and County Council of Baltimore County~~ – License Fees

FOR the purpose of ~~repealing certain alcoholic beverages license fees in Baltimore County; authorizing the Baltimore County Executive and the County Council of Baltimore County to establish alcoholic beverages license fees within Baltimore County; and generally relating to the Baltimore County Executive and the County Council of Baltimore County regulating~~ altering alcoholic beverages license fees within Baltimore County; and generally relating to alcoholic beverages license fees in Baltimore County.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 4–201(a)(2), 5–101(a)(1), 5–201(a)(1), 5–301(a)(1), 5–401(a)(1), 6–101(a)(1), 6–201(a)(1), 6–301(a)(1), 6–401(a)(1), ~~6–702(b),~~ 7–101(b)(1)(i) and (d)(1)(i), 8–204(c), 8–204.1(c), 8–304(a), 8–404(a)(1), ~~8–404.1(a), (b), and (c)~~ and 8–802(a)
Annotated Code of Maryland
(2005 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 5–101(e), 5–201(e)(1), 5–301(e), 5–401(e)(1), 6–101(e), 6–201(e)(2), 6–301(e), 6–401(e)(2), ~~6–702(g),~~ 7–101(b)(4) and (d)(4)(i), 8–204(e), 8–204.1(e), 8–304(d), 8–404(a)(5), ~~8–404.1(d), 8–601,~~ and 8–802(d)
Annotated Code of Maryland

(2005 Replacement Volume and 2010 Supplement)

BY adding to
Article 2B – Alcoholic Beverages
Section 4–201(b)(8) ~~and 18–105~~
Annotated Code of Maryland
(2005 Replacement Volume and 2010 Supplement)

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

Article 2B – Alcoholic Beverages

4–201.

(a) A Class A light wine license may be issued only in:

(2) Baltimore County;

(b) **(8) IN BALTIMORE COUNTY, THE FEE FOR THIS LICENSE ~~SHALL BE ESTABLISHED AS PROVIDED IN § 18–105 OF THIS ARTICLE~~ IS $100.**

5–101.

(a) (1) A Class A beer and light wine license shall be issued by the license issuing authority of the county in which the place of business is located. The holder of the license may keep for sale and sell beer and light wines at retail, in any quantity to any consumers, at the place described in the license. The holder shall deliver the beer and light wines in a sealed package or container, which package or container may not be opened nor its contents consumed on the premises where sold.

(e) In Baltimore County the annual license fee **[**is $100**]** ~~SHALL BE ESTABLISHED AS PROVIDED IN § 18–105 OF THIS ARTICLE~~ **IS $250**.

5–201.

(a) (1) A Class B beer and light wine license shall be issued by the license issuing authority of the county in which the place of business is located. The holder may keep for sale and sell beer and light wines at retail at any hotel or restaurant, at the place described in the license, for consumption on the premises or elsewhere.

(e) (1) In Baltimore County the annual license fee **[**is $150**]** ~~SHALL BE ESTABLISHED AS PROVIDED IN § 18–105 OF THIS ARTICLE~~ **IS $300**.

5–301.

(a) (1) Except as provided in subsection (n) of this section, a Class C beer and light wine license shall be issued by the license issuing authority of the county in which the place of business is located. The holder of the license may keep for sale and sell beer and light wines at retail to bona fide members and their guests, at any club, at the place described in the license, for consumption on the premises only.

(e) In Baltimore County the annual license fee **[**is $35**]** ~~**SHALL BE ESTABLISHED AS PROVIDED IN § 18–105 OF THIS ARTICLE**~~ **IS $150**.

5–401.

(a) (1) A Class D beer and light wine license shall be issued by the license issuing authority of the county in which the place of business is located. The license authorizes its holder to keep for sale and to sell beer and light wines at retail, at the place described in the license, for consumption on the premises or elsewhere. The license may not be issued for any drugstore.

(e) (1) In Baltimore County the annual license fee **[**is $100**]** ~~**SHALL BE ESTABLISHED AS PROVIDED IN § 18–105 OF THIS ARTICLE**~~ **IS $250**.

6–101.

(a) (1) A Class A beer, wine and liquor license shall be issued by the license issuing authority of the county in which the place of business is located. The license authorizes the holder to keep for sale and to sell all alcoholic beverages at retail, in any quantity, at the place described in the license. The licensee shall deliver the alcoholic beverages in a sealed package or container and the package or container may not be opened nor its contents consumed on the premises where sold.

(e) In Baltimore County the annual license fee **[**is $600**]** ~~**SHALL BE ESTABLISHED AS PROVIDED IN § 18–105 OF THIS ARTICLE**~~ **IS $900**.

6–201.

(a) (1) A Class B beer, wine and liquor license shall be issued by the license issuing authority of the county in which the place of business is located, and the license authorizes its holder to keep for sale and sell all alcoholic beverages at retail at any hotel or restaurant at the place described, for consumption on the premises or elsewhere, or as provided in this section.

(e) (2) The annual fee for a license **[**is $1,000**]** ~~**SHALL BE ESTABLISHED AS PROVIDED IN § 18–105 OF THIS ARTICLE**~~ **IS $1,500**.

6–301.

(a) (1) Except as provided in subsection (n) of this section, a Class C beer, wine and liquor license shall be issued by the license issuing authority of the county in which the place of business is located. It authorizes the holder to keep for sale and sell all alcoholic beverages at retail at any club, at the place described in the license, for consumption on the premises only.

(e) In Baltimore County the annual license fee **[**is $500**]** ~~**SHALL BE ESTABLISHED AS PROVIDED IN § 18–105 OF THIS ARTICLE**~~ **IS $1,000**.

6–401.

(a) (1) A Class D beer, wine and liquor license shall be issued by the license issuing authority of the county in which the place of business is located. It authorizes the holder to keep for sale and sell all alcoholic beverages at retail at the place described in it, for consumption on the premises or elsewhere. A license may not be issued for any drugstore.

(e) (2) The annual license fee **[**is $1,000**]** ~~**SHALL BE ESTABLISHED AS PROVIDED IN § 18–105 OF THIS ARTICLE**~~ **IS $1,500**.

~~6–702.~~

~~(b) In this section "caterer" means a Class B or Class D on–sale beer, wine and liquor licensee who contracts to provide food and sell alcoholic beverages to sponsors of public or private events held off the premises.~~

~~(g) The annual license fee for the special off–sale license privilege **[**is $500**]** **SHALL BE ESTABLISHED AS PROVIDED IN § 18–105 OF THIS ARTICLE AND SHALL BE** in addition to the annual fee for the Class B or Class D on–sale beer, wine and liquor license.~~

7–101.

(b) (1) (i) Subject to subsection (a) of this section, a special Class C beer license or a special Class C beer and wine license entitles the holder to exercise any of the privileges conferred by the respective classes of licenses for the use of any person holding any bona fide entertainment conducted by any club, society or association at the place described in the license, for a period not exceeding seven consecutive days from the effective date thereof.

(4) In Baltimore County the fee **[**is ~~$10~~ **$30** per day, except that for any bona fide religious, fraternal, civic, war veterans', hospital or charitable organization, the fee is ~~$5~~**]** ~~**SHALL BE ESTABLISHED AS PROVIDED IN § 18–105 OF THIS ARTICLE**~~ **$20**.

(d) (1) (i) A special Class C beer, wine and liquor license entitles the holder to exercise any of the privileges conferred by this class of license for the use of any person holding a bona fide entertainment conducted by a club, society, or association at the place described for a period not exceeding seven consecutive days, upon the payment of a fee of $15 per day.

(4) (i) In Baltimore County:

1. The fee for this license **[**is ~~$25~~ **$50** per day, except that for any bona fide religious, fraternal, civic, war veterans', hospital or charitable organization, the fee for this license is ~~$15~~**]** ~~**SHALL BE ESTABLISHED AS PROVIDED IN § 18–105 OF THIS ARTICLE**~~ **$35**; and

2. The holder of a special 7–day Class C beer, wine and liquor license may purchase beer and light wine from a wholesale dealer.

8–204.

(c) There is a 7–day Class BDR (deluxe restaurant) (on–sale) beer, wine and liquor license. This license may only be issued for the use of restaurants that:

(1) Meet the definition requirements of "restaurant" established under the regulations of the Board of License Commissioners;

(2) Have a minimum seating capacity of 150 persons for dining;

(3) Have a cocktail lounge or bar area seating capacity not exceeding 25 percent of the seating capacity for dining;

(4) Have parking facilities to accommodate a minimum of 75 vehicles; and

(5) Have a minimum capital investment of $800,000 by the applicant exclusive of the cost of the land and buildings.

(e) The annual license fee is **[**$1,000**]** ~~**SHALL BE ESTABLISHED AS PROVIDED IN § 18–105 OF THIS ARTICLE**~~ **$2,000**.

8–204.1.

(c) The Board may issue a special theater (on–sale) beer, wine and liquor license for use in a theater if the theater:

(1) Is housed within a building;

(2) Has a capacity to hold a minimum of 1,500 permanently installed seats; and

(3) Regularly presents live entertainment.

(e) The annual license fee **[**is $1,000**]** ~~**SHALL BE ESTABLISHED AS PROVIDED IN § 18–105 OF THIS ARTICLE**~~ **IS $2,000**.

8–304.

(a) The Baltimore County Board of License Commissioners may issue a special wine festival license.

(d) The license fee **[**is $15**]** ~~**SHALL BE ESTABLISHED AS PROVIDED IN § 18–105 OF THIS ARTICLE**~~ **IS $60**.

8–404.

(a) (1) The Baltimore County Board of License Commissioners may issue a WS (wine sampling) permit to bona fide nonprofit organizations.

(5) The permit fee **[**is ~~$15~~ **$30** per day**]** ~~**SHALL BE ESTABLISHED AS PROVIDED IN § 18–105 OF THIS ARTICLE**~~.

~~8–404.1.~~

~~(a) This section applies in Baltimore County.~~

~~(b) The Board of License Commissioners may issue a Class BWT beer and light wine (on–premises) tasting license to the holder of a Class A beer and light wine license.~~

~~(c) The Board of License Commissioners may issue a Class BWLT beer, wine and liquor (on–premises) tasting license to a holder of a Class A beer, wine and liquor license.~~

~~(d) (1) The fees for a Class BWT and Class BWLT license~~ **[**~~are as follows:~~

~~(i) $20 for a daily tasting license, which may be issued not more than 12 times in any annual license year;~~

~~(ii) $200 annually for a 26–day tasting license, which may be used consecutively or nonconsecutively;~~

~~(iii) $300 annually for a 52–day tasting license, which may be used consecutively or nonconsecutively; and~~

~~(iv) $400 annually for a 104–day tasting license, which may be used consecutively or nonconsecutively~~**]** ~~**SHALL BE ESTABLISHED AS PROVIDED IN § 18–105 OF THIS ARTICLE.**~~

~~(2) The fees for a Class BWT license and Class BWLT license are in addition to the Class A annual license fee.~~

~~8–601.~~

~~(a) In Baltimore County the owner or owners of any regular licensed racing establishment, or the concessionaire or catering organization at such place, whether an individual, association or corporation, shall without additional residential, voting or locative qualifications be entitled to procure a license for the sale of beer and light wine within the confines of its racing park in said county~~**[**~~, at a cost for such license of $25.00 per day~~**]**~~; and shall be entitled to procure a license for the sale of beer, wine and liquor within the confines of its racing park in said county~~**[**~~, at a cost for such license of $50.00 per day,~~**]** ~~and shall entitle the holder to sell at one or more locations within its said park. Such licenses and the licensees thereunder shall be subject to all laws, rules and regulations applicable in Baltimore County to the sale of alcoholic beverages, not inconsistent with the provisions of this section.~~

~~**(B) THE FEES FOR A LICENSE ISSUED UNDER THIS SECTION SHALL BE ESTABLISHED AS PROVIDED IN § 18–105 OF THIS ARTICLE.**~~

~~**[**(b)~~**]** ~~**(C)**~~ ~~The provisions of this section are not restricted by the provisions in subsection (b) of § 12–107 of this article.~~

8–802.

(a) The Baltimore County Board of License Commissioners may issue a special beer festival license.

(d) The license fee **[**is ~~$15~~ **$50]** ~~**SHALL BE ESTABLISHED AS PROVIDED IN § 18–105 OF THIS ARTICLE.**~~

~~**18–105.**~~

~~**THE BALTIMORE COUNTY EXECUTIVE AND THE COUNTY COUNCIL OF BALTIMORE COUNTY SHALL REGULATE THE ALCOHOLIC BEVERAGES LICENSE FEES WITHIN BALTIMORE COUNTY.**~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 303

(Senate Bill 891)

AN ACT concerning

Economic Development – Qualified Distressed Counties

FOR the purpose of altering the definition of "qualified distressed county" for certain purposes, including the Maryland Economic Development Assistance Authority and Fund, the Linked Deposit Program, the One Maryland Economic Development Tax Credit, and the College Readiness Outreach Program; and generally relating to the definition of "qualified distressed county" for certain economic development purposes in the State.

BY repealing and reenacting, without amendments,
Article – Economic Development
Section 1–101(a) and (b)
Annotated Code of Maryland
(2008 Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,
Article – Economic Development
Section 1–101(e)
Annotated Code of Maryland
(2008 Volume and 2010 Supplement)

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

Article – Economic Development

1–101.

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

(b) "County" means a county of the State or Baltimore City.

(e) (1) "Qualified distressed county" means a county with:

(i) an average rate of unemployment for the most recent 24–month period for which data are available that exceeds 150% of the average rate of unemployment for the State during that period; or

(ii) an average per capita personal income for the most recent 24–month period for which data are available that is equal to or less than 67% of the average per capita personal income for the State during that period.

(2) "Qualified distressed county" includes a county that:

(i) no longer meets either criterion stated in paragraph (1) of this subsection; but

(ii) has met at least one of the criteria at some time during the preceding **[**12–month**] 24–MONTH** period.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 304

(Senate Bill 906)

AN ACT concerning

Worcester County – Department of Liquor Control – Wine and Liquor Purchasing Option

FOR the purpose of abolishing the Liquor Control Board for Worcester County and replacing it with the Worcester County Department of Liquor Control; specifying that the Department is a department of the county government; specifying that the Department has certain powers; requiring the Board of County Commissioners to appoint the director of the Department; specifying that the director shall be the chief administrative officer of the Department; authorizing the director of the Department, subject to the approval of the Board of County Commissioners, to purchase or otherwise acquire certain alcoholic beverages and certain other property; specifying a certain maximum amount that a licensee may be charged by the Department for certain alcoholic beverages; repealing the minimum price for certain merchandise that the Department must charge to licensees; authorizing an alcoholic beverages licensee in the county, beginning on a certain date, to elect to purchase wine or liquor from a licensed wholesaler in addition to or instead of from the Department; requiring a licensee to provide written notice within a certain time to the Department; requiring that the notice contain certain information; requiring that the Department issue, to the licensee, a letter of confirmation; requiring that a licensee display the letter conspicuously on the licensed premises; providing that the title to certain property, including appropriations,

credits, assets, liabilities, contracts, and obligations of the Liquor Control Board are continued as the title to property of the Department; providing that a person granted certain authorization by the Liquor Control Board is considered by the Department to maintain that authorization; providing for the correction of certain cross–references under certain circumstances; defining certain terms; and generally relating to the Worcester County Department of Liquor Control.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 6–201(y)(1), 6–301(y)(1), 6–401(y)(1), and 8–224(a)
Annotated Code of Maryland
(2005 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 6–201(y)(7), 6–301(y)(8), 6–401(y)(2)(vi), 8–224(g), 8–603(d), 15–201(a), (b)(1), (e)(2), *(i)(2),* and (j), 15–202, and 15–205(l)
Annotated Code of Maryland
(2005 Replacement Volume and 2010 Supplement)

BY repealing
Article 2B – Alcoholic Beverages
Section 15–201(d)(5), (h)(7), ~~(i)(2),~~ and (l)
Annotated Code of Maryland
(2005 Replacement Volume and 2010 Supplement)

BY adding to
Article 2B – Alcoholic Beverages
Section 15–201(c)(5) and 15–204(e)
Annotated Code of Maryland
(2005 Replacement Volume and 2010 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.

(y) (1) This subsection applies only in Worcester County.

(7) **(I)** **[**All**]** **EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, ALL** licensees shall purchase all wines and liquors, except light wine and beer, from the **[**Liquor Control Board for**]** Worcester County **DEPARTMENT OF LIQUOR CONTROL**. They shall be charged **NOT MORE THAN** 85 percent of the retail price or any special sale price or discount price, whichever is lower, set by the

[Board] **DEPARTMENT** for wines and liquors. ~~However, the price the [Board] DEPARTMENT charges to the licensees may not be lower than 10 percent above the cost the [Liquor Control Board] DEPARTMENT must pay for the merchandise to wholesalers.~~ All licensees may purchase beer and light wine from licensed wholesalers.

(II) BEGINNING ON MAY 1, 2016, A LICENSEE MAY ELECT TO PURCHASE WINE AND LIQUOR FROM A LICENSED WHOLESALER UNDER § 15–204(E) OF THIS ARTICLE.

6–301.

(y) (1) This subsection applies only in Worcester County.

(8) **(I)** [Every] **EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, EVERY** licensee shall purchase all wines and liquors, except light wine and beer, sold by them from the [Worcester County Liquor Control Board] dispensaries **OF THE WORCESTER COUNTY DEPARTMENT OF LIQUOR CONTROL**. The licensee shall receive **AT LEAST** a 15 percent discount from the retail sales price or any special sale price or discount price, whichever is lower. ~~However, the price the [Board] DEPARTMENT charges to the licensees may not be lower than 10 percent above the cost the [Liquor Control Board] DEPARTMENT must pay for the merchandise to wholesalers.~~ All licensees may purchase beer and light wine from licensed wholesalers.

(II) BEGINNING ON MAY 1, 2016, A LICENSEE MAY ELECT TO PURCHASE WINE AND LIQUOR FROM A LICENSED WHOLESALER UNDER § 15–204(E) OF THIS ARTICLE.

6–401.

(y) (1) This subsection applies only in Worcester County.

(2) (vi) **1.** [All] **EXCEPT AS PROVIDED IN SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, ALL** licensees shall purchase all wines and liquors, except light wine and beer, from the [Liquor Control Board for] Worcester County **DEPARTMENT OF LIQUOR CONTROL**. They shall be charged **NOT MORE THAN** 85 percent of the retail price or any special sale price or discount price, whichever is lower, set by the [Board] **DEPARTMENT** for wines and liquors. ~~However, the price the [Board] DEPARTMENT charges to the licensees may not be lower than 10 percent above the cost the [Liquor Board] DEPARTMENT must pay for the merchandise to wholesalers.~~ All licensees may purchase beer and light wine from licensed wholesalers.

2. BEGINNING ON MAY 1, 2016, A LICENSEE MAY ELECT TO PURCHASE WINE AND LIQUOR FROM A LICENSED WHOLESALER UNDER § 15–204(E) OF THIS ARTICLE.

8–224.

(a) This section applies only in Worcester County.

(g) (1) **(I)** **[**A**] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, A** licensee shall purchase all alcoholic beverages, except light wine and beer, from the **[**Liquor Control Board**] WORCESTER COUNTY DEPARTMENT OF LIQUOR CONTROL**.

(II) BEGINNING ON MAY 1, 2016, A LICENSEE MAY ELECT TO PURCHASE WINE AND LIQUOR FROM A LICENSED WHOLESALER OR MAY CONTINUE TO PURCHASE ALL ALCOHOLIC BEVERAGES, EXCEPT LIGHT WINE AND BEER, FROM THE WORCESTER COUNTY DEPARTMENT OF LIQUOR CONTROL.

(2) A licensee may purchase beer and light wine from a licensed wholesaler.

(3) **[**Except as provided in paragraph (4) of this subsection, a**] A** licensee shall be charged **NOT MORE THAN** 85 percent of the retail price or any special sale price or discount price, whichever is lower, set by the **[**Liquor Control Board**] DEPARTMENT** for wine and liquor.

[(4) The price the Liquor Control Board charges to the licensees may not be lower than 10 percent above the cost the Liquor Control Board must pay to wholesalers for the merchandise.**]**

8–603.

(d) **(1)** **[**All of these**] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, ALL** licensees shall purchase all liquors and wines, except light wine, from the **[**Liquor Control Board for**]** Worcester County **DEPARTMENT OF LIQUOR CONTROL**. The licensee shall receive **AT LEAST** a 15 percent discount from the retail sales price or any special sale price or discount price, whichever is lower. ~~However, the price the **[**Board**] DEPARTMENT** charges to the licensees may not be lower than 10 percent above the cost the **[**Liquor Control Board**] DEPARTMENT** must pay for the merchandise to wholesalers.~~ All licensees may purchase beer and light wine from licensed wholesalers.

(2) BEGINNING ON MAY 1, 2016, A LICENSEE MAY ELECT TO PURCHASE WINE AND LIQUOR FROM A LICENSED WHOLESALER UNDER § 15–204(E) OF THIS ARTICLE.

15–201.

(a) **(1)** [There] **SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, THERE** is hereby constituted and established in each county a liquor control board, to be appointed and to have the tenure, compensation, powers and duties as provided in this subtitle**[;].**

(2) (I) [provided that in] **IN** Montgomery County there is hereby constituted and established, effective July 1, 1951, a Department of Liquor Control, which shall be a department of the county government under the general supervision of the chief administrative officer, and which shall have the powers of a liquor control board as defined in § 15–205 of this subtitle.

(II) Whenever used in this subtitle the words "liquor control board" or "board" shall be construed to apply to the Department of Liquor Control in Montgomery County whenever such construction would be reasonable.

(3) (I) IN WORCESTER COUNTY THERE IS A DEPARTMENT OF LIQUOR CONTROL THAT:

1. IS A DEPARTMENT OF THE COUNTY GOVERNMENT; AND

2. HAS THE POWERS OF A LIQUOR CONTROL BOARD AS DEFINED IN § 15–205 OF THIS SUBTITLE.

(II) THE WORDS "LIQUOR CONTROL BOARD" OR "BOARD" IN THIS SUBTITLE APPLY TO THE WORCESTER COUNTY DEPARTMENT OF LIQUOR CONTROL WHEN THAT CONSTRUCTION WOULD BE REASONABLE.

(b) (1) **(I)** Except in Harford County**, MONTGOMERY COUNTY, AND WORCESTER COUNTY,** the liquor control board shall consist of three members in each county.

(II) Those persons who are members of the respective boards on June 1, 1947, shall continue as such for the balance of the period for which they may have been appointed or elected, according to the terms and conditions of their original appointment or election.

(III) [Provided that in] **IN** Montgomery County, effective July 1, 1951, there is hereby created the position of director of the Department of Liquor

Control, who shall be the chief administrative officer of said Department of Liquor Control.

(IV) IN WORCESTER COUNTY, THERE IS A DIRECTOR OF THE DEPARTMENT OF LIQUOR CONTROL, WHO IS THE CHIEF ADMINISTRATIVE OFFICER OF THE DEPARTMENT.

(c) **(5) IN WORCESTER COUNTY, THE BOARD OF COUNTY COMMISSIONERS SHALL APPOINT THE DIRECTOR OF THE DEPARTMENT OF LIQUOR CONTROL, WHO SHALL SERVE AT THE PLEASURE OF THE BOARD.**

(d) In computing the time at which appointments to the several boards normally expire, and when new terms of office begin, the following dates shall be used:

[(5) Worcester County — June 1, 1975. Initial appointments shall be for two, three and four years. Their successors shall be appointed to regular four–year terms.**]**

(e) (2) Members of the boards in the following counties shall serve for terms as specified:

(i) Garrett County .....6 years

(ii) Harford County .....3 years

(iii) Somerset County .....4 years

[(iv) Worcester County ..... 4 years**]**

(h) Members of the several boards shall receive compensation as follows:

[(7) Worcester County — Each member of the Worcester County Liquor Control Board shall receive an annual salary set by the Worcester County Commissioners, but which may not be less than $3,000, and a mileage fee when attending meetings of the Board and when performing official duties as a member of the Board.**]**

(i) **[**(2) In ~~Worcester County they shall meet at least once each week; in~~ Somerset County they shall meet at least twice each month.**]**

(j) (1) Except as provided in **[**paragraphs (2) and (3)**]** **PARAGRAPH (2)** of this subsection, in case of a vacancy on an appointive board for any reason whatsoever, it shall be filled for the unexpired term in the same manner as the original appointment.

(2) **[**In Worcester County, the vacancy shall be filled by the Governor with the advice and consent of the Senate.

(3)**]** In Harford County, to fill a vacancy other than one resulting from an expired term:

(i) The County Executive, as soon as practicable, shall submit the name of one nominee to the Harford County Delegation to the Maryland General Assembly, consisting of Harford County Senators and Delegates, for the advice and consent of the Delegation; and

(ii) Thereafter, the procedures under subsection (c)(3)(ii)3 through 6 of this section shall be followed.

[(l) (1) This subsection applies only in Worcester County.

(2) The Board shall present its budget annually to the County Commissioners on the same day that the County Commissioners present the budget for the county. The Board shall be present at that meeting so as to be able to answer any questions that the County Commissioners or the public might have.

(3) The Board shall adhere to county personnel practices. By way of illustration, the Board shall advertise for vacant positions and select the most qualified person and shall afford an employee all county termination rights.

(4) The Liquor Control Board may not expend any funds in an attempt to influence the referendum to be held in November, 1998, that is required by State statute.**]**

15–202.

(a) For the purpose of providing the liquor control board with an adequate working capital for acquiring, establishing and operating a county dispensary, or branch dispensaries, together with warehouse facilities, as found necessary under this subtitle, the board of county commissioners of each county is hereby authorized and empowered from time to time to advance a sum of money to the liquor control board of such county. Said board of county commissioners is hereby authorized and empowered to borrow upon the credit of the county in order to advance such moneys to said liquor control board, issuing therefor such notes, certificates of indebtedness and/or bonds as in the discretion of the board of county commissioners are found necessary.

(b) (1) The liquor control board may borrow money from time to time from any banking institution on its own credit.

(2) The aggregate sum advanced to or borrowed by the liquor control board may not exceed the following amounts:

(i) Somerset County — $150,000

(ii) Wicomico County — $500,000

[(iii) Worcester County — $6,000,000**]**.

(c) (1) The interest rate limitation provided in paragraph (2) of this subsection does not apply in Somerset County **[**and Worcester County**]**.

(2) All funds advanced to the liquor control board by the county commissioners, and all funds borrowed by the county commissioners or the liquor control board for the purposes of this subtitle, shall bear interest at the lowest rate possible, not exceeding 6 percent a year. All these sums advanced or borrowed, together with the interest on them, shall be repaid from the receipts from sales made at the county liquor dispensary, or branch dispensaries.

[(3) In Worcester County, any borrowed funds expended for the use of supplies or equipment are to be amortized over a term of five years.**]**

(d) The provisions of this section shall not apply to the Department of Liquor Control of Montgomery County, provided that nothing herein shall be construed to affect the validity of any notes, certificates of indebtedness and/or bonds, or obligations of any kind which may have been heretofore incurred by the Liquor Control Board of Montgomery County.

(E) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THIS SECTION DOES NOT APPLY TO THE WORCESTER COUNTY DEPARTMENT OF LIQUOR CONTROL.

(2) THIS SECTION DOES NOT AFFECT THE VALIDITY OF A NOTE, CERTIFICATE OF INDEBTEDNESS, BOND, OR OTHER OBLIGATION OF ANY KIND THAT HAS BEEN INCURRED BY THE LIQUOR CONTROL BOARD FOR WORCESTER COUNTY.

15–204.

(E) (1) IN THIS SUBSECTION, "DEPARTMENT" MEANS THE WORCESTER COUNTY DEPARTMENT OF LIQUOR CONTROL.

(2) THIS SUBSECTION APPLIES ONLY IN WORCESTER COUNTY.

(3) (I) BEGINNING ON MAY 1, 2016, A LICENSEE IN THE COUNTY MAY ELECT TO PURCHASE WINE OR LIQUOR FROM A LICENSED WHOLESALER BY PROVIDING WRITTEN NOTICE OF THE LICENSEE'S INTENT TO

THE DEPARTMENT AT LEAST 60 DAYS BEFORE THE DATE THE PURCHASING ACTIVITY IS TO START.

(II) THE NOTICE SHALL CONTAIN:

1. THE NAME OF THE LICENSEE;

2. THE NAME AND ADDRESS OF THE LICENSED PREMISES; AND

3. THE DATE THAT THE NOTICE WAS SENT TO THE DEPARTMENT.

(4) A LICENSEE ~~WHO~~ *THAT* MEETS THE REQUIREMENTS OF THIS SUBSECTION MAY PURCHASE WINE OR LIQUOR FROM A LICENSED WHOLESALER IN ADDITION TO OR INSTEAD OF THE DEPARTMENT.

(5) (I) THE DEPARTMENT SHALL ISSUE A LETTER OF CONFIRMATION TO A LICENSEE THAT MEETS THE REQUIREMENTS OF THIS SUBSECTION.

(II) THE LICENSEE SHALL DISPLAY THE LETTER CONSPICUOUSLY ON THE LICENSED PREMISES.

15–205.

The liquor control board of each county shall have full power and authority within its county:

(l) In Worcester County, **[**in addition to the other powers listed in this section, the Board shall pay the salary, not to exceed $3,500 annually, of an officer to enforce the laws relating to alcoholic beverages in the county. The officer shall be appointed by the County Commissioners subject to the approval by State's Attorney of the county**] SUBJECT TO THE APPROVAL OF THE COUNTY COMMISSIONERS, THE DIRECTOR OF THE DEPARTMENT OF LIQUOR CONTROL MAY PURCHASE OR OTHERWISE ACQUIRE:**

(1) REAL OR PERSONAL PROPERTY THAT THE DIRECTOR CONSIDERS NECESSARY TO OPERATE DISPENSARIES, STORES, OR WAREHOUSES; AND

(2) WINE AND LIQUOR FROM ANY SOURCE FOR RESALE.

SECTION 2. AND BE IT FURTHER ENACTED, That the title to all real and personal property, money in banks, credits, accounts receivable, equipment, stock in

trade, leases, franchises, contracts, records, files, furniture, fixtures, and other properties and all appropriations, credits, assets, liabilities, contracts, and obligations of the Liquor Control Board are continued as the title to all real and personal property, money in banks, credits, accounts receivable, equipment, stock in trade, leases, franchises, contracts, records, files, furniture, fixtures, and other properties and all appropriations, credits, assets, liabilities, contracts, and obligations of the *Worcester County* Department of Liquor Control.

SECTION 3. AND BE IT FURTHER ENACTED, That any person registered, certified, issued a permit, or granted other authorization by the Liquor Control Board for Worcester County is considered for all purposes to be registered, certified, issued a permit, or granted other authorization by the Worcester County Department of Liquor Control for the duration of the term for which the registration, certification, or permit was issued or other authorization was granted.

SECTION 4. AND BE IT FURTHER ENACTED, That, subject to the approval of the Executive Director of the Department of Legislative Services, the publishers of the Annotated Code of Maryland shall propose the correction of cross–references that are rendered incorrect by this Act.

SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 305

(Senate Bill 913)

AN ACT concerning

Caroline County – Board of Elections – Membership and Compensation

FOR the purpose of altering the number of regular members of the Caroline County Board of Elections; requiring the members of the local board to be of certain political parties; requiring a vacancy on the local board to be filled in a certain manner; altering the amount of compensation for the president and other regular members of the local board; ~~providing that this Act does not apply to the salary or compensation of the president and members of the local board during a certain term of office;~~ providing for the effective date of this Act; making a stylistic change; and generally relating to the membership and compensation of the Caroline County Board of Elections.

BY repealing and reenacting, without amendments,
Article – Election Law

Section 2–201(a) and (b)
Annotated Code of Maryland
(2010 Replacement Volume)
(As enacted by Chapter 344 of the Acts of the General Assembly of 2010)

BY repealing and reenacting, with amendments,
Article – Election Law
Section 2–201(l) and 2–204(a)(6)
Annotated Code of Maryland
(2010 Replacement Volume)
(As enacted by Chapter 344 of the Acts of the General Assembly of 2010)

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

Article – Election Law

2–201.

(a) (1) There is a county board of elections in each county of the State.

(2) Each local board and its staff is subject to the direction and authority of the State Board and is accountable to the State Board for its actions in all matters regarding the implementation of the requirements of this article and any applicable federal law.

(b) (1) Except as provided in subsections (j), (k), and (l) of this section, each local board consists of three regular members and two substitute members.

(2) Two regular members and one substitute member shall be of the majority party, and one regular member and one substitute member shall be of the principal minority party.

(3) Except as provided in subsection (l) of this section, in the event of the absence of a regular member or a vacancy in the office of a regular member, the substitute member of the same political party shall exercise the powers and duties of a regular member until the regular member returns or the vacancy is filled as prescribed in subsection (h) of this section.

(l) (1) In **CAROLINE COUNTY, SOMERSET COUNTY,** Wicomico County, **AND** Worcester County, **[**and Somerset County,**]** the local board consists of five regular members.

(2) Three regular members shall be of the majority party, and two regular members shall be of the principal minority party.

(3) (i) If a vacancy occurs on the local board, the Governor shall appoint an eligible person from the same political party as the predecessor member to fill the vacancy in accordance with subsection (g) of this section for the remainder of the unexpired term and until a successor is appointed and qualifies.

(ii) An appointment made while the Senate of Maryland is not in session shall be considered temporary until the appointee is confirmed by the Senate.

2–204.

(a) Each regular member of a local board shall receive the salary and reimbursement of expenses provided in the county budget, but in no event may the annual compensation be less than the following amounts:

(6) in Caroline County, **[**$2,750**]** **$3,250** for the president, **[**$2,500**]** **$3,000** for other regular members, and reimbursement for expenses incurred in the performance of election duties in accordance with the Standard State Travel Regulations;

~~SECTION 2. AND BE IT FURTHER ENACTED, That pursuant to Article III, § 35 of the Maryland Constitution, this Act may not be construed to extend or apply to the salary or compensation of the president and members of the Caroline County Board of Elections during a term of office beginning before the effective date of this Act, but the provisions of this Act concerning the salary or compensation of the president and members of the Caroline County Board of Elections shall take effect at the beginning of the next following term of office.~~

SECTION ~~2.~~ ~~3.~~ *2.* AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October 1~~ June 6, 2011.

Approved by the Governor, May 10, 2011.

Chapter 306

(Senate Bill 950)

AN ACT concerning

Prince George's County – Secondhand Precious Metal Object Dealers – Precious Metal Objects – Holding Period

FOR the purpose of altering the period of time during which certain secondhand precious metal object dealers in Prince George's County must hold certain precious metal objects; providing a certain exception regarding the applicable

holding period in Prince George's County for certain pawned precious metal objects; and generally relating to the holding period for precious metal objects in Prince George's County.

BY repealing and reenacting, with amendments,
Article – Business Regulation
Section 12–305
Annotated Code of Maryland
(2010 Replacement Volume and 2010 Supplement)

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

Article – Business Regulation

12–305.

(a) (1) **(I)** **1.** Except as otherwise provided in this section, a dealer who acquires a precious metal object shall keep it in the county where the dealer holds a license from the time of acquisition until at least 18 days after submitting a copy of a record of its acquisition under § 12–304 of this subtitle.

2. NOTWITHSTANDING SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE 18–DAY HOLDING PERIOD ESTABLISHED UNDER THIS SUBPARAGRAPH APPLIES TO A PRECIOUS METAL OBJECT THAT:

A. A DEALER LICENSED IN PRINCE GEORGE'S COUNTY ACQUIRED IN A PAWN TRANSACTION; AND

B. AN INDIVIDUAL SEEKS TO REDEEM BY PRESENTING THE ORIGINAL TICKET ISSUED AS PART OF THE PAWN TRANSACTION.

(II) A DEALER WHO HOLDS A LICENSE IN PRINCE GEORGE'S COUNTY AND WHO ACQUIRES A PRECIOUS METAL OBJECT, OTHER THAN A PAWNED PRECIOUS METAL OBJECT DESCRIBED IN SUBPARAGRAPH (I)2 OF THIS PARAGRAPH, SHALL KEEP IT IN PRINCE GEORGE'S COUNTY FROM THE TIME OF ACQUISITION UNTIL AT LEAST 30 DAYS AFTER SUBMITTING A COPY OF A RECORD OF ITS ACQUISITION UNDER § 12–304 OF THIS SUBTITLE.

(2) A dealer who acquires a precious metal object at an event which takes place at a location other than the dealer's fixed business address shall place the object and a record of its acquisition at a location in accordance with subsection (d)(1) or (2) of this section by the next business day after acquiring the object.

(3) In partial compliance with the 18–day holding requirement under this subsection, a dealer may maintain an object and the record of its acquisition at a location other than the dealer's fixed business address, if the local law enforcement unit in the jurisdiction where the item was acquired provides written approval.

(b) (1) A dealer may submit to the primary law enforcement unit a written request for a shorter holding period for a specific precious metal object.

(2) Within 48 hours after the primary law enforcement unit receives a request, the primary law enforcement unit shall approve or deny the request.

(3) After inspecting the precious metal object, the primary law enforcement unit may authorize in writing a shorter holding period.

(4) If the primary law enforcement unit denies the request, the primary law enforcement unit shall state the reasons in writing.

(c) (1) Except as provided in paragraph (2) of this subsection, a dealer may not alter a precious metal object before or during the holding period.

(2) During the holding period, a dealer may chemically test a precious metal object to determine its metal content or value if the dealer does not alter the precious metal object so as to affect its identification or value.

(d) During the holding period for a precious metal object, a dealer shall keep the precious metal object and the record of its acquisition in:

(1) the place of business of the dealer; or

(2) a storage facility specified in the license application of the dealer.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 307

(House Bill 1116)

AN ACT concerning

Prince George's County – Secondhand Precious Metal Object Dealers – Precious Metal Objects – Holding Period

PG 416–11

FOR the purpose of altering the period of time during which certain secondhand precious metal object dealers in Prince George's County must hold certain precious metal objects; providing a certain exception regarding the applicable holding period in Prince George's County for certain pawned precious metal objects; and generally relating to the holding period for precious metal objects in Prince George's County.

BY repealing and reenacting, with amendments,
Article – Business Regulation
Section 12–305
Annotated Code of Maryland
(2010 Replacement Volume and 2010 Supplement)

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

Article – Business Regulation

12–305.

(a) (1) **(I)** **1.** Except as otherwise provided in this section, a dealer who acquires a precious metal object shall keep it in the county where the dealer holds a license from the time of acquisition until at least 18 days after submitting a copy of a record of its acquisition under § 12–304 of this subtitle.

2. NOTWITHSTANDING SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE 18–DAY HOLDING PERIOD ESTABLISHED UNDER THIS SUBPARAGRAPH APPLIES TO A PRECIOUS METAL OBJECT THAT:

A. A DEALER LICENSED IN PRINCE GEORGE'S COUNTY ACQUIRED IN A PAWN TRANSACTION; AND

B. AN INDIVIDUAL SEEKS TO REDEEM BY PRESENTING THE ORIGINAL TICKET ISSUED AS PART OF THE PAWN TRANSACTION.

(II) A DEALER WHO HOLDS A LICENSE IN PRINCE GEORGE'S COUNTY AND WHO ACQUIRES A PRECIOUS METAL OBJECT, OTHER THAN A PAWNED PRECIOUS METAL OBJECT DESCRIBED IN SUBPARAGRAPH (I)2 OF THIS PARAGRAPH, SHALL KEEP IT IN PRINCE GEORGE'S COUNTY FROM THE TIME OF ACQUISITION UNTIL AT LEAST 30 DAYS AFTER SUBMITTING A COPY OF A RECORD OF ITS ACQUISITION UNDER § 12–304 OF THIS SUBTITLE.

(2) A dealer who acquires a precious metal object at an event which takes place at a location other than the dealer's fixed business address shall place the object and a record of its acquisition at a location in accordance with subsection (d)(1) or (2) of this section by the next business day after acquiring the object.

(3) In partial compliance with the 18–day holding requirement under this subsection, a dealer may maintain an object and the record of its acquisition at a location other than the dealer's fixed business address, if the local law enforcement unit in the jurisdiction where the item was acquired provides written approval.

(b) (1) A dealer may submit to the primary law enforcement unit a written request for a shorter holding period for a specific precious metal object.

(2) Within 48 hours after the primary law enforcement unit receives a request, the primary law enforcement unit shall approve or deny the request.

(3) After inspecting the precious metal object, the primary law enforcement unit may authorize in writing a shorter holding period.

(4) If the primary law enforcement unit denies the request, the primary law enforcement unit shall state the reasons in writing.

(c) (1) Except as provided in paragraph (2) of this subsection, a dealer may not alter a precious metal object before or during the holding period.

(2) During the holding period, a dealer may chemically test a precious metal object to determine its metal content or value if the dealer does not alter the precious metal object so as to affect its identification or value.

(d) During the holding period for a precious metal object, a dealer shall keep the precious metal object and the record of its acquisition in:

(1) the place of business of the dealer; or

(2) a storage facility specified in the license application of the dealer.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 308

(Senate Bill 960)

AN ACT concerning

Health Care Providers – Investigations – Information Sharing Among State Agencies

FOR the purpose of adding to the list of entities to which the Health Services Cost Review Commission may disclose certain physician information; altering the list of entities that may be medical review committees charged by law to evaluate certain matters relating to health care providers; requiring the Board of Physicians to disclose information contained in a record to the Secretary of Health and Mental Hygiene and certain agencies for a certain purpose; requiring the Board, the Secretary, and the Commission to jointly adopt regulations for the transfer of certain information in a record; providing that certain provisions of this Act may not be construed to alter the authority of the Secretary under certain provisions of law; making a certain technical change; and generally relating to sharing information among State agencies for purposes of investigating health care providers, health care quality, and utilization of health care.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 19–218
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 1–401 and 14–411(d)
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, without amendments,
Article – Health Occupations
Section 14–411(a), (b), and (c)
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

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

Article – Health – General

19–218.

(a) The Commission shall require each facility to give the Commission information that:

(1) Concerns the total financial needs of the facility;

(2) Concerns its current and expected resources to meet its total financial needs;

(3) Includes the effect of any proposal made, under Subtitle 1 of this title, on comprehensive health planning; and

(4) Includes physician information sufficient to identify practice patterns of individual physicians across all facilities.

(b) The **[**names**]** **IDENTITIES** of individual physicians are confidential and are not discoverable or admissible in evidence in a civil or criminal proceeding, and may only be disclosed to the following:

(1) The utilization review committee of a Maryland hospital;

(2) The Medical and Chirurgical Faculty of the State of Maryland; **[**or**]**

(3) The State Board of Physicians**;**

(4) THE OFFICE OF HEALTH CARE QUALITY IN THE DEPARTMENT; OR

(5) AN INVESTIGATORY BODY UNDER THE STATE OR FEDERAL GOVERNMENT.

Article – Health Occupations

1–401.

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

(2) (i) "Alternative health care system" means a system of health care delivery other than a hospital or related institution.

(ii) "Alternative health care system" includes:

1. A health maintenance organization;

2. A preferred provider organization;

3. An independent practice association;

4. A community health center that is a nonprofit, freestanding ambulatory health care provider governed by a voluntary board of directors and that provides primary health care services to the medically indigent;

5. A freestanding ambulatory care facility as that term is defined in § 19–3B–01 of the Health – General Article; or

6. Any other health care delivery system that utilizes a medical review committee.

(3) "Medical review committee" means a committee or board that:

(i) Is within one of the categories described in subsection (b) of this section; and

(ii) Performs functions that include at least one of the functions listed in subsection (c) of this section.

(4) (i) "Provider of health care" means any person who is licensed by law to provide health care to individuals.

(ii) "Provider of health care" does not include any nursing institution that is conducted by and for those who rely on treatment by spiritual means through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination.

(5) "The Maryland Institute for Emergency Medical Services Systems" means the State agency described in § 13–503 of the Education Article.

(6) "The Maryland Health Care Commission" means the State agency described in § 19–103 of the Health – General Article.

(b) For purposes of this section, a medical review committee is:

(1) A regulatory board~~,~~ ~~[~~or~~]~~ agency~~,~~ ~~OR GROUP OF AGENCIES~~ established by State or federal law to license, certify, or discipline any provider of health care;

(2) A committee of the Faculty or any of its component societies or a committee of any other professional society or association composed of providers of health care;

(3) A committee appointed by or established in **THE DEPARTMENT OR** a local health department for review purposes;

(4) A committee appointed by or established in the Maryland Institute for Emergency Medical Services Systems;

(5) A committee of the medical staff or other committee, including any risk management, credentialing, or utilization review committee established in accordance with § 19–319 of the Health – General Article, of a hospital, related institution, or alternative health care system, if the governing board of the hospital, related institution, or alternative health care system forms and approves the committee or approves the written bylaws under which the committee operates;

(6) A committee or individual designated by the holder of a pharmacy permit, as defined in § 12–101 of this article, that performs the functions listed in subsection (c) of this section, as part of a pharmacy's ongoing quality assurance program;

(7) Any person, including a professional standard review organization, who contracts with an agency of this State or of the federal government to perform any of the functions listed in subsection (c) of this section;

(8) Any person who contracts with a provider of health care to perform any of those functions listed in subsection (c) of this section that are limited to the review of services provided by the provider of health care;

(9) An organization, established by the Maryland Hospital Association, Inc. and the Faculty, that contracts with a hospital, related institution, or alternative delivery system to:

(i) Assist in performing the functions listed in subsection (c) of this section; or

(ii) Assist a hospital in meeting the requirements of § 19–319(e) of the Health – General Article;

(10) A committee appointed by or established in an accredited health occupations school;

(11) An organization described under § 14–501 of this article that contracts with a hospital, related institution, or health maintenance organization to:

(i) Assist in performing the functions listed in subsection (c) of this section; or

(ii) Assist a health maintenance organization in meeting the requirements of Title 19, Subtitle 7 of the Health – General Article, the National Committee for Quality Assurance (NCQA), or any other applicable credentialing law or regulation;

(12) An accrediting organization as defined in § 14–501 of this article;

(13) A Mortality and Quality Review Committee established under § 5–801 or a Morbidity, Mortality, and Quality Review Committee established under § 18–107 of the Health – General Article;

(14) A center designated by the Maryland Health Care Commission as the Maryland Patient Safety Center that performs the functions listed in subsection (c)(1) of this section; or

(15) The Maryland Health Care Commission or its staff, when performing the functions listed in subsection (c) of this section, provided that the data or medical information under review is furnished to the Maryland Health Care Commission by another medical review committee.

(c) For purposes of this section, a medical review committee:

(1) Evaluates and seeks to improve the quality of health care provided by providers of health care;

(2) Evaluates the need for and the level of performance of health care provided by providers of health care;

(3) Evaluates the qualifications, competence, and performance of providers of health care; or

(4) Evaluates and acts on matters that relate to the discipline of any provider of health care.

(d) (1) Except as otherwise provided in this section, the proceedings, records, and files of a medical review committee are not discoverable and are not admissible in evidence in any civil action.

(2) The proceedings, records, and files of a medical review committee are confidential and are not discoverable and are not admissible in evidence in any civil action arising out of matters that are being reviewed and evaluated by the medical review committee if requested by the following:

(i) The Department of Health and Mental Hygiene to ensure compliance with the provisions of § 19–319 of the Health – General Article;

(ii) A health maintenance organization to ensure compliance with the provisions of Title 19, Subtitle 7 of the Health – General Article and applicable regulations;

(iii) A health maintenance organization to ensure compliance with the National Committee for Quality Assurance (NCQA) credentialing requirements; or

(iv) An accrediting organization to ensure compliance with accreditation requirements or the procedures and policies of the accrediting organization.

(3) If the proceedings, records, and files of a medical review committee are requested by any person from any of the entities in paragraph (2) of this subsection:

(i) The person shall give the medical review committee notice by certified mail of the nature of the request and the medical review committee shall be granted a protective order preventing the release of its proceedings, records, and files; and

(ii) The entities listed in paragraph (2) of this subsection may not release any of the proceedings, records, and files of the medical review committee.

(e) Subsection (d)(1) of this section does not apply to:

(1) A civil action brought by a party to the proceedings of the medical review committee who claims to be aggrieved by the decision of the medical review committee; or

(2) Any record or document that is considered by the medical review committee and that otherwise would be subject to discovery and introduction into evidence in a civil trial.

(f) (1) A person shall have the immunity from liability described under § 5–637 of the Courts and Judicial Proceedings Article for any action as a member of the medical review committee or for giving information to, participating in, or contributing to the function of the medical review committee.

(2) A contribution to the function of a medical review committee includes any statement by any person, regardless of whether it is a direct communication with the medical review committee, that is made within the context of the person's employment or is made to a person with a professional interest in the functions of a medical review committee and is intended to lead to redress of a matter within the scope of a medical review committee's functions.

(g) Notwithstanding this section, §§ 14–410 and 14–412 of this article apply to:

(1) The Board of Physicians; and

(2) Any other entity, to the extent that it is acting in an investigatory capacity for the Board of Physicians.

14–411.

(a) In this section, "record" means the proceedings, records, or files of the Board.

(b) Except as otherwise expressly provided in this section and § 14–411.1 of this subtitle, the Board or any of its investigatory bodies may not disclose any information contained in a record.

(c) Nothing in this section shall be construed to prevent or limit the disclosure of:

(1) General licensure, certification, or registration information maintained by the Board, if the request for release complies with the criteria of § 10–617(h) of the State Government Article;

(2) Profile information collected and disseminated under § 14–411.1 of this subtitle; or

(3) Personal and other identifying information of a licensee, as required by the National Practitioner Data Bank for participation in the proactive disclosure service.

(d) The Board shall disclose any information contained in a record to**:**

(1) [a**] A** committee of a hospital, health maintenance organization, or related institution if:

[(1)**] (I)** The committee of a medical hospital staff concerned with physician discipline or other committee of a hospital, health maintenance organization, or related institution requests the information in writing;

[(2)**] (II)** The Board has issued an order as to a licensed physician on whom the information is requested; and

[(3)**] (III)** The Board determines that the information requested is necessary for an investigation or action of the committee as to a medical privilege of a licensed physician**; OR**

(2) THE SECRETARY, THE OFFICE OF HEALTH CARE QUALITY IN THE DEPARTMENT, OR THE HEALTH SERVICES COST REVIEW COMMISSION FOR THE PURPOSE OF INVESTIGATING QUALITY OR UTILIZATION OF CARE IN ANY ENTITY REGULATED BY THE OFFICE OF HEALTH CARE QUALITY OR THE HEALTH SERVICES COST REVIEW COMMISSION.

(E) ON OR BEFORE JANUARY 1, 2012, THE BOARD, THE SECRETARY, AND THE HEALTH SERVICES COST REVIEW COMMISSION JOINTLY SHALL

ADOPT REGULATIONS FOR THE EFFICIENT AND SECURE TRANSFER, UNDER SUBSECTION (D)(2) OF THIS SECTION, OF ANY INFORMATION IN A RECORD THAT MAY INDICATE THAT AN INVESTIGATION OF AN ENTITY REGULATED BY THE OFFICE OF HEALTH CARE QUALITY OR THE HEALTH SERVICES COST REVIEW COMMISSION MAY BE APPROPRIATE.

(F) SUBSECTION (D)(2) OF THIS SECTION MAY NOT BE CONSTRUED TO ALTER THE AUTHORITY OF THE SECRETARY UNDER § 1–203(A) OF THIS ARTICLE OR § 2–106(C) OF THE HEALTH – GENERAL ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 309

(House Bill 600)

AN ACT concerning

Health Care Providers – Investigations – Information Sharing Among State Agencies

FOR the purpose of adding to the list of entities to which the Health Services Cost Review Commission may disclose certain physician information; altering the list of entities that may be medical review committees charged by law to evaluate certain matters relating to health care providers; requiring the Board of Physicians to disclose information contained in a record to the Secretary of Health and Mental Hygiene and certain agencies for a certain purpose; requiring the Board, the Secretary, and the Commission to jointly adopt regulations for the transfer of certain information in a record; providing that certain provisions of this Act may not be construed to alter the authority of the Secretary under certain provisions of law; making a certain technical change; and generally relating to sharing information among State agencies for purposes of investigating health care providers, health care quality, and utilization of health care.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 19–218
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 1–401 and 14–411(d)
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, without amendments,
Article – Health Occupations
Section 14–411(a), (b), and (c)
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

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

Article – Health – General

19–218.

(a) The Commission shall require each facility to give the Commission information that:

(1) Concerns the total financial needs of the facility;

(2) Concerns its current and expected resources to meet its total financial needs;

(3) Includes the effect of any proposal made, under Subtitle 1 of this title, on comprehensive health planning; and

(4) Includes physician information sufficient to identify practice patterns of individual physicians across all facilities.

(b) The **[**names**]** **IDENTITIES** of individual physicians are confidential and are not discoverable or admissible in evidence in a civil or criminal proceeding, and may only be disclosed to the following:

(1) The utilization review committee of a Maryland hospital;

(2) The Medical and Chirurgical Faculty of the State of Maryland; **[**or**]**

(3) The State Board of Physicians**;**

(4) THE OFFICE OF HEALTH CARE QUALITY IN THE DEPARTMENT; OR

(5) AN INVESTIGATORY BODY UNDER THE STATE OR FEDERAL GOVERNMENT.

Article – Health Occupations

1–401.

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

(2) (i) "Alternative health care system" means a system of health care delivery other than a hospital or related institution.

(ii) "Alternative health care system" includes:

1. A health maintenance organization;

2. A preferred provider organization;

3. An independent practice association;

4. A community health center that is a nonprofit, freestanding ambulatory health care provider governed by a voluntary board of directors and that provides primary health care services to the medically indigent;

5. A freestanding ambulatory care facility as that term is defined in § 19–3B–01 of the Health – General Article; or

6. Any other health care delivery system that utilizes a medical review committee.

(3) "Medical review committee" means a committee or board that:

(i) Is within one of the categories described in subsection (b) of this section; and

(ii) Performs functions that include at least one of the functions listed in subsection (c) of this section.

(4) (i) "Provider of health care" means any person who is licensed by law to provide health care to individuals.

(ii) "Provider of health care" does not include any nursing institution that is conducted by and for those who rely on treatment by spiritual means through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination.

(5) "The Maryland Institute for Emergency Medical Services Systems" means the State agency described in § 13–503 of the Education Article.

(6) "The Maryland Health Care Commission" means the State agency described in § 19–103 of the Health – General Article.

(b) For purposes of this section, a medical review committee is:

(1) A regulatory board~~,~~ [or] agency~~, OR GROUP OF AGENCIES~~ established by State or federal law to license, certify, or discipline any provider of health care;

(2) A committee of the Faculty or any of its component societies or a committee of any other professional society or association composed of providers of health care;

(3) A committee appointed by or established in **THE DEPARTMENT OR** a local health department for review purposes;

(4) A committee appointed by or established in the Maryland Institute for Emergency Medical Services Systems;

(5) A committee of the medical staff or other committee, including any risk management, credentialing, or utilization review committee established in accordance with § 19–319 of the Health – General Article, of a hospital, related institution, or alternative health care system, if the governing board of the hospital, related institution, or alternative health care system forms and approves the committee or approves the written bylaws under which the committee operates;

(6) A committee or individual designated by the holder of a pharmacy permit, as defined in § 12–101 of this article, that performs the functions listed in subsection (c) of this section, as part of a pharmacy's ongoing quality assurance program;

(7) Any person, including a professional standard review organization, who contracts with an agency of this State or of the federal government to perform any of the functions listed in subsection (c) of this section;

(8) Any person who contracts with a provider of health care to perform any of those functions listed in subsection (c) of this section that are limited to the review of services provided by the provider of health care;

(9) An organization, established by the Maryland Hospital Association, Inc. and the Faculty, that contracts with a hospital, related institution, or alternative delivery system to:

(i) Assist in performing the functions listed in subsection (c) of this section; or

(ii) Assist a hospital in meeting the requirements of § 19–319(e) of the Health – General Article;

(10) A committee appointed by or established in an accredited health occupations school;

(11) An organization described under § 14–501 of this article that contracts with a hospital, related institution, or health maintenance organization to:

(i) Assist in performing the functions listed in subsection (c) of this section; or

(ii) Assist a health maintenance organization in meeting the requirements of Title 19, Subtitle 7 of the Health – General Article, the National Committee for Quality Assurance (NCQA), or any other applicable credentialing law or regulation;

(12) An accrediting organization as defined in § 14–501 of this article;

(13) A Mortality and Quality Review Committee established under § 5–801 or a Morbidity, Mortality, and Quality Review Committee established under § 18–107 of the Health – General Article;

(14) A center designated by the Maryland Health Care Commission as the Maryland Patient Safety Center that performs the functions listed in subsection (c)(1) of this section; or

(15) The Maryland Health Care Commission or its staff, when performing the functions listed in subsection (c) of this section, provided that the data or medical information under review is furnished to the Maryland Health Care Commission by another medical review committee.

(c) For purposes of this section, a medical review committee:

(1) Evaluates and seeks to improve the quality of health care provided by providers of health care;

(2) Evaluates the need for and the level of performance of health care provided by providers of health care;

(3) Evaluates the qualifications, competence, and performance of providers of health care; or

(4) Evaluates and acts on matters that relate to the discipline of any provider of health care.

(d) (1) Except as otherwise provided in this section, the proceedings, records, and files of a medical review committee are not discoverable and are not admissible in evidence in any civil action.

(2) The proceedings, records, and files of a medical review committee are confidential and are not discoverable and are not admissible in evidence in any civil action arising out of matters that are being reviewed and evaluated by the medical review committee if requested by the following:

(i) The Department of Health and Mental Hygiene to ensure compliance with the provisions of § 19–319 of the Health – General Article;

(ii) A health maintenance organization to ensure compliance with the provisions of Title 19, Subtitle 7 of the Health – General Article and applicable regulations;

(iii) A health maintenance organization to ensure compliance with the National Committee for Quality Assurance (NCQA) credentialing requirements; or

(iv) An accrediting organization to ensure compliance with accreditation requirements or the procedures and policies of the accrediting organization.

(3) If the proceedings, records, and files of a medical review committee are requested by any person from any of the entities in paragraph (2) of this subsection:

(i) The person shall give the medical review committee notice by certified mail of the nature of the request and the medical review committee shall be granted a protective order preventing the release of its proceedings, records, and files; and

(ii) The entities listed in paragraph (2) of this subsection may not release any of the proceedings, records, and files of the medical review committee.

(e) Subsection (d)(1) of this section does not apply to:

(1) A civil action brought by a party to the proceedings of the medical review committee who claims to be aggrieved by the decision of the medical review committee; or

(2) Any record or document that is considered by the medical review committee and that otherwise would be subject to discovery and introduction into evidence in a civil trial.

(f) (1) A person shall have the immunity from liability described under § 5–637 of the Courts and Judicial Proceedings Article for any action as a member of the medical review committee or for giving information to, participating in, or contributing to the function of the medical review committee.

(2) A contribution to the function of a medical review committee includes any statement by any person, regardless of whether it is a direct communication with the medical review committee, that is made within the context of the person's employment or is made to a person with a professional interest in the functions of a medical review committee and is intended to lead to redress of a matter within the scope of a medical review committee's functions.

(g) Notwithstanding this section, §§ 14–410 and 14–412 of this article apply to:

(1) The Board of Physicians; and

(2) Any other entity, to the extent that it is acting in an investigatory capacity for the Board of Physicians.

14–411.

(a) In this section, "record" means the proceedings, records, or files of the Board.

(b) Except as otherwise expressly provided in this section and § 14–411.1 of this subtitle, the Board or any of its investigatory bodies may not disclose any information contained in a record.

(c) Nothing in this section shall be construed to prevent or limit the disclosure of:

(1) General licensure, certification, or registration information maintained by the Board, if the request for release complies with the criteria of § 10–617(h) of the State Government Article;

(2) Profile information collected and disseminated under § 14–411.1 of this subtitle; or

(3) Personal and other identifying information of a licensee, as required by the National Practitioner Data Bank for participation in the proactive disclosure service.

(d) The Board shall disclose any information contained in a record to**:**

(1) [a**] A** committee of a hospital, health maintenance organization, or related institution if:

[(1)**] (I)** The committee of a medical hospital staff concerned with physician discipline or other committee of a hospital, health maintenance organization, or related institution requests the information in writing;

[(2)**] (II)** The Board has issued an order as to a licensed physician on whom the information is requested; and

[(3)**] (III)** The Board determines that the information requested is necessary for an investigation or action of the committee as to a medical privilege of a licensed physician**; OR**

(2) THE SECRETARY, THE OFFICE OF HEALTH CARE QUALITY IN THE DEPARTMENT, OR THE HEALTH SERVICES COST REVIEW COMMISSION FOR THE PURPOSE OF INVESTIGATING QUALITY OR UTILIZATION OF CARE IN ANY ENTITY REGULATED BY THE OFFICE OF HEALTH CARE QUALITY OR THE HEALTH SERVICES COST REVIEW COMMISSION.

(E) ON OR BEFORE JANUARY 1, 2012, THE BOARD, THE SECRETARY, AND THE HEALTH SERVICES COST REVIEW COMMISSION JOINTLY SHALL ADOPT REGULATIONS FOR THE EFFICIENT AND SECURE TRANSFER, UNDER SUBSECTION (D)(2) OF THIS SECTION, OF ANY INFORMATION IN A RECORD THAT MAY INDICATE THAT AN INVESTIGATION OF AN ENTITY REGULATED BY THE OFFICE OF HEALTH CARE QUALITY OR THE HEALTH SERVICES COST REVIEW COMMISSION MAY BE APPROPRIATE.

(F) SUBSECTION (D)(2) OF THIS SECTION MAY NOT BE CONSTRUED TO ALTER THE AUTHORITY OF THE SECRETARY UNDER § 1–203(A) OF THIS ARTICLE OR § 2–106(C) OF THE HEALTH – GENERAL ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 310

(Senate Bill 975)

AN ACT concerning

Economic Development – Tri–County Council for Western Maryland – Membership and Leadership

FOR the purpose of altering the membership of the Tri–County Council for Western Maryland; establishing an Executive Committee for the Council and providing for the Executive Committee's officers and terms of office; defining a certain term; providing for the initial membership of the Executive Committee; and generally relating to the membership and leadership of the Tri–County Council for Western Maryland.

BY repealing and reenacting, with amendments,
Article – Economic Development
Section 13–701 and 13–703
Annotated Code of Maryland
(2008 Volume and 2010 Supplement)

BY repealing
Article – Economic Development
Section 13–704
Annotated Code of Maryland
(2008 Volume and 2010 Supplement)

BY adding to
Article – Economic Development
Section 13–704
Annotated Code of Maryland
(2008 Volume and 2010 Supplement)

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

Article – Economic Development

13–701.

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

(b) "Commissioners" means the Board of County Commissioners of Allegany County, Garrett County, or Washington County, respectively.

(c) "Council" means the Tri–County Council for Western Maryland.

(d) "Executive Director" means the Executive Director of the Council.

(E) "MEMBER COUNTY" MEANS EACH COUNTY IN THE REGION THAT PAYS ANNUAL DUES THAT THE COUNCIL SETS.

[(e)**] (F)** "Plan" means a regional plan that the Council prepares for the region.

[(f)**] (G)** "Region" means Allegany, Garrett, and Washington counties.

13–703.

(a) The Council consists of the following **[**23**] 26** members:

[(1) from Allegany, Garrett, and Washington counties:

(i) nine representatives of the county governments, three from each county, appointed by their respective commissioners; and

(ii) three municipal elected officials, one from each county, appointed by their respective commissioners;

(2) from the members of the House of Delegates, the chair, or the designee of the chair, of the Allegany County Delegation, the Garrett County Delegation, and the Washington County Delegation, each of whom shall reside, respectively, in Allegany County, Garrett County, and Washington County;

(3) the two members of the Senate of Maryland representing the region and residing in Allegany County, Garrett County, or Washington County; and

(4) six private citizens, two each from Allegany County, Garrett County, and Washington County, respectively, that are:

(i) appointed by their respective commissioners;

(ii) not listed under paragraphs (1), (2), and (3) of this subsection; and

(iii) neither elected officials nor employees of a unit of local government.**]**

(1) TWO COMMISSIONERS FROM EACH MEMBER COUNTY;

(2) THE DIRECTOR OF ECONOMIC DEVELOPMENT FROM EACH MEMBER COUNTY;

(3) TWO MAYORS FROM EACH MEMBER COUNTY OR THEIR REPRESENTATIVES, APPOINTED BY THE RESPECTIVE CHAPTERS OF THE MARYLAND MUNICIPAL LEAGUE FOR EACH MEMBER COUNTY;

(4) THE CHAIR OF EACH MEMBER COUNTY'S LEGISLATIVE DELEGATION TO THE HOUSE OF DELEGATES, OR THE CHAIR'S DESIGNEE;

(5) THE TWO MEMBERS OF THE SENATE OF MARYLAND REPRESENTING THE MEMBER COUNTIES IN DISTRICTS 1 AND 2;

(6) SIX PRIVATE CITIZENS, TWO FROM EACH MEMBER COUNTY, WHO ARE:

(I) APPOINTED BY THEIR RESPECTIVE COMMISSIONERS;

(II) NOT LISTED UNDER PARAGRAPH (1), (2), (3), (4), OR (5) OF THIS SUBSECTION; AND

(III) NEITHER ELECTED OFFICIALS NOR EMPLOYEES OF A UNIT OF LOCAL GOVERNMENT.

(b) (1) A member who qualifies because of the member's elected or appointed position is a member of the Council only during the member's term of office in the elected or appointed position.

(2) A member appointed**:**

(I) UNDER SUBSECTION (A)(3) OF THIS SECTION, SERVES AT THE PLEASURE OF THE COMMISSIONERS FOR THE COUNTY THAT THE MEMBER REPRESENTS;

(II) UNDER SUBSECTION (A)(4) OF THIS SECTION, SHALL RESIDE IN THE MEMBER COUNTY THAT THE MEMBER REPRESENTS; AND

(III) under subsection **[**(a)(4)**] (A)(6)** of this section:

[(i)**] 1.** serves at the pleasure of the commissioners who appointed the member; and

[(ii)**] 2.** has the same term as the commissioners who appointed the member.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) Except for an ex officio member, 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.

[13–704.

The Council shall elect a chair from among its members.**]**

13–704.

(A) THERE IS AN EXECUTIVE COMMITTEE OF THE COUNCIL.

(B) THE EXECUTIVE COMMITTEE CONSISTS OF THE CHAIR, VICE–CHAIR, AND SECRETARY/TREASURER OF THE COUNCIL.

(C) (1) ON A ROTATING BASIS, A COMMISSIONER MEMBER OF THE COUNCIL FROM EACH MEMBER COUNTY SHALL SERVE AS THE CHAIR, VICE–CHAIR, AND SECRETARY/TREASURER, RESPECTIVELY.

(2) THE TERM OF EACH OFFICER IS 1 YEAR.

SECTION 2. AND BE IT FURTHER ENACTED, That the membership of the Executive Committee of the Tri–County Council for Western Maryland as of October 1, 2011, under § 13–704 of the Economic Development Article, as enacted by this Act, shall be as follows:

(1) A commissioner member from Washington County shall serve as Chair;

(2) A commissioner member from Allegany County shall serve as Vice–Chair; and

(3) A commissioner member from Garrett County shall serve as Secretary/Treasurer.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 311

(Senate Bill 980)

AN ACT concerning

Credit Unions – Boards of Directors – Electronically Conducted Elections

FOR the purpose of authorizing the election of the board of directors of a credit union to be conducted electronically under certain circumstances; requiring the secretary of a credit union, for an election of directors conducted electronically, to provide certain information and a certain identification form to certain members of the credit union as provided in regulations adopted by the Commissioner of Financial Regulation; requiring the Commissioner to establish by regulation procedures for conducting an election of directors electronically; making certain conforming and stylistic changes; and generally relating to elections of the board of directors of a credit union.

BY repealing and reenacting, with amendments,
Article – Financial Institutions
Section 6–329(a), (d), and (f)
Annotated Code of Maryland
(2003 Replacement Volume and 2010 Supplement)

BY adding to
Article – Financial Institutions
Section 6–329(i)
Annotated Code of Maryland
(2003 Replacement Volume and 2010 Supplement)

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

Article – Financial Institutions

6–329.

(a) Subject to the provisions of this section, the directors may be elected exclusively by mail ballot **OR ELECTRONICALLY IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE COMMISSIONER,** if:

(1) The board of the credit union, by resolution posted conspicuously at the principal office of the credit union at least 90 days before the annual meeting of the members of the credit union, **[**authorize**]** **AUTHORIZES** the election of directors exclusively by mail ballot **OR ELECTRONICALLY**; or

(2) (i) The bylaws provide for the election of directors exclusively by mail ballot **OR ELECTRONICALLY**; and

(ii) Notice of the election and the annual meeting is posted conspicuously at the principal office of the credit union at least 90 days **[**prior to**]** **BEFORE** the date of the annual meeting.

(d) (1) When only one member is nominated for a position to be filled, the chairman may:

(i) Take a voice vote; or

(ii) Declare the nominee elected by general consent or acclamation at the annual meeting.

(2) If the nominations of the nominating committee and any petitioners provide more than one nominee for each directorship to be filled, the secretary**:**

(I) FOR AN ELECTION OF DIRECTORS CONDUCTED BY MAIL BALLOT, shall mail to each member in good standing, at least 20 days before the annual meeting:

[(i)**]** **1.** A printed ballot, clearly identified as a ballot, on which appears the name of each nominee, in alphabetical order, and on which, in the form that the board approves, may appear after a nominee's name:

[1.**]** **A.** A brief statement of the nominee's qualifications and biographical information; and

[2.**]** **B.** If applicable, a notation that the nominee is the incumbent;

[(ii)**]** **2.** A postage prepaid and preaddressed envelope clearly marked with instructions to place the completed ballot and the identification form in the envelope and seal the envelope; and

[(iii)**]** **3.** An identification form to be completed to include the name, address, signature, and credit union account number of the voter**; AND**

(II) FOR AN ELECTION OF DIRECTORS CONDUCTED ELECTRONICALLY, SHALL PROVIDE THE INFORMATION AND IDENTIFICATION FORM REQUIRED UNDER ITEM (I) OF THIS PARAGRAPH AS PROVIDED IN REGULATIONS ADOPTED BY THE COMMISSIONER.

(3) One form may be printed **OR PROVIDED ELECTRONICALLY** that represents a combined ballot and identification form.

(f) The tellers of an election may not count a ballot unless it is:

(1) Mailed **OR ELECTRONICALLY SUBMITTED** to the tellers; and

(2) Received by the tellers not later than midnight of the 7th day before the date of the annual meeting.

(I) THE COMMISSIONER SHALL ESTABLISH BY REGULATION PROCEDURES FOR CONDUCTING AN ELECTION OF DIRECTORS ELECTRONICALLY, INCLUDING PROCEDURES FOR:

(1) PROVIDING NOTICE OF THE ELECTION TO EACH MEMBER IN GOOD STANDING;

(2) PROVIDING THE INFORMATION AND IDENTIFICATION FORM SPECIFIED IN SUBSECTION (D)(2)(I)1 OF THIS SECTION;

(3) PROVIDING INSTRUCTIONS ON HOW TO ACCESS AND USE THE ELECTRONIC ELECTION SYSTEM; AND

(4) ALLOWING A MEMBER TO OPT OUT OF USING THE ELECTRONIC ELECTION SYSTEM AND VOTE BY MAIL BALLOT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 312

(Senate Bill 993)

AN ACT concerning

Maryland Automobile Insurance Fund – Employee Compensation

FOR the purpose of providing that employees of the Maryland Automobile Insurance Fund are not subject to certain laws, regulations, or executive orders governing State employee compensation; repealing a requirement for the Executive Director of the Fund to determine the compensation of certain personnel of the Fund in accordance with the State pay plan; <u>requiring the Executive Director to administer the compensation of the personnel of the Fund;</u> repealing a requirement for the Executive Director to submit certain changes to the Fund's

salary plan to the Secretary of Budget and Management in a certain manner; repealing a requirement for the Secretary to take certain actions relating to proposed changes to the Fund's salary plan; and generally relating to the compensation of employees of the Maryland Automobile Insurance Fund.

BY repealing and reenacting, with amendments,
Article – Insurance
Section 20–204
Annotated Code of Maryland
(2006 Replacement Volume and 2010 Supplement)

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

Article – Insurance

20–204.

(a) (1) Except as provided in paragraph (2) of this subsection or otherwise by law, the Executive Director shall appoint and remove staff of the Fund in accordance with the provisions of the State Personnel and Pensions Article.

(2) Positions that the Executive Director designates with the approval of the Board of Trustees as technical or professional positions are in the executive service, management service, or are special appointments of the skilled service or the professional service in the State Personnel Management System.

(3) Notwithstanding any other provision of law, the Executive Director may appoint claims adjusters, attorneys, and other necessary personnel directly as employees or on a contract basis.

(b) The Executive Director shall determine **AND ADMINISTER** the compensation of the personnel of the Fund designated under subsection (a)(2) of this section**[**:

(1)**]** with the approval of the Board of Trustees**[**; and

(2) when possible, in accordance with the State pay plan.

(c) (1) At least 45 days before the effective date of the change, the Executive Director shall submit to the Secretary of Budget and Management each change to the Fund's salary plans that involves increases or decreases in salary ranges other than those associated with routine reclassifications and promotions or general salary increases approved by the General Assembly.

(2) Reportable changes include creation or abolition of classes, regrading of classes from one established range to another, and creation of new pay schedules or ranges.

(3) The Secretary of Budget and Management shall:

(i) review the proposed changes; and

(ii) at least 15 days before the effective date of the proposed changes, advise the Executive Director whether the changes would have an adverse effect on comparable State jobs.

(4) Failure of the Secretary of Budget and Management to respond in a timely manner is deemed to be a statement that the change will have no adverse effect**]**.

(C) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, AN EMPLOYEE OF THE FUND IS NOT SUBJECT TO ANY LAW, REGULATION, OR EXECUTIVE ORDER GOVERNING STATE EMPLOYEE COMPENSATION, INCLUDING FURLOUGHS, SALARY REDUCTIONS, AND ANY OTHER GENERAL FUND COST–SAVING MEASURE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 313

(Senate Bill 997)

AN ACT concerning

Baltimore County – Alcoholic Beverages – Expiration of Licenses – Extension for Casualty Loss

FOR the purpose of authorizing the Board of License Commissioners for Baltimore County under certain circumstances to extend an alcoholic beverages license for a certain time if the licensed premises is forced to close because of a casualty loss; ~~authorizing the circuit court to extend a license under certain circumstances if the circuit court finds that extraordinary cause exists; requiring the licensee to resume active alcoholic beverages business operations under certain circumstances;~~ making this Act an emergency measure; and generally relating to alcoholic beverages licenses in Baltimore County.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 10–504(e)
Annotated Code of Maryland
(2005 Replacement Volume and 2010 Supplement)

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

Article 2B – Alcoholic Beverages

10–504.

(e) (1) (i) This subsection applies only in Baltimore County.

(ii) In this subsection, "Board" means the Board of License Commissioners or the Office of the Comptroller, whichever is the issuing party.

(2) 180 days after the holder of any license issued under the provisions of this article has closed the business or ceased active alcoholic beverages business operations of the business for which the license is held, the license shall expire unless:

(i) An application for approval of a transfer to another location or an application for assignment to another person pursuant to § 10–503 of this article has been approved or is then pending;

(ii) An application pursuant to § 10–506 of this article has been approved or is then pending; or

(iii) A written request for a hardship extension, as provided in this subsection, is filed within the 180–day period.

(3) **[**The**]** **EXCEPT AS PROVIDED IN PARAGRAPH (7) OF THIS SUBSECTION, THE** licensee or other appropriate interested parties may make a written request to the Board for an extension of the life of the license, due to undue hardship, for a time period of no more than a cumulative period of 360 days after the date of closing or cessation of alcoholic beverages business operations of the business for which the license is held.

(4) **[**After**]** **EXCEPT AS PROVIDED IN PARAGRAPH (7) OF THIS SUBSECTION, AFTER** a hearing conducted on the extension request, upon a finding that undue hardship currently exists causing the closing or cessation of business operations, the Board may grant an extension of the life of the license for a time period not to exceed 360 days as defined in paragraphs (3) and (5) of this subsection.

(5) It is the intention of this subsection that the total time period for which a license may be deemed unexpired under paragraph (2) of this subsection is 180 days if no undue hardship extension is granted and no more than 360 days if an undue hardship extension has been granted. The time period begins at the earlier of the closing of the business or cessation of alcoholic beverages business, and shall be tolled only upon the filing of an application or request described in paragraph (2) of this subsection, the expiration period to begin running again, cumulatively to the time period before the filing of the application or request, upon the occurrence of the later to occur of the following events:

(i) Final action of the Board granting or denying a request authorized by paragraph (3) of this subsection;

(ii) Final action of the Board denying an application described by subparagraphs (i) or (ii) of paragraph (2) of this subsection; or

(iii) Final judgment of the appellate court when judicial review of the Board's action on an application or request authorized by paragraphs (2) or (3) of this subsection has been sought, or upon dismissal of a petition for judicial review.

(6) In the event that an application or request to the Board described in paragraph (2) or (3) of this subsection is withdrawn, there shall be no tolling of the period for automatic expiration of the license and it shall be deemed as if no such application or request was filed.

(7) ~~(I)~~ IF A LICENSED PREMISES IS FORCED TO CLOSE BECAUSE OF A CASUALTY LOSS, THE BOARD, WITHOUT CIRCUIT COURT APPROVAL, MAY EXTEND THE LICENSE FOR NOT MORE THAN 2 YEARS AFTER THE CLOSING.

~~(II) THE CIRCUIT COURT MAY EXTEND A LICENSE BEYOND AN EXTENSION GRANTED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH IF THE CIRCUIT COURT FINDS THAT EXTRAORDINARY CAUSE EXISTS.~~

~~(III) IF THE CIRCUIT COURT EXTENDS A LICENSE UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH, WHEN THE EXTENSION EXPIRES THE LICENSEE IMMEDIATELY SHALL RESUME ACTIVE ALCOHOLIC BEVERAGES BUSINESS OPERATIONS AT THE LICENSED PREMISES AND CONTINUE THE OPERATIONS AT THE LICENSED PREMISES FOR AT LEAST 1 YEAR.~~

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 10, 2011.

Chapter 314

(House Bill 12)

AN ACT concerning

Procurement – Employee Uniforms and Equipment – Place of Manufacture

FOR the purpose of prohibiting a public employer, under certain circumstances, from knowingly buying, furnishing, or requiring an employee to buy or acquire for use while on duty certain uniforms and other equipment unless the uniforms or other equipment are manufactured in the United States; requiring the Board of Public Works to adopt certain regulations; providing for the application of this Act; defining a certain term; and generally relating to the procurement of employee uniforms and equipment.

BY adding to
Article – State Finance and Procurement
Section 14–411
Annotated Code of Maryland
(2009 Replacement Volume and 2010 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

14–411.

(A) IN THIS SECTION, "PUBLIC EMPLOYER" MEANS:

(1) A UNIT;

(2) A COUNTY;

(3) A MUNICIPALITY IN THE STATE;

(4) A SCHOOL DISTRICT IN THE STATE; OR

(5) ANY SPECIAL DISTRICT IN THE STATE.

(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SECTION, A PUBLIC EMPLOYER MAY NOT KNOWINGLY BUY, FURNISH, OR REQUIRE AN EMPLOYEE TO BUY OR ACQUIRE FOR USE WHILE ON DUTY ANY OF THE FOLLOWING ITEMS UNLESS THE ITEM IS MANUFACTURED IN THE UNITED STATES:

(I) A UNIFORM OR ANY OTHER ITEM OF APPAREL, THE SELECTION OF WHICH IS NOT IN THE EMPLOYEE'S DISCRETION, EXCEPT FOR THE PROPER SIZE; OR

(II) SAFETY EQUIPMENT AND PROTECTIVE ACCESSORIES.

(2) A PUBLIC EMPLOYER MAY BUY, FURNISH, OR REQUIRE AN EMPLOYEE TO PURCHASE OR ACQUIRE AN ITEM LISTED IN PARAGRAPH (1) OF THIS SUBSECTION <u>THAT IS MANUFACTURED OUTSIDE OF THE UNITED STATES</u>, IF:

(I) THE ITEM OR A SIMILAR ITEM IS NOT MANUFACTURED OR AVAILABLE FOR PURCHASE IN THE UNITED STATES;

(II) THE ITEM OR A SIMILAR ITEM IS NOT MANUFACTURED OR AVAILABLE FOR PURCHASE IN THE UNITED STATES IN REASONABLY AVAILABLE QUANTITIES;

(III) THE PRICE OF THE ITEM OR A SIMILAR ITEM MANUFACTURED IN THE UNITED STATES EXCEEDS THE PRICE OF A SIMILAR, AVAILABLE ITEM THAT IS NOT MANUFACTURED IN THE UNITED STATES BY AN UNREASONABLE AMOUNT; OR

(IV) THE QUALITY OF THE ITEM OR A SIMILAR ITEM MANUFACTURED IN THE UNITED STATES IS SUBSTANTIALLY LESS THAN THE QUALITY OF A COMPARABLY PRICED, SIMILAR, AND AVAILABLE ITEM THAT IS NOT MANUFACTURED IN THE UNITED STATES.

(3) THE BOARD SHALL ADOPT REGULATIONS DEFINING THE FOLLOWING TERMS FOR THE PURPOSES OF THIS SECTION:

(I) "REASONABLY AVAILABLE";

(II) "UNREASONABLE AMOUNT"; AND

(III) "SUBSTANTIALLY LESS".

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 contract for the procurement of uniforms, safety equipment, or protective accessories entered into by a public employer before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 315

(House Bill 39)

AN ACT concerning

~~Worcester County –~~ Slot Machines for Nonprofit Organizations *on the Eastern Shore – Expansion and Oversight*

FOR the purpose of *requiring the State Comptroller to regulate the operation of slot machines by certain eligible organizations in certain counties;* adding Worcester County to the list of counties in which certain nonprofit fraternal, religious, and war veterans' organizations may own and operate a certain number of slot machines under certain circumstances; *authorizing the Comptroller to adopt certain regulations; requiring the Comptroller to set the amount of a certain annual fee in a certain manner; prohibiting the Comptroller from issuing licenses for slot machines to certain eligible organizations in certain locations in Ocean City; prohibiting the Comptroller from initiating certain reporting and audit requirements until a certain date;* and generally relating to slot machines ~~in Worcester County~~ *in certain counties*.

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 12–304
Annotated Code of Maryland
(2002 Volume and 2010 Supplement)

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

Article – Criminal Law

12–304.

(a) In this section, "eligible organization" means:

(1) a nonprofit organization that:

(i) has been located in a county listed in subsection (b) of this section for at least 5 years before the organization applies for a license under subsection (e) of this section; and

(ii) is a bona fide:

1. fraternal organization;

2. religious organization; or

3. war veterans' organization; or

(2) a nonprofit organization that has been affiliated with a national fraternal organization for less than 5 years and has been located in a county listed in subsection (b) of this section for at least 50 years before the nonprofit organization applies for a license under subsection (e) of this section.

(b) This section applies in:

(1) Caroline County;

(2) Cecil County;

(3) Dorchester County;

(4) Kent County;

(5) Queen Anne's County;

(6) Somerset County;

(7) Talbot County; **[**and**]**

(8) Wicomico County**; AND**

(9) WORCESTER COUNTY.

(c) (1) In this subsection, a console or set of affixed slot machines is not an individual slot machine.

(2) Notwithstanding any other provision of this subtitle, an eligible organization may own and operate a slot machine if the eligible organization:

(i) obtains a license under subsection (e) of this section for each slot machine;

(ii) owns each slot machine that the eligible organization operates;

(iii) owns not more than five slot machines;

(iv) locates and operates its slot machines at its principal meeting hall in the county in which the eligible organization is located;

(v) does not locate or operate its slot machines in a private commercial facility;

(vi) uses:

1. at least one–half of the ***GROSS*** proceeds from its slot machines for the benefit of a charity; and

2. the remainder of the proceeds from its slot machines to further the purposes of the eligible organization;

(vii) does not use any of the proceeds of the slot machine for the financial benefit of an individual; and

(viii) reports annually under affidavit to the State Comptroller:

1. the income of each slot machine; and

2. the disposition of the income from each slot machine.

(d) An eligible organization may not use or operate a slot machine unless:

(1) the slot machine is equipped with a tamperproof meter or counter that accurately records gross receipts; and

(2) the eligible organization keeps an accurate record of the gross receipts and payoffs of the slot machine.

(e) (1) ***(I) THE STATE COMPTROLLER SHALL REGULATE THE OPERATION OF SLOT MACHINES UNDER THIS SECTION.***

(II) THE STATE COMPTROLLER MAY ADOPT REGULATIONS TO IMPLEMENT THE REQUIREMENTS OF THIS SECTION, INCLUDING REQUIRING AUDITS OF THE ANNUAL REPORTS SUBMITTED TO THE STATE COMPTROLLER UNDER SUBSECTION (C)(2)(VIII) OF THIS SECTION.

(2) Before an eligible organization may operate a slot machine under this section, the eligible organization shall obtain a license for the slot machine from the ~~sheriff of the county in which the eligible organization plans to locate the slot machine~~ ***STATE COMPTROLLER***.

~~(2)~~ ***(3)*** (i) The ~~county~~ ***STATE COMPTROLLER*** shall:

1. charge an annual fee ~~of $50~~ for each license for a machine; and

2. issue a license sticker to the applicant.

(ii) The applicant shall place the sticker on the slot machine.

(iii) ~~The proceeds of the annual fee shall be transferred to the general fund of the county~~ ***THE STATE COMPTROLLER SHALL SET THE AMOUNT OF THE ANNUAL FEE SO THAT THE TOTAL PROCEEDS OF THE ANNUAL FEE EQUAL AN AMOUNT DIRECTLY RELATED TO ADMINISTRATIVE COSTS OF THE STATE COMPTROLLER TO REGULATE THE OPERATION OF SLOT MACHINES UNDER THIS SECTION***.

(3) In the application to the ~~sheriff~~ ***STATE COMPTROLLER*** for a license, one of the principal officers of the eligible organization shall certify under affidavit that the organization:

(i) is an eligible organization; and

(ii) will comply with this section.

(f) (1) A principal officer of the eligible organization may not intentionally misrepresent a statement of fact on the application.

(2) A person who violates this subsection is guilty of perjury and on conviction is subject to the penalty provided under Title 9, Subtitle 1 of this article.

(G) THE COMPTROLLER MAY NOT ISSUE A LICENSE FOR A SLOT MACHINE TO AN ELIGIBLE ORGANIZATION LOCATED IN OCEAN CITY THAT IS LOCATED EAST OF SOUTH AND NORTH BALTIMORE AVENUES.

SECTION 2. AND BE IT FURTHER ENACTED, That the Comptroller may not initiate any audit or reporting requirements, as authorized under § 12–304(e)(1)(ii) of the Criminal Law Article as enacted by this Act, until July 1, 2012.

SECTION ~~2.~~ *3.* AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October 1, 2011~~ *June 1, 2011*.

Approved by the Governor, May 10, 2011.

Chapter 316

(House Bill 67)

AN ACT concerning

State Board of Architects – Sunset Extension and Program Evaluation

FOR the purpose of continuing the State Board of Architects in accordance with the provisions of the Maryland Program Evaluation Act (sunset law) by extending to a certain date the termination provisions relating to the statutory and regulatory authority of the Board; requiring that an evaluation of the Board and the statutes and regulations that relate to the Board be performed on or before a certain date; requiring the chairs of certain design boards to submit a certain report on or before a certain date; and generally relating to the State Board of Architects.

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 3–702
Annotated Code of Maryland
(2010 Replacement Volume)

BY repealing and reenacting, without amendments,
Article – State Government
Section 8–403(a)
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 8–403(b)(4)
Annotated Code of Maryland
(2009 Replacement Volume and 2010 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

3–702.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this title and all regulations adopted under this title shall terminate and be of no effect after July 1, **[**2013**] 2023**.

Article – State Government

8–403.

(a) On or before December 15 of the 2nd year before the evaluation date of a governmental activity or unit, the Legislative Policy Committee, based on a preliminary evaluation, may waive as unnecessary the evaluation required under this section.

(b) Except as otherwise provided in subsection (a) of this section, on or before the evaluation date for the following governmental activities or units, an evaluation shall be made of the following governmental activities or units and the statutes and regulations that relate to the governmental activities or units:

(4) Architects, State Board of (§ 3–201 of the Business Occupations and Professions Article: July 1, **[**2012**] 2022**);

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before October 1, 2011, the Chair of the State Board of Architects, the Chair of the State Board of Certified Interior Designers, the Chair of the State Board of Examiners of Landscape Architects, the Chair of the State Board for Professional Engineers, and the Chair of the State Board for Professional Land Surveyors shall jointly submit a report to the Senate Education, Health, and Environmental Affairs Committee and the House Economic Matters Committee, in accordance with § 2–1246 of the State Government Article, on the sufficiency of the balance in the State Occupational and Professional Licensing Design Boards' Fund. The report shall specifically address the benefits of a fee increase in order to ensure that the collective revenue for the design boards covers total expenditures.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 317

(House Bill 69)

AN ACT concerning

State Board for Professional Engineers – Sunset Extension and Program Evaluation

FOR the purpose of continuing the State Board for Professional Engineers in accordance with the provisions of the Maryland Program Evaluation Act (sunset law) by extending to a certain date the termination provisions relating to the statutory and regulatory authority of the Board; requiring that an evaluation of the Board and the statutes and regulations that relate to the Board be performed on or before a certain date; requiring the Board to submit a certain report on or before a certain date; and generally relating to the State Board for Professional Engineers.

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 14–602
Annotated Code of Maryland
(2010 Replacement Volume)

BY repealing and reenacting, without amendments,
Article – State Government
Section 8–403(a)
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 8–403(b)(21)
Annotated Code of Maryland
(2009 Replacement Volume and 2010 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

14–602.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this title and all regulations adopted under this title shall terminate and be of no effect after July 1, **[**2013**]** **2023**.

Article – State Government

8–403.

(a) On or before December 15 of the 2nd year before the evaluation date of a governmental activity or unit, the Legislative Policy Committee, based on a

preliminary evaluation, may waive as unnecessary the evaluation required under this section.

(b) Except as otherwise provided in subsection (a) of this section, on or before the evaluation date for the following governmental activities or units, an evaluation shall be made of the following governmental activities or units and the statutes and regulations that relate to the governmental activities or units:

(21) Engineers, State Board for Professional (§ 14–201 of the Business Occupations and Professions Article: July 1, **[**2012**] 2022**);

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before October 1, 2012, the State Board for Professional Engineers shall submit a report to the Senate Education, Health, and Environmental Affairs Committee and the House Economic Matters Committee, in accordance with § 2–1246 of the State Government Article. The report shall provide an update on the Board's actions concerning the following issues:

(1) reallocating the Board's special fund resources and staff in light of privatization of examination administration responsibilities, the new continuing professional competency requirements, and the growing licensing workload;

(2) implementing the examination administration process through a private contractor;

(3) establishing and implementing continuing professional competency requirements;

(4) establishing firm permits or certificates of authorization with uniform requirements for the State Board of Professional Engineers, State Board of Architects, State Board of Certified Interior Designers, State Board of Examiners of Landscape Architects, and State Board for Professional Land Surveyors;

(5) implementing the new structural engineering exam; and

(6) instituting computer–based testing and establishing more rigorous educational requirements for licensure.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 318

(House Bill 109)

AN ACT concerning

Transportation – Outdoor Signs Along Federal–Aid Primary Highways – Scenic Byways

FOR the purpose of prohibiting the State Highway Administration from issuing permits for certain outdoor signs along or near scenic byways located on federal–aid primary highways; altering a certain definition; defining a certain term; and generally relating to the regulation of outdoor signs along or near federal–aid primary highways.

BY repealing and reenacting, with amendments,
Article – Transportation
Section 8–725 and 8–730
Annotated Code of Maryland
(2008 Replacement Volume and 2010 Supplement)

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

Article – Transportation

8–725.

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

(b) (1) In this definition, "commercial or industrial activity" means any activity generally recognized as commercial or industrial by local zoning authorities in this State, except for the following activities:

(i) Outdoor advertising;

(ii) Agricultural, forestry, ranching, grazing, farming, and related activities, including wayside fresh produce stands;

(iii) Activities normally or regularly in operation less than 3 months of the year;

(iv) Transient or temporary activities;

(v) Activities conducted in a building principally used as a residence; and

(vi) Railroad tracks and minor sidings.

(2) "Commercial or industrial area" means any area along the side of a highway:

(i) That is reserved under a local zoning ordinance or regulation for business, commerce, or trade;

(ii) That is not zoned and on which there are located one or more permanent structures devoted to a commercial or industrial activity or on which a commercial or industrial activity is conducted, whether or not a permanent structure is located there, including the area that, along or parallel to the edge or pavement of that side of the highway, extends 660 feet from the outer edges of the regularly used buildings, parking lots, or storage or processing areas of the commercial or industrial activity.

(c) "Double–faced" means abutting and facing the same direction.

(d) "Federal–aid primary highway" means any State highway that is part of the national federal–aid primary system **AS OF JUNE 1, 1991, OR ANY HIGHWAY ON THE NATIONAL HIGHWAY SYSTEM**, as designated by the Administration and approved by the United States Secretary of Transportation under Title 23 of the United States Code.

(E) "SCENIC BYWAY" MEANS A TRANSPORTATION CORRIDOR DESIGNATED BY THE ADMINISTRATION AS HAVING SPECIAL SCENIC, HISTORIC, RECREATIONAL, CULTURAL, ARCHAEOLOGICAL, OR NATURAL QUALITIES THAT HAVE BEEN RECOGNIZED AS SUCH THROUGH LEGISLATION OR SOME OTHER OFFICIAL DECLARATION.

8–730.

The Administration may not issue a permit for any outdoor sign along or near any federal–aid primary highway, if the sign:

(1) Imitates or resembles any official traffic sign, signal, or device;

(2) Is erected or maintained on any tree or painted or drawn on any rock or other natural feature;

(3) Is erected or maintained in a way that:

(i) Obscures or otherwise interferes with the effectiveness of an official traffic sign, signal, or device; or

(ii) Obstructs or interferes with a driver's view of approaching, merging, or intersecting traffic; **[**or**]**

(4) Is located within 250 feet of any public park, public forest, playground, or cemetery that is adjacent to a federal–aid primary highway**; OR**

(5) IS ALONG OR NEAR A SCENIC BYWAY LOCATED ON THE FEDERAL–AID PRIMARY HIGHWAY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 319

(House Bill 115)

AN ACT concerning

Baltimore City Board of School Commissioners – Annual Report Requirement – Repeal

FOR the purpose of repealing the requirement that the Chief Executive Officer and the Baltimore City Board of School Commissioners of the Baltimore City Public School System issue a certain annual report; repealing certain review, comment, and consideration requirements related to certain annual reports; and generally relating to the annual report requirements of the Chief Executive Officer and the Baltimore City Board of School Commissioners.

BY repealing
Article – Education
Section 4–313
Annotated Code of Maryland
(2008 Replacement Volume and 2010 Supplement)

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

Article – Education

[4–313.

(a) By December 31 of each year and on June 30, 2002, the Chief Executive Officer and the board shall issue an annual report that includes:

(1) A financial statement;

(2) A comprehensive accounting of progress in the implementation of the transition plan or master plan including:

(i) Assessment of student performance by the categories required by the Maryland School Performance Program standards; and

(ii) Specific assessment of the extent of implementation of each item included in § 4–309 of this subtitle, and any changes necessary in previously established timelines;

(3) Sources of income and payments of debt service on any bonds issued by the board in accordance with § 4–306.2 of this subtitle;

(4) Anticipated sources and amounts of payments of debt service on any bonds issued by the board in accordance with § 4–306.2 of this subtitle; and

(5) Any other information as required by State law.

(b) (1) The State Board of Education and State Superintendent of Schools shall review each annual report and comment on the progress made towards achieving both managerial and educational goals.

(2) The General Assembly shall consider the reports and the comments or recommendations of the State Board and Superintendent before approving the State budget each year.**]**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 320

(House Bill 125)

AN ACT concerning

Vehicle Laws – Accidents Involving Self–Insured Vehicles – Required Information

FOR the purpose of requiring the driver of a certain self–insured vehicle involved in an accident to give evidence of self–insurance in the form required by the Motor Vehicle Administration to certain persons; requiring the Administration to adopt certain regulations; requiring the evidence of self–insurance to include certain information; and generally relating to evidence of self–insurance for self–insured vehicles.

BY repealing and reenacting, without amendments,
Article – Transportation
Section 20–104(b) and (c)
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,
Article – Transportation
Section 20–105.1
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

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

Article – Transportation

20–104.

(b) The driver of each vehicle involved in an accident that results in bodily injury to or death of any person or in damage to an attended vehicle or other attended property shall give his name, his address, and the registration number of the vehicle he is driving and, on request, exhibit his license to drive, if it is available, to:

(1) Any person injured in the accident; and

(2) The driver, occupant of, or person attending any vehicle or other property damaged in the accident.

(c) The driver of each vehicle involved in an accident that results in bodily injury to or death of any person or in damage to an attended vehicle or other attended property shall give the same information described in subsection (b) of this section and, on request, exhibit his license to drive, if it is available, to any police officer who is at the scene of or otherwise is investigating the accident.

20–105.1.

(a) In addition to the information that is required to be given under §§ 20–104 and 20–105 of this title, the driver of each vehicle involved in an accident under either of those sections shall also give the following information:

(1) Name and address of the insurance carrier or other provider of security for the person giving the information;

(2) Policy or other identifying number of the liability insurance or other security, if it is available; **[**and**]**

(3) Name and address of the local insurance producer or local office of the insurance carrier or other provider of security, if it is available**; AND**

(4) FOR A VEHICLE THAT IS SELF–INSURED UNDER THE ADMINISTRATION'S SELF–INSURANCE PROGRAM, EVIDENCE OF SELF–INSURANCE IN THE FORM REQUIRED BY THE ADMINISTRATION.

(B) (1) THE ADMINISTRATION SHALL ADOPT REGULATIONS THAT:

(I) ESTABLISH THE FORM AND CONTENT OF THE EVIDENCE OF SELF–INSURANCE REQUIRED UNDER SUBSECTION (A)(4) OF THIS SECTION; AND

(II) REQUIRE EACH SELF–INSURER TO MAINTAIN THE EVIDENCE OF SELF–INSURANCE IN EACH VEHICLE COVERED UNDER THE SELF–INSURER'S SELF–INSURANCE CERTIFICATE.

(2) REGULATIONS ADOPTED BY THE ADMINISTRATION UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL REQUIRE THE EVIDENCE OF SELF–INSURANCE TO INCLUDE:

(I) THE NAME, ADDRESS, AND SELF–INSURANCE CERTIFICATE NUMBER OF THE SELF–INSURER;

(II) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE SELF–INSURER'S THIRD PARTY ADMINISTRATOR OR THIRD PARTY ADJUSTER; AND

(III) THE VEHICLE IDENTIFICATION NUMBER OF THE SELF–INSURED VEHICLE.

[(b)**] (C)** The information specified in **[**subsection (a)**] SUBSECTIONS (A) AND (B)** of this section shall be given to any person required to be notified under § 20–104 or § 20–105 of this title.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 321

(House Bill 195)

AN ACT concerning

Secondhand Precious Metal Object Dealers and Pawnbrokers – License Application and Renewal Fees

FOR the purpose of increasing a certain application fee and a certain renewal fee for a secondhand precious metal object dealer license.

BY repealing and reenacting, with amendments,
Article – Business Regulation
Section 12–202(a) and 12–207(c)
Annotated Code of Maryland
(2010 Replacement Volume and 2010 Supplement)

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

Article – Business Regulation

12–202.

(a) (1) An applicant for a license shall:

(i) submit to the Secretary an application on the form that the Secretary provides; and

(ii) pay to the Secretary an application fee of **[**$75**] $300**.

(2) The application fee is nonrefundable.

12–207.

(c) Before a license expires, the licensee periodically may renew it for an additional 2–year term, if the licensee:

(1) submits to the Secretary a renewal application on the form that the Secretary provides;

(2) signs the renewal application under oath;

(3) updates the information submitted in the original application and states that the information is current;

(4) except as provided in subsection (d) of this section, agrees to comply with each requirement applicable to the original application;

(5) states that the licensee:

(i) has not violated this title;

(ii) has not been convicted of an offense specified in § 12–209 of this subtitle; and

(iii) has not had a similar license denied, suspended, or revoked in another jurisdiction;

(6) otherwise is entitled to be licensed; and

(7) pays to the Secretary a renewal fee of **[**$75**]** ~~**$300**~~ ***$265***.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 322

(House Bill 202)

AN ACT concerning

Education – Discrimination Prohibited – Protected Classes

FOR the purpose of conforming provisions of law relating to discrimination in the employment of ~~teachers in the public schools~~ public school employees in the State to other provisions of State law governing discrimination in employment; and generally relating to protected classes of employees under provisions of law governing discrimination in the employment of ~~teachers in the public schools~~ public school employees in the State.

BY repealing and reenacting, with amendments,
Article – Education
Section 6–104

Annotated Code of Maryland
(2008 Replacement Volume and 2010 Supplement)

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

Article – Education

6–104.

(a) This section applies to the appointment, assignment, compensation, promotion, transfer, dismissal, and any other matter that relates to the employment of ~~teachers in the public schools~~ **PUBLIC SCHOOL EMPLOYEES** in this State.

(b) The State Superintendent, a county board, a county superintendent, or an assistant to any one of these may not make any distinction or discriminate in favor of or against any ~~teacher in the employment of a public school~~ **PUBLIC SCHOOL EMPLOYEE** of this State because of race, religion, color, **ANCESTRY OR** national origin, **[**handicap, or**]** sex**, AGE, MARITAL STATUS, SEXUAL ORIENTATION, OR DISABILITY UNRELATED IN NATURE AND EXTENT SO AS TO REASONABLY PRECLUDE THE PERFORMANCE OF THE EMPLOYMENT** except**[**:

(1) As**], AS** to sex, if the employment of a certain sex is reasonably necessary because of the nature of the employment**[**; and

(2) As to handicap, if the handicap adversely affects the person's ability to perform the duties of the position**]**.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 323

(House Bill 228)

AN ACT concerning

Housing Authorities – Consolidation or Merger – Talbot County and St. Michaels

FOR the purpose of authorizing the Housing Commission of Talbot County and the St. Michaels Housing Authority to unite by consolidation or merger to form one

authority under certain circumstances; requiring the unification of the Housing Commission of Talbot County and the St. Michaels Housing Authority to be initiated by the passage of a certain proposal of unification by the legislative body of certain municipal corporations; requiring the appointment of a certain commission to draft proposed articles of organization for a proposed authority under certain circumstances; imposing certain duties on a certain commission; providing that the legislative body of each municipal corporation must adopt or reject certain articles of organization as a whole; prohibiting the articles of organization from being amended or changed except under certain circumstances; requiring a certain custodian of records to file certain articles of organization with the Secretary of State under certain circumstances; requiring the Secretary of State to issue a certificate of approval for certain articles of organization under certain circumstances; prohibiting an authority created under this Act from doing business or exercising its powers unless a certain certificate has been issued; defining certain terms; and generally relating to the consolidation or merger of the Housing Commission of Talbot County and the St. Michaels Housing Authority.

BY repealing and reenacting, with amendments,
Article – Housing and Community Development
Section 12–105, 12–201, and 12–204(a)
Annotated Code of Maryland
(2006 Volume and 2010 Supplement)

BY adding to
Article – Housing and Community Development
Section 12–208
Annotated Code of Maryland
(2006 Volume and 2010 Supplement)

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

Article – Housing and Community Development

12–105.

(a) An authority of a municipal corporation or Baltimore City may:

(1) operate within its territorial boundaries; and

(2) without regard to location:

(i) administer rent subsidy payments and housing assistance programs for both eligible landlords and tenants;

(ii) own or manage housing projects in operation before January 1, 1990; and

(iii) develop, own, or operate a housing project at the request of and within the territorial boundaries of another political subdivision.

(b) (1) Anywhere in its county an authority of a county may:

(i) administer rent subsidy payments and housing assistance programs for both eligible landlords and tenants; and

(ii) own or manage housing projects in operation before:

1. January 1, 1990, if the authority is of Baltimore City; or

2. January 1, 1991, if the authority is of another county.

(2) Subject to paragraph (3) of this subsection, an authority of a county may conduct its other operations within the county.

(3) An authority of a county other than Baltimore City may not conduct its other operations within a municipal corporation unless the governing body of the municipal corporation consents by resolution to its inclusion in the authority's area of operation.

(C) AN AUTHORITY CREATED UNDER § 12–208 OF THIS TITLE MAY CONDUCT ITS OPERATIONS IN THE AREA PRESCRIBED UNDER ITS ARTICLES OF ORGANIZATION.

12–201.

[In**] EXCEPT AS PROVIDED IN § 12–208 OF THIS SUBTITLE, IN** each political subdivision, there is a public body corporate and politic known as the "housing authority" of the political subdivision or as otherwise designated in the articles of organization.

12–204.

(a) **[**Each**] EXCEPT AS PROVIDED IN § 12–208 OF THIS SUBTITLE, EACH** pre–existing authority continues to exist.

12–208.

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

(2) "CONSOLIDATION" MEANS THE DISSOLUTION OF SEPARATE EXISTING AUTHORITIES AND THE SIMULTANEOUS CREATION OF A NEW AUTHORITY.

(3) "MERGER" MEANS THE ABSORPTION OF ONE EXISTING AUTHORITY BY ANOTHER EXISTING AUTHORITY IN WHICH THE ONE AUTHORITY DISSOLVES AND THE OTHER AUTHORITY CONTINUES TO EXIST.

(B) THE HOUSING COMMISSION OF TALBOT COUNTY AND THE ST. MICHAELS HOUSING AUTHORITY MAY UNITE BY CONSOLIDATION OR MERGER TO FORM ONE AUTHORITY.

(C) (1) THE UNIFICATION OF THE HOUSING COMMISSION OF TALBOT COUNTY AND THE ST. MICHAELS HOUSING AUTHORITY SHALL BE INITIATED BY THE PASSAGE OF A PROPOSAL OF UNIFICATION IN SUBSTANTIALLY THE SAME FORM BY THE LEGISLATIVE BODY OF THE TOWN OF EASTON AND THE LEGISLATIVE BODY OF THE TOWN OF ST. MICHAELS.

(2) THE PROPOSAL OF UNIFICATION SHALL:

(I) INCLUDE A DESCRIPTION OF THE BOUNDARIES OF THE AREA OF OPERATION FOR THE PROPOSED AUTHORITY; AND

(II) BE APPROVED BY EACH MUNICIPAL CORPORATION IN THE SAME MANNER PROVIDED FOR THE ADOPTION OF A RESOLUTION OR ORDINANCE IN THE CHARTER OR BYLAWS OF THE MUNICIPAL CORPORATION THAT IS CONSIDERING THE PROPOSAL OF UNIFICATION.

(D) (1) AFTER BOTH MUNICIPAL CORPORATIONS APPROVE A PROPOSAL OF UNIFICATION, EACH MUNICIPAL CORPORATION SHALL APPOINT AN EQUAL NUMBER OF REPRESENTATIVES, WHICH MAY NOT BE LESS THAN THREE NOR MORE THAN FIVE, TO A COMMISSION CHARGED WITH DRAFTING ARTICLES OF ORGANIZATION FOR THE PROPOSED AUTHORITY.

(2) THE MEMBERS OF THE COMMISSION SHALL:

(I) ADOPT RULES AND ELECT OFFICERS TO GOVERN THEIR MEETINGS AND EXPEDITE THE DRAFTING OF THE ARTICLES OF ORGANIZATION; AND

(II) COMPLETE A DRAFT OF THE ARTICLES OF ORGANIZATION NO LATER THAN 6 MONTHS AFTER THE APPROVAL OF THE PROPOSALS OF UNIFICATION.

(3) IN THE DRAFT ARTICLES OF ORGANIZATION OR IN A SEPARATE DOCUMENT, THE COMMISSION SHALL:

(I) DESCRIBE THE BOUNDARIES OF THE AREA OF OPERATION FOR THE PROPOSED AUTHORITY; AND

(II) PROVIDE FOR:

1. THE DISPOSITION OF ANY DEBTS, BONDS, AND OTHER OBLIGATIONS OF THE HOUSING COMMISSION OF TALBOT COUNTY AND ANY DEBTS, BONDS, AND OTHER OBLIGATIONS OF THE ST. MICHAELS HOUSING AUTHORITY;

2. THE TRANSFER TO THE PROPOSED AUTHORITY OF ANY PROPERTY AND OTHER ASSETS OF THE HOUSING COMMISSION OF TALBOT COUNTY AND ANY PROPERTY AND OTHER ASSETS OF THE ST. MICHAELS HOUSING AUTHORITY; AND

3. THE DESIGNATION OF THE CHIEF ELECTED OFFICIAL, CUSTODIAN OF RECORDS, AND LEGISLATIVE BODY OF WHICH MUNICIPAL CORPORATION THAT SHALL GOVERN THE OPERATIONS OF THE PROPOSED AUTHORITY.

(E) (1) THE COMMISSION CREATED UNDER SUBSECTION (D) OF THIS SECTION SHALL SUBMIT THE DRAFT ARTICLES OF ORGANIZATION TO THE LEGISLATIVE BODY OF EACH MUNICIPAL CORPORATION FOR ADOPTION OR REJECTION.

(2) THE LEGISLATIVE BODY OF EACH MUNICIPAL CORPORATION MUST ADOPT OR REJECT THE DRAFT ARTICLES OF ORGANIZATION AS A WHOLE.

(3) NO AMENDMENT OR CHANGE MAY BE MADE TO THE DRAFT ARTICLES OF ORGANIZATION UNLESS THE LEGISLATIVE BODY OF EACH MUNICIPAL CORPORATION CONCURS IN THE AMENDMENT OR CHANGE.

(4) IF THE LEGISLATIVE BODY OF EACH MUNICIPAL CORPORATION ADOPTS THE DRAFT ARTICLES OF ORGANIZATION, THE APPROPRIATE CUSTODIAN OF RECORDS SHALL FILE THE ARTICLES OF ORGANIZATION WITH THE SECRETARY OF STATE.

(F) (1) IF THE SECRETARY OF STATE FINDS THAT THE APPROPRIATE REQUIREMENTS OF §§ 12–205 AND 12–206 OF THIS SUBTITLE HAVE BEEN SATISFIED, THE SECRETARY OF STATE SHALL ENDORSE THE ARTICLES AS "APPROVED" AND ISSUE A CERTIFICATE OF APPROVAL ATTACHED TO THE ENDORSED ARTICLES OF ORGANIZATION.

(2) WHEN THE CERTIFICATE OF APPROVAL IS ISSUED, THE ARTICLES OF ORGANIZATION AS FILED ARE CONSIDERED TO HAVE BEEN ADOPTED.

(3) AN AUTHORITY CREATED UNDER THIS SECTION MAY NOT DO BUSINESS OR EXERCISE ITS POWERS UNLESS THE SECRETARY OF STATE HAS ISSUED A CERTIFICATE OF APPROVAL.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 324

(House Bill 233)

AN ACT concerning

Counties and Municipal Corporations – Direct Deposit of Wages

FOR the purpose of authorizing counties and municipal corporations to pay wages of employees by direct deposit *and to require an employee to receive the payment of wages by direct deposit as a condition of employment*; prohibiting a county or municipal corporation from requiring the payment of wages by direct deposit for an employee ~~unless the employee was hired after a certain date, received certain notice, and has not requested an exemption from direct deposit~~ *who was hired before a certain date under certain circumstances, whose employment is not conditioned on the employee receiving the payment of wages by direct deposit, or who does not have a certain bank account and opts out of direct deposit in a certain manner*; authorizing certain employees of certain counties and municipal corporations to elect to receive the payment of wages by direct deposit; requiring counties and municipal corporations that elect to pay wages by direct deposit to provide certain employees with a certain form, deposit the wages in a certain personal bank ~~accounts~~ account, and provide certain employees with a certain direct deposit statement at certain times; requiring certain employees to complete and submit to a county or municipal corporation

a certain form; requiring certain employees to select a personal bank account for the direct deposit of the employee's wages that is at a financial institution that participates in a certain network; specifying that an employee may change a certain personal bank account ~~number~~ or financial institution by completing and submitting a certain form; and generally relating to the payment of wages by direct deposit by counties and municipal corporations.

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 3–502
Annotated Code of Maryland
(2008 Replacement Volume and 2010 Supplement)

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

Article – Labor and Employment

3–502.

(a) (1) Each employer:

(i) shall set regular pay periods; and

(ii) except as provided in paragraph (2) of this subsection, shall pay each employee at least once in every 2 weeks or twice in each month.

(2) An employer may pay an administrative, executive, or professional employee less frequently than required under paragraph (1)(ii) of this subsection.

(b) If the regular payday of an employee is a nonworkday, an employer shall pay the employee on the preceding workday.

(c) Each employer shall pay a wage:

(1) in United States currency; or

(2) by a check that, on demand, is convertible at face value into United States currency.

(D) (1) (I) ~~A~~ SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, A COUNTY OR MUNICIPAL CORPORATION MAY*:*

1. **PAY THE WAGE OF AN EMPLOYEE BY DIRECT DEPOSIT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION*; AND***

2. REQUIRE AN EMPLOYEE TO RECEIVE THE PAYMENT OF WAGES BY DIRECT DEPOSIT AS A CONDITION OF EMPLOYMENT.

(II) A COUNTY OR MUNICIPAL CORPORATION MAY NOT REQUIRE THE PAYMENT OF WAGES BY DIRECT DEPOSIT FOR AN EMPLOYEE ~~UNLESS THE EMPLOYEE~~:

~~1. WAS HIRED AFTER SEPTEMBER 30, 2011;~~

~~2. RECEIVED NOTICE OF THE EMPLOYEE'S RIGHT TO REQUEST AN EXEMPTION FROM THE PAYMENT OF WAGES BY DIRECT DEPOSIT; AND~~

~~3. HAS NOT REQUESTED AN EXEMPTION FROM THE PAYMENT OF WAGES BY DIRECT DEPOSIT.~~

1. WHO WAS HIRED BEFORE OCTOBER 1, 2011, UNLESS THE COUNTY OR MUNICIPAL CORPORATION, BEFORE OCTOBER 1, 2011, REQUIRED BY LOCAL LAW, REGULATION, OR COLLECTIVE BARGAINING AGREEMENT, THE PAYMENT OF WAGES BY DIRECT DEPOSIT;

2. WHOSE EMPLOYMENT IS NOT CONDITIONED ON THE EMPLOYEE RECEIVING THE PAYMENT OF WAGES BY DIRECT DEPOSIT; OR

3. WHO:

A. DOES NOT HAVE A PERSONAL BANK ACCOUNT; AND

B. INFORMS THE EMPLOYEE'S EMPLOYER THAT THE EMPLOYEE WISHES TO OPT OUT OF DIRECT DEPOSIT.

(III) IF A COUNTY OR MUNICIPAL CORPORATION ELECTS TO PAY WAGES BY DIRECT DEPOSIT, AN EMPLOYEE WHO IS NOT REQUIRED TO RECEIVE THE PAYMENT OF WAGES BY DIRECT DEPOSIT MAY ELECT TO RECEIVE THE PAYMENT OF WAGES BY DIRECT DEPOSIT IN ACCORDANCE WITH PARAGRAPH (3) OF THIS SUBSECTION.

(2) IF A COUNTY OR MUNICIPAL CORPORATION ELECTS TO PAY THE WAGES OF ITS EMPLOYEES BY DIRECT DEPOSIT, THE COUNTY OR MUNICIPAL CORPORATION SHALL:

(I) PROVIDE AN EMPLOYEE WHO IS REQUIRED OR ELECTS TO RECEIVE THE PAYMENT OF WAGES BY DIRECT DEPOSIT WITH AN ELECTRONIC FUND TRANSFER AUTHORIZATION FORM;

(II) DEPOSIT THE WAGE OF AN EMPLOYEE INTO A PERSONAL BANK ACCOUNT ~~OF THE EMPLOYEE THAT IS:~~

~~(I)~~ SELECTED BY THE EMPLOYEE~~;~~ ON THE ELECTRONIC FUND TRANSFER AUTHORIZATION FORM; AND

(III) EACH TIME ~~A~~ *THE* COUNTY OR MUNICIPAL CORPORATION PAYS THE WAGE OF AN EMPLOYEE BY DIRECT DEPOSIT, PROVIDE THE EMPLOYEE WITH A DIRECT DEPOSIT STATEMENT THAT INCLUDES:

1. THE TOTAL AMOUNT OF THE WAGE;

2. ANY AMOUNT DEDUCTED FROM THE WAGE; AND

3. THE AMOUNT OF THE WAGE DIRECTLY DEPOSITED INTO THE PERSONAL BANK ACCOUNT ~~OF~~ *SELECTED BY* THE EMPLOYEE.

~~(II) PROVIDED BY THE EMPLOYER IN ACCORDANCE WITH AN AUTHORIZATION OF THE EMPLOYEE; OR~~

~~(III) PROVIDED BY THE EMPLOYER IF THE EMPLOYEE FAILS TO SELECT OR ACCEPT A PERSONAL BANK ACCOUNT UNDER ITEM (I) OR (II) OF THIS PARAGRAPH.~~

(3) (I) AN EMPLOYEE WHO IS REQUIRED OR ELECTS TO RECEIVE THE PAYMENT OF WAGES BY DIRECT DEPOSIT SHALL COMPLETE AND SUBMIT TO THE COUNTY OR MUNICIPAL CORPORATION THE ELECTRONIC FUND TRANSFER AUTHORIZATION FORM PROVIDED TO THE EMPLOYEE UNDER PARAGRAPH (2) OF THIS SUBSECTION.

(II) AN EMPLOYEE WHO IS REQUIRED OR ELECTS TO RECEIVE THE PAYMENT OF WAGES BY DIRECT DEPOSIT SHALL SELECT A PERSONAL BANK ACCOUNT FOR THE DIRECT DEPOSIT OF THE EMPLOYEE'S WAGES THAT IS AT A FINANCIAL INSTITUTION THAT PARTICIPATES IN THE ~~AUTOMATIC CLEARINGHOUSE~~ *AUTOMATED CLEARING HOUSE* NETWORK.

(III) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, AN EMPLOYEE MAY CHANGE THE PERSONAL BANK ACCOUNT ~~NUMBER~~ OR THE FINANCIAL INSTITUTION DESIGNATED ON AN ELECTRONIC FUND TRANSFER AUTHORIZATION FORM BY COMPLETING AND SUBMITTING A NEW ELECTRONIC

FUND TRANSFER AUTHORIZATION FORM TO THE COUNTY OR MUNICIPAL CORPORATION.

[(d)**] (E)** (1) In this subsection, "employer" includes a governmental unit.

(2) An employer may not print or cause to be printed an employee's Social Security number on the employee's wage payment check, an attachment to an employee's wage payment check, a notice of direct deposit of an employee's wage, or a notice of credit of an employee's wage to a debit card or card account.

[(e)**] (F)** This section does not prohibit the:

(1) direct deposit of the wage of an employee into a personal bank account of the employee in accordance with an authorization of the employee; or

(2) credit of the wage of an employee to a debit card or card account from which the employee is able to access the funds through withdrawal, purchase, or transfer if:

(i) authorized by the employee; and

(ii) any fees applicable to the debit card or card account are disclosed to the employee in writing in at least 12 point font.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 325

(House Bill 245)

AN ACT concerning

Howard County – Alcoholic Beverages – Beer, Wine and Liquor Tasting License

Ho. Co. 5–11

FOR the purpose of creating in Howard County a beer, wine and liquor tasting (BWLT) license; specifying to whom the license may be issued; setting maximum limits on the amounts of alcoholic beverages that may be served under a BWLT license; setting the annual license fee; authorizing the Howard County Board of License Commissioners to adopt rules or regulations to

implement this Act; increasing the maximum alcohol content of wine that may be served under a beer and wine tasting license to conform with a certain definition of light wine; making stylistic changes; and generally relating to alcoholic beverages licenses in Howard County.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 8–408.1
Annotated Code of Maryland
(2005 Replacement Volume and 2010 Supplement)

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

Article 2B – Alcoholic Beverages

8–408.1.

(a) (1) In Howard County, the Board of License Commissioners may issue a beer and wine tasting (BWT) alcoholic beverages license.

(2) **NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A BWT LICENSE MAY BE ISSUED TO A HOLDER OF:**

(I) A CLASS A BEER, WINE AND LIQUOR (BWL) LICENSE; OR

(II) A CLASS A BEER AND WINE (BW) LICENSE.

(3) **[**The**]** **A** BWT license authorizes the on–premises consumption**, FOR TASTING OR SAMPLING ONLY,** of **[**beer or wine,**]:**

(I) BEER; OR

(II) WINE containing not more than **[**14%**] 15.5%** of alcohol by volume**[**, for tasting or sampling only**]**.

[(3) Notwithstanding any other provision of law, the license may be issued to holders of a Class A beer, wine and liquor (BWL) license or a Class A beer and wine (BW) license.**]**

(4) **[**The licensee**] A HOLDER OF A BWT LICENSE** may not serve:

(i) Wine in a quantity of more than 1 ounce from each given brand and no more than 4 ounces from all brands to any one person in a single day; or

(ii) Beer in a quantity of more than 3 ounces from each given brand and no more than 8 ounces from all brands to any one person in a single day.

(5) The annual license fee for **[**the**]** **A** BWT license is $100 in addition to the fee of any other alcoholic beverages license.

(B) (1) IN HOWARD COUNTY, THE BOARD OF LICENSE COMMISSIONERS MAY ISSUE A BEER, WINE AND LIQUOR TASTING (BWLT) ALCOHOLIC BEVERAGES LICENSE.

(2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A BWLT LICENSE MAY BE ISSUED TO A HOLDER OF A CLASS A BEER, WINE AND LIQUOR (BWL) LICENSE.

(3) A BWLT LICENSE AUTHORIZES THE ON–PREMISES CONSUMPTION, FOR TASTING OR SAMPLING ONLY, OF:

(I) BEER;

(II) WINE CONTAINING NOT MORE THAN 15.5% OF ALCOHOL BY VOLUME; OR

(III) LIQUOR.

(4) A HOLDER OF A BWLT LICENSE MAY NOT SERVE:

(I) WINE IN A QUANTITY OF MORE THAN 1 OUNCE FROM EACH GIVEN BRAND AND NOT MORE THAN 4 OUNCES FROM ALL BRANDS TO ANY ONE PERSON IN A SINGLE DAY;

(II) BEER IN A QUANTITY OF MORE THAN 3 OUNCES FROM EACH GIVEN BRAND AND NOT MORE THAN 8 OUNCES FROM ALL BRANDS TO ANY ONE PERSON IN A SINGLE DAY; OR

(III) LIQUOR IN A QUANTITY OF MORE THAN 1/4 OUNCE FROM EACH GIVEN BRAND AND NOT MORE THAN 1 OUNCE FROM ALL BRANDS TO ANY ONE PERSON IN A SINGLE DAY.

(5) THE ANNUAL LICENSE FEE FOR A BWLT LICENSE IS $100 IN ADDITION TO THE FEE FOR ANY OTHER ALCOHOLIC BEVERAGES LICENSE.

[(b)**]** **(C)** The Howard County Board of License Commissioners may adopt rules or regulations providing additional requirements to implement this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 326

(House Bill 255)

AN ACT concerning

Family Law – Adoption Search, Contact, and Reunion Services – ~~Contact with Adopted~~ Siblings of Minors in Out–of–Home Placement

FOR the purpose of ~~requiring that a local department of social services have access to any local department adoption records on the biological siblings of a minor in out–of–home placement for a certain purpose;~~ altering the definition of "search, contact, and reunion services" to include contacting certain adopted siblings of a minor in out–of–home placement for a certain purpose; authorizing ~~an out–of–home placement worker~~ a director of a local department of social services acting on behalf of a minor in out–of–home placement to apply for search, contact, and reunion services; exempting ~~an out–of–home placement worker~~ a director of a local department of social services applying for search, contact, and reunion services on behalf of a minor in out–of–home placement from certain ~~requirements to execute certain written agreements~~ provisions relating to the authority of a confidential intermediary to charge an applicant certain fees; and generally relating to ~~adopted siblings of minors in out–of–home placement~~ adoption search, contact, and reunion services.

BY repealing and reenacting, with amendments,
Article – Family Law
Section ~~5–357,~~ 5–4B–01, 5–4B–02, 5–4B–05, and 5–4B–11
Annotated Code of Maryland
(2006 Replacement Volume and 2010 Supplement)

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

Article – Family Law

~~5–357.~~

~~(a) (1) (i) On request of an adoptee or adoptive or former parent of an adoptee and without a showing of a need, a local department shall provide information, other than identifying information, in its adoption record on the adoptee.~~

~~(ii) If a local department denies a request under this paragraph, then on petition of an adoptee or adoptive or former parent and without a showing of need, a juvenile court shall order access for the petitioner to inspect, in accordance with subsection (b) of this section, the local department's record on the adoptee.~~

~~(2) On petition of an adoptee or adoptive or former parent of an adoptee and without a showing of need, a juvenile court shall order access for the petitioner to inspect, in accordance with subsection (b) of this section, the juvenile court's record on the adoptee.~~

~~**(3) IF A MINOR ENTERS OUT-OF-HOME PLACEMENT, THE LOCAL DEPARTMENT SHALL HAVE ACCESS TO ANY LOCAL DEPARTMENT ADOPTION RECORDS ON THE MINOR'S BIOLOGICAL SIBLINGS WHO ARE AT LEAST 21 YEARS OLD TO DEVELOP A PLACEMENT RESOURCE OR FACILITATE A FAMILY CONNECTION WITH THE SIBLINGS OF THE MINOR IN OUT-OF-HOME PLACEMENT.**~~

~~(b) A juvenile court may not order opened for inspection under this section any part of a record that contains identifying information.~~

5–4B–01.

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

(b) "Administration" means the Social Services Administration of the Department.

(c) "Confidential intermediary" means an individual or child placement agency qualified by the Director for the purpose of providing search, contact, and reunion services under this subtitle.

(d) "Director" means the Director of the Administration.

(e) "Member of the adoptive family" means an adoptive parent, grandparent, brother, or sister of an adopted individual.

(f) "Relative" means a parent, brother, sister, child, aunt, or uncle of a biological parent.

(g) "Search, contact, and reunion services" means services:

(1) to locate adopted individuals, biological parents of adopted individuals, siblings of adopted individuals, and, as provided in § 5–4B–11 of this subtitle, relatives and members of the adoptive family;

(2) to assess the mutual desire for communication or disclosure of information:

(i) between adopted individuals and biological parents of adopted individuals;

(ii) between adopted individuals and siblings of adopted individuals; and

(iii) as provided in § 5–4B–11 of this subtitle, between:

1. adopted individuals and relatives; and

2. biological parents and members of the adoptive family; **[**and**]**

(3) to provide, or provide referral to, counseling for adopted individuals, biological parents of adopted individuals, siblings of adopted individuals, relatives, and members of the adoptive family**; AND**

(4) IF SIBLINGS OF A MINOR IN OUT–OF–HOME PLACEMENT WERE ADOPTED THROUGH A ~~PUBLIC AGENCY~~ LOCAL DEPARTMENT, TO CONTACT THE SIBLINGS TO DEVELOP A PLACEMENT RESOURCE OR FACILITATE A FAMILY CONNECTION WITH THE SIBLINGS OF THE MINOR ~~IN OUT–OF–HOME PLACEMENT~~.

(h) "Sibling" means a brother or sister of the whole or half blood who:

(1) is at least 21 years old; and

(2) has been adopted.

5–4B–02.

(a) (1) An adopted individual at least 21 years old may apply to the Director to receive search, contact, and reunion services.

(2) If an adopted individual is at least 21 years old, the following individuals may apply to the Director to receive search, contact, and reunion services:

(i) a biological parent of the adopted individual; **[**and**]**

(ii) a sibling of the adopted individual**; AND**

(III) ~~**AN OUT–OF–HOME PLACEMENT WORKER IN**~~ **A DIRECTOR OF A LOCAL DEPARTMENT ACTING ON BEHALF OF A MINOR IN OUT–OF–HOME PLACEMENT**.

(b) An individual who applies to the Director to receive search, contact, and reunion services shall supply any proof of identity or other relevant information required by the Director.

(c) (1) The Director may establish a reasonable fee for the application for search, contact, and reunion services.

(2) The overall amount of fees collected may not exceed the costs of processing the applications.

(d) A parent who has had his or her parental rights terminated under Subtitle 3 of this title may not apply to receive search, contact, and reunion services under this subtitle.

5–4B–05.

(a) ~~**(1)**~~ **[**An**]** ~~**EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, AN**~~ individual who applies for search, contact, and reunion services shall execute a written agreement with a confidential intermediary concerning the provision of search, contact, and reunion services.

~~**(2) THIS SUBSECTION DOES NOT APPLY TO AN OUT–OF–HOME PLACEMENT WORKER.**~~

(b) (1) ~~The~~ **(I) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE** confidential intermediary may charge the individual a reasonable fee for search, contact, and reunion services.

~~(2)~~ **(II)** The overall amount of fees collected may not exceed the costs of providing the services.

(2) THE CONFIDENTIAL INTERMEDIARY MAY NOT CHARGE A DIRECTOR OF A LOCAL DEPARTMENT WHO APPLIES FOR SEARCH, CONTACT, AND REUNION SERVICES ON BEHALF OF A MINOR IN OUT–OF–HOME PLACEMENT THE FEE DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION.

(c) The confidential intermediary shall promptly:

(1) file the executed agreement with the Director; and

(2) attempt to contact the adopted individual, the biological parent, or the sibling sought by the applicant.

5–4B–11.

(a) If an individual sought by a confidential intermediary is deceased, the confidential intermediary may not disclose the identity of the deceased to the individual who applied for search, contact, and reunion services.

(b) The confidential intermediary shall report the fact that the individual sought is deceased to the individual who applied for search, contact, and reunion services.

(c) (1) If the deceased individual is a biological parent, the confidential intermediary may, with the consent of the applicant, attempt to contact a relative who is at least 21 years old to assess the willingness of the relative to communicate or exchange information with the applicant.

(2) If the deceased individual is an adopted individual, the confidential intermediary may, with the consent of the applicant, attempt to contact a member of the adoptive family who is at least 21 years old to assess the willingness of the member of the adoptive family to communicate or exchange information with the applicant.

(3) ~~(I)~~ **[**If~~]~~ ~~**EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, IF**~~ the applicant consents to contacting a relative or member of the adoptive family, the applicant shall execute another written agreement with the confidential intermediary concerning the provision of search, contact, and reunion services under this subsection.

~~**(II) THIS PARAGRAPH DOES NOT APPLY TO AN OUT–OF–HOME PLACEMENT WORKER.**~~

(4) (i) ~~The~~ **1. EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE** confidential intermediary may charge the individual a reasonable fee for the additional search, contact, and reunion services described in this subsection.

~~(ii)~~ **2.** The overall amount of fees collected may not exceed the costs of providing the services.

(II) THE CONFIDENTIAL INTERMEDIARY MAY NOT CHARGE A DIRECTOR OF A LOCAL DEPARTMENT WHO APPLIES FOR SEARCH, CONTACT, AND REUNION SERVICES ON BEHALF OF A MINOR IN OUT–OF–HOME PLACEMENT THE FEE DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH.

(5) The confidential intermediary shall promptly:

(i) file the executed agreement with the Director; and

(ii) attempt to contact the relative or member of the adoptive family sought by the applicant.

(6) The provisions of this subtitle shall apply to search, contact, and reunion services provided by a confidential intermediary under this subsection.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 327

(House Bill 267)

AN ACT concerning

Public Ethics Laws – Baltimore City – Health Department, Police Department, and Civilian Review Board

FOR the purpose of altering the provisions of the Maryland Public Ethics Law to provide that employees of the Baltimore City Health Department, the Police Commissioner of Baltimore City, the civilian employees and police officers of the Police Department of Baltimore City, and members and employees of the Civilian Review Board are subject only to the Baltimore City Public Ethics Law; and generally relating to public ethics laws and the employees of Baltimore City.

BY repealing and reenacting, without amendments,
Article – State Government
Section 15–102(a) and (m)
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 15–807
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

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

Article – State Government

15–102.

(a) In this title the following words have the meanings indicated unless:

(1) the context clearly requires a different meaning; or

(2) a different definition is adopted for a particular provision.

(m) (1) "Executive unit" means a department, agency, commission, board, council, or other body of State government that:

(i) is established by law; and

(ii) is not in the Legislative Branch or the Judicial Branch of State government.

(2) "Executive unit" includes:

(i) a county health department unless the officials and employees of the department are expressly designated as "local officials" in § 15–807 of this title;

(ii) the office of the sheriff in each county;

(iii) the office of the State's Attorney in each county;

(iv) the Liquor Control Board for Somerset County; and

(v) the Liquor Control Board for Worcester County.

15–807.

(a) In Baltimore City, **[**for the purpose of the financial disclosure provisions enacted by the governing body of Baltimore City,**]** "local official" includes **[**Baltimore City health and housing inspectors who inspect for lead hazards**]:**

(1) CITY EMPLOYEES AND OFFICIALS OF THE BALTIMORE CITY HEALTH DEPARTMENT;

(2) THE POLICE COMMISSIONER OF BALTIMORE CITY AND THE CIVILIAN EMPLOYEES AND POLICE OFFICERS OF THE POLICE DEPARTMENT OF BALTIMORE CITY; AND

(3) EACH MEMBER OF AND THE EMPLOYEES OF THE CIVILIAN REVIEW BOARD.

(b) For the purpose of the financial disclosure provisions enacted by the governing body of Baltimore County, "local official" includes:

(1) the executive director and each member of the revenue authority; and

(2) except for a member of the Baltimore County Board of Education, each member of a board of a State agency that is wholly or partly funded by Baltimore County, regardless of whether the member is compensated.

(c) In Montgomery County, "local official" includes:

(1) each member and employee of the Montgomery County Revenue Authority;

(2) each commissioner and employee of the Montgomery County Housing Opportunities Commission; and

(3) county employees of the Montgomery County Department of Health and Human Services.

(d) In Prince George's County, "local official" includes:

(1) each member of the Board of License Commissioners;

(2) the chief inspector and any other inspector of the Board of License Commissioners;

(3) the administrator of the Board of License Commissioners; and

(4) the attorney to the Board of License Commissioners.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 328

(House Bill 270)

AN ACT concerning

Dorchester County – Tax Sales – Advertisement and Auctioneer Fees

FOR the purpose of altering the number of times a certain notice is required to be published in Dorchester County in connection with certain tax sales of property; altering the auctioneer's fee in Dorchester County allowed as an expense relating to certain tax sales of property; and generally relating to certain tax sales of property in Dorchester County.

BY repealing and reenacting, without amendments,
Article – Tax – Property
Section 14–813(a)(1) and (e)(1)(iv)
Annotated Code of Maryland
(2007 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 14–813(a)(2) and (e)(2)
Annotated Code of Maryland
(2007 Replacement Volume and 2010 Supplement)

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

Article – Tax – Property

14–813.

(a) (1) At any time after 30 days from the mailing of the statement and notice, the collector shall cause to be published, 4 times, once a week for 4 successive weeks in 1 or more newspapers that have a general circulation in the county in which the property is located, a notice that the property will, on the date and at the place named in the notice, be sold at public auction.

(2) In **DORCHESTER COUNTY,** Frederick County, Garrett County, Kent County, and Queen Anne's County, the notice shall be published 3 times, once a week for 3 successive weeks.

(e) (1) The following expenses relating to the sale shall be allowed, all of which are liens on the property to be sold:

(iv) the auctioneer's fee, as provided in paragraph (2) of this subsection;

(2) The auctioneer's fee allowed in paragraph (1) of this subsection shall be:

(i) except in Baltimore City, Caroline County, Carroll County, Cecil County, Dorchester County, Howard County, Kent County, Prince George's County, Queen Anne's County, Somerset County, Talbot County, Wicomico County, or Worcester County:

1. for any date when 1, 2, or 3 properties are sold, an amount not to exceed $10; and

2. for any date when 4 or more properties are sold, $3 for each property sold;

(ii) in Dorchester County, **[**$10 for each property sold, but in no event may the auctioneer's fee be less than $50 a day or greater than $200 a day**]** **$7.50 FOR EACH PROPERTY SOLD**;

(iii) in Kent County, an amount not exceeding $7.50 for each property sold;

(iv) in Cecil County and Queen Anne's County, $7.50 for each property sold;

(v) in Somerset County and Wicomico County, $8 for each property sold;

(vi) in Worcester County, the greater of $8 for each property sold or $300, to be allocated pro rata among each property sold;

(vii) in Baltimore City:

1. for any date when 1, 2, or 3 properties are sold, an amount not to exceed $10;

2. for any date when 4 or more properties are sold, $3 for each property sold; and

3. in an electronic sale, an amount not to exceed $10 for each property sold;

(viii) in Carroll County, the amount set by the Carroll County Commissioners; and

(ix) in Caroline County, Howard County, Prince George's County, and Talbot County, $10 for each property sold.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 329

(House Bill 279)

AN ACT concerning

Carroll County – Alcoholic Beverages – Liquor Tasting

FOR the purpose of creating a liquor tasting license in Carroll County; authorizing the Board of License Commissioners for Carroll County to issue the liquor tasting license only to holders of a certain alcoholic beverages license; specifying that the liquor tasting license authorizes consumption of certain liquor for tasting or sampling purposes only; requiring that the liquor be provided to consumers at no charge; specifying certain limitations on the quantity of liquor that may be consumed; providing an annual fee; specifying the term of a liquor tasting license; authorizing the Board to adopt regulations; defining a certain term; and generally relating to alcoholic beverages in Carroll County.

BY adding to
Article 2B – Alcoholic Beverages
Section 8–9A–01 to be under the new subtitle "Subtitle 9A. Liquor Tasting Licenses"
Annotated Code of Maryland
(2005 Replacement Volume and 2010 Supplement)

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

Article 2B – Alcoholic Beverages

SUBTITLE 9A. LIQUOR TASTING LICENSES.

8–9A–01.

(A) THIS SECTION APPLIES ONLY IN CARROLL COUNTY.

(B) IN THIS SECTION, "BOARD" MEANS THE BOARD OF LICENSE COMMISSIONERS FOR CARROLL COUNTY.

(C) THE BOARD MAY APPROVE THE ISSUANCE OF A LIQUOR TASTING LICENSE.

(D) THE LIQUOR TASTING LICENSE MAY BE ISSUED ONLY TO HOLDERS OF A CLASS A BEER, WINE AND LIQUOR LICENSE.

(E) (1) THE LIQUOR TASTING LICENSE AUTHORIZES THE CONSUMPTION OF LIQUOR AUTHORIZED TO BE SOLD BY THE BEER, WINE AND LIQUOR LICENSE HOLDER FOR TASTING OR SAMPLING PURPOSES ONLY.

(2) TO HOLD A LIQUOR TASTING, A HOLDER OF A LIQUOR TASTING LICENSE SHALL PROVIDE LIQUOR TO CONSUMERS AT NO CHARGE.

(F) A PERSON MAY CONSUME LIQUOR AT A LIQUOR TASTING IN A QUANTITY NOT EXCEEDING:

(1) ONE–HALF OUNCE FROM A SINGLE SAMPLE OF LIQUOR; AND

(2) FIVE SAMPLES IN A SINGLE DAY.

(G) THE ANNUAL FEE FOR THE LIQUOR TASTING LICENSE IS $100.

(H) A LIQUOR TASTING LICENSE IS VALID FOR NOT MORE THAN 52 DAYS A YEAR AND MAY BE USED ON CONSECUTIVE OR NONCONSECUTIVE DAYS.

(I) THE BOARD MAY ADOPT REGULATIONS TO CARRY OUT THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 330

(House Bill 313)

AN ACT concerning

Natural Resources – Woodland Incentives Fund – Renaming

FOR the purpose of renaming the Woodland Incentives Fund to be the Mel Noland Woodland Incentives Fund; making certain conforming changes; clarifying certain provisions of law relating to the contents of and reports about the Fund; and generally relating to the Woodland Incentives Fund.

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 5–204(a)(2)(ii), 5–301(g), and 5–307(a), (b), (f), and (j)
Annotated Code of Maryland
(2005 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 8–2A–04(c)(2)(iv)
Annotated Code of Maryland
(2007 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 13–306(a)(3)(i)
Annotated Code of Maryland
(2007 Replacement Volume and 2010 Supplement)

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

Article – Natural Resources

5–204.

(a) (2) The purpose of the Council is to advise the Department on all matters related to:

(ii) The expenditure of funds from the **MEL NOLAND** Woodland Incentives Fund under § 5–307 of this title;

5–301.

(g) "**MEL NOLAND** Woodland Incentives Fund" means the special fund established in the State Treasury under § 5–307 of this subtitle.

5–307.

(a) In this section, "Fund" means the **MEL NOLAND** Woodland Incentives Fund.

(b) There is a **MEL NOLAND** Woodland Incentives Fund in the Department.

(f) The Fund consists of:

(1) As provided in § 13–306 of the Tax – Property Article, up to $200,000 annually of the proceeds of the tax imposed by § 13–302 of the Tax – Property Article that are attributable to the taxation of instruments of writing that transfer title to parcels of land that are entirely woodland;

(2) Revenues collected by the Department from the payment of charges imposed for Department assistance in implementation of an approved practice; **[**and**]**

(3) **MONEY DISTRIBUTED FROM THE CHESAPEAKE AND ATLANTIC COASTAL BAYS 2010 TRUST FUND UNDER § 8–2A–04 OF THIS ARTICLE; AND**

(4) Subject to approval by the Secretary and the Board of Public Works, a portion of the revenues derived from the forestry practices on designated lands owned and managed by the Department, that are conducted in accordance with applicable State law and regulation.

(j) On or before June 30 of each year, the Department shall report to the Senate Education, Health, and Environmental Affairs Committee and the House Environmental Matters Committee**, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE,** on the use of funds credited to the **[**Woodland Incentives**]** Fund, including an identification of and the reasons for those revenues derived from forestry practices on designated lands owned and managed by the Department that were not credited to the **[**Woodland Incentives**]** Fund.

8–2A–04.

(c) (2) The BayStat Subcabinet agencies shall administer the funds in accordance with the final work and expenditure plans, including the distribution of funds:

(iv) To the **MEL NOLAND** Woodland Incentives Fund established under § 5–307 of this article.

Article – Tax – Property

13–306.

(a) (3) The Comptroller shall deposit:

(i) up to $200,000 annually of the revenue remitted under paragraphs (1)(i) and (2)(i) of this subsection or subsection (b) of this section into the **MEL NOLAND** Woodland Incentives Fund established in § 5–307 of the Natural Resources Article; and

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 331

(House Bill 326)

AN ACT concerning

Baltimore County – Winery Special Event Permits – Farmers' Markets

FOR the purpose of authorizing the issuance of a certain number of additional winery special event permits to certain wineries for use in certain farmers' markets in Baltimore County; prohibiting a winery from using more than a certain number of winery special event permits at the same farmers' market in the county in a year; prohibiting a holder of a permit from selling wine by the glass; requiring that a certain individual who is certified by an alcohol awareness program be present during the hours when wine may be sold; and generally relating to farmers' markets in Baltimore County.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 2–101(u)(1)
Annotated Code of Maryland
(2005 Replacement Volume and 2010 Supplement)

BY adding to
Article 2B – Alcoholic Beverages
Section 2–101(u)(9)
Annotated Code of Maryland
(2005 Replacement Volume and 2010 Supplement)

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

Article 2B – Alcoholic Beverages

2–101.

(u) (1) The Office of the Comptroller may issue a winery special event permit to a licensed Class 4 Maryland limited winery, provided that:

(i) Except as provided in paragraphs (6), (7), **[**and**]** (8)**, AND (9)** of this subsection, no more than 12 winery special event permits are issued to the Class 4 Maryland limited winery in any given calendar year;

(ii) The permit does not exceed 3 consecutive days; and

(iii) Except as provided in paragraphs (6), (7), **[**and**]** (8)**, AND (9)** of this subsection, no more than three winery special event permits are issued in any calendar year to any given limited winery for use in the same political subdivision.

(9) (I) 1. IN ADDITION TO THE WINERY SPECIAL EVENT PERMITS THAT MAY BE ISSUED UNDER PARAGRAPH (1)(I) AND (III) OF THIS SUBSECTION AND SUBJECT TO SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, A CLASS 4 MARYLAND LIMITED WINERY MAY BE ISSUED NOT MORE THAN 12 WINERY SPECIAL EVENT PERMITS FOR USE AT FARMERS' MARKETS IN BALTIMORE COUNTY THAT ARE LISTED ON THE FARMERS' MARKET DIRECTORY OF THE MARYLAND DEPARTMENT OF AGRICULTURE.

2. A CLASS 4 MARYLAND LIMITED WINERY MAY USE NOT MORE THAN SIX WINERY SPECIAL EVENT PERMITS AT THE SAME FARMERS' MARKET IN BALTIMORE COUNTY IN A YEAR.

(II) IF A WINERY SPECIAL EVENT PERMIT IS ISSUED UNDER THIS PARAGRAPH:

1. THE HOLDER OF THE PERMIT MAY NOT SELL WINE BY THE GLASS; AND

2. THE FARMERS' MARKET ADMINISTRATOR OR THE ADMINISTRATOR'S DESIGNEE AND THE HOLDER OF THE PERMIT OR THE HOLDER'S DESIGNEE SHALL BE:

A. CERTIFIED BY AN ALCOHOL AWARENESS PROGRAM APPROVED BY THE COMPTROLLER; AND

B. PRESENT DURING THE HOURS WHEN WINE MAY BE SOLD.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 332

(House Bill 358)

AN ACT concerning

Office of the Commissioner of Financial Regulation, the Banking Board, and the State Collection Agency Licensing Board – Sunset Extension and Program Evaluation

FOR the purpose of repealing the Banking Board in the Department of Labor, Licensing, and Regulation; continuing the Office of the Commissioner of Financial Regulation and the State Collection Agency Licensing Board in accordance with the provisions of the Maryland Program Evaluation Act (sunset law) by extending to a certain date the termination provisions relating to the statutory and regulatory authority of the Office of the Commissioner of Financial Regulation and the State Collection Agency Licensing Board; requiring that an evaluation of the Office of the Commissioner of Financial Regulation and the State Collection Licensing Board and the statutes and regulations that relate to them be performed on or before a certain date; repealing certain provisions requiring the Commissioner of Financial Regulation to seek the advice of the Banking Board on certain matters; providing that deposits of certain trust money in financial institutions located outside the State are subject to the approval of the Commissioner of Financial Regulation instead of the Banking Board; requiring the Commissioner to implement a risk–based mortgage lender licensee examination schedule on or before a certain date and report to certain committees of the General Assembly on the implementation of the examination schedule on or before a certain date; requiring ~~the Maryland Judiciary, in consultation with~~ the State Collection Agency Licensing Board and the Attorney General's Office~~,~~ to ~~study a certain issue~~ *monitor whether the Maryland Judiciary has made a certain determination* and report ~~its~~ *any* findings and recommendations to certain committees of the General Assembly on or before a certain date; and generally relating to the Office of the Commissioner of Financial Regulation, the State Collection Agency Licensing Board, and the Banking Board.

BY repealing
Article – Business Regulation
Section 2–108(a)(4)
Annotated Code of Maryland
(2010 Replacement Volume and 2010 Supplement)

BY renumbering

Article – Business Regulation
Section 2–108(a)(5) through (34), respectively
to be Section 2–108(a)(4) through (33), respectively
Annotated Code of Maryland
(2010 Replacement Volume and 2010 Supplement)

BY repealing
Article – Financial Institutions
Section 2–201 through 2–204 and the subtitle "Subtitle 2. Banking Board"; and 2–402
Annotated Code of Maryland
(2003 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,
Article – Business Regulation
Section 7–502
Annotated Code of Maryland
(2010 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,
Article – Financial Institutions
Section 2–401, 3–203(d)(1), 3–607, 3–705, 4–203(d)(1), 4–701(b), 4–803(d)(1), 5–209(a), 5–405(b), and 5–801
Annotated Code of Maryland
(2003 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, without amendments,
Article – Financial Institutions
Section 3–203(a), 4–203(a), 4–701(a), 4–803(a), and 5–405(a)
Annotated Code of Maryland
(2003 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,
Article – Insurance
Section 22–103
Annotated Code of Maryland
(2006 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, without amendments,
Article – State Government
Section 8–403(a)
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 8–403(b)(13) and (24)

Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

BY repealing
Article – State Government
Section 8–403(b)(8)
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

BY renumbering
Article – State Government
Section 8–403(b)(9) through (68), respectively
to be Section 8–403(b)(8) through (67), respectively
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 2–108(a)(4) of Article – Business Regulation of the Annotated Code of Maryland be repealed.

SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 2–108(a)(5) through (34), respectively, of Article – Business Regulation of the Annotated Code of Maryland be renumbered to be Section(s) 2–108(a)(4) through (33), respectively.

SECTION 3. AND BE IT FURTHER ENACTED, That Section(s) 2–201 through 2–204 and the subtitle "Subtitle 2. Banking Board"; and 2–402 of Article – Financial Institutions of the Annotated Code of Maryland be repealed.

SECTION 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Business Regulation

7–502.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this title and all regulations adopted under this title shall terminate on July 1, **[**2012**]** **2022**.

Article – Financial Institutions

2–401.

Subject to the evaluation and reestablishment provisions of the Program Evaluation Act, the provisions of this article that create the office of the Commissioner of Financial Regulation or relate to the powers and duties of the Commissioner and

any regulations adopted under these provisions shall terminate and be of no effect after July 1, **[**2012**]** **2022**.

3–203.

(a) The incorporators shall file with the Commissioner for examination the two copies of the articles of incorporation.

(d) (1) Within 6 months after the articles are filed for examination, the Commissioner**[**, after receiving the advice of the Banking Board,**]** shall sign, date, and endorse each copy of the articles as "approved" or "refused".

3–607.

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

(2) "Demand deposit" means a deposit that is payable within 30 days.

(3) (i) "Time deposit" means a deposit that is payable after 30 days.

(ii) "Time deposit" includes a savings account or certificate of deposit that requires at least a 30–day notice before payment.

(b) This section does not apply to any deposit of public funds for which the commercial bank pledges collateral.

(c) (1) A commercial bank shall have at all times a reserve equal to at least 15 percent of its demand deposits.

(2) The board of directors of a commercial bank by resolution shall direct the commercial bank to keep the demand deposit reserve required by this section in:

(i) Cash on hand;

(ii) Demand deposits in a bank of good standing in any state; or

(iii) As to 5 percent of its demand deposits, on approval of the Commissioner:

1. Registered or coupon bonds; or

2. General obligations of or obligations guaranteed by the United States government, an agency of the United States government, this State, or any political subdivision.

(d) (1) A commercial bank shall have at all times a reserve equal to at least 3 percent of its time deposits.

(2) The board of directors of a commercial bank by resolution shall direct the commercial bank to keep the time deposit reserves required by this section in:

(i) Cash on hand;

(ii) Deposits in a bank of good standing in any state; or

(iii) Direct obligations of the United States government or of this State.

(e) (1) If the Commissioner**[**, with the advice of the Banking Board,**]** determines that a change in the demand deposit reserve or in the time deposit reserve requirements is advisable to maintain sound banking practices or to prevent injurious credit expansion or contraction, the Commissioner may change the requirements as provided in this subsection.

(2) Subject to paragraph (3) of this subsection, the Commissioner may adopt rules or regulations to change the requirements as to reserves for commercial banks.

(3) The rules and regulations may:

(i) Increase the demand deposit reserve to an amount equal to not more than 30 percent of those deposits;

(ii) Increase the time deposit reserve to an amount equal to not more than 6 percent of those deposits;

(iii) Decrease the demand deposit reserve to an amount equal to not less than 15 percent of those deposits;

(iv) Decrease the time deposit reserve to an amount equal to not less than 3 percent of those deposits; and

(v) Notwithstanding items (i) through (iv) of this paragraph, increase or decrease the demand deposit reserve or time deposit reserve to conform to the reserve requirements that apply to a member bank of the Federal Reserve System.

3–705.

Within 6 months after the papers specified in § 3–703(c) of this subtitle have been filed with the Commissioner, the Commissioner**[**, after receiving the advice of the Banking Board,**]** shall approve or disapprove the agreement.

4–203.

(a) The incorporators shall:

(1) File with the Commissioner for examination the two copies of the articles of incorporation; and

(2) Pay to the Commissioner an examination fee of $1,500.

(d) (1) Within 6 months after the articles are filed for examination, the Commissioner**[**, with the approval of the Banking Board,**]** shall sign, date, and endorse each copy as "approved" or "refused".

4–701.

(a) In this section, "transfer assets", "transfer its assets", or "transfer of assets" means to sell, lease, exchange, or otherwise transfer all or substantially all of the property and assets of a savings bank.

(b) (1) A savings bank may consolidate with, merge into, or transfer its assets to any banking institution in this State, any other bank in this State, or any State or federal savings and loan association in this State if the Commissioner**[**, after receiving the advice of the Banking Board,**]** gives written consent to the transaction.

(2) A savings bank may have any banking institution in this State, any other bank in this State, or any State or federal savings and loan association in this State merge into the savings bank if the Commissioner**[**, after receiving the advice of the Banking Board,**]** gives written consent to the transaction.

4–803.

(a) The savings bank shall:

(1) File with the Commissioner for examination the application for approval of reorganization; and

(2) At the time of filing of an application for approval of reorganization, pay to the Commissioner a fee of $1,500.

(d) As to the proposed articles of incorporation of the subsidiary savings bank:

(1) Within 3 months after the application is filed for examination, the Commissioner**[**, after receiving the advice of the Banking Board,**]** shall sign, date, and endorse each copy of the articles of incorporation as "approved" or "refused".

5–209.

(a) Except as otherwise provided in this article, the Commissioner**[**,**]** **AND** the employees of and the attorney for the Commissioner's office**[**, and the members of the Banking Board**]** may not disclose:

(1) The name of any debtor of a banking institution;

(2) Any information about the private accounts with or transactions of a banking institution;

(3) Any information obtained in the course of examining a banking institution; or

(4) Any confidential information obtained from a federal banking authority.

5–405.

(a) Except as provided in this section, or otherwise expressly provided by State law, a banking institution may not have a bank service corporation.

(b) If the Commissioner**[**, after receiving the advice of the Banking Board,**]** approves, a banking institution may have a bank service corporation.

5–801.

(a) If the Commissioner believes that a director or officer of a banking institution has engaged in an unsafe or unsound banking practice, the Commissioner shall send a warning to the director or officer.

(b) (1) If the Commissioner finds that the director or officer has continued to engage in the unsafe or unsound practice, the Commissioner**[**, with the advice of the Banking Board,**]** may report the facts to the Secretary of Labor, Licensing, and Regulation and the Attorney General.

(2) A copy of the report shall be sent by certified mail, return receipt requested, bearing a postmark from the United States Postal Service, to each director of the banking institution.

(c) (1) After giving the officer or director an opportunity to be heard, if the Commissioner finds that the unsafe or unsound practice continued after the warning, the Commissioner with the approval of the Secretary of Labor, Licensing, and Regulation may remove the officer or director.

(2) A copy of the removal order shall be served on the individual removed and the banking institution.

Article – Insurance

22–103.

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

(2) "Beneficial owner" means a person, other than the buyer in a real estate transaction, for whose benefit a title insurer or its agent is entrusted to hold trust money.

(3) "Trust money" means a deposit, payment, or other money that a person entrusts to a title insurer or its agent to hold for the benefit of a buyer in a real estate transaction or for a beneficial owner, in connection with an escrow, settlement, closing, or title indemnification.

(b) A title insurer or its agent shall pool and commingle trust money received from clients or beneficial owners in connection with escrows, settlements, closings, or title indemnifications if, in the judgment of the title insurer or its agent, a separate deposit of the trust money would generate interest in an amount not greater than $50 or the cost of administering a separate account.

(c) At least quarterly, the financial institution in which a commingled account is maintained under this section shall pay the interest earned on the account, less any service charges of the financial institution, to the Maryland Affordable Housing Trust to enhance the availability of affordable housing throughout the State as provided in § 10–102 of the Housing and Community Development Article.

(d) Trust money required to be commingled under subsection (b) of this section in connection with a real estate transaction shall be deposited and maintained until disbursed in accordance with the transaction:

(1) in a financial institution located in the State; or

(2) subject to approval of the **[**Banking Board in the Department of Labor, Licensing, and Regulation**]** **COMMISSIONER OF FINANCIAL REGULATION**, in a financial institution outside the State that complies with the requirements of this subtitle.

(e) A title insurer or its agent does not violate, and may not be charged by the Commissioner with a violation of, any ethical or legal duties by placing trust money in an account under subsection (b) of this section with the interest paid to the Maryland Affordable Housing Trust under subsection (c) of this section.

(f) Except for trust money that a title insurer or its agent places in a commingled account under subsections (b) and (c) of this section, and subject to regulations of the Commissioner, trust money in the possession of the title insurer or its agent may be deposited in any other deposit or investment vehicle:

(1) specified by the client or beneficial owner; or

(2) as agreed on by the client or beneficial owner and the title insurer or its agent.

Article – State Government

8–403.

(a) On or before December 15 of the 2nd year before the evaluation date of a governmental activity or unit, the Legislative Policy Committee, based on a preliminary evaluation, may waive as unnecessary the evaluation required under this section.

(b) Except as otherwise provided in subsection (a) of this section, on or before the evaluation date for the following governmental activities or units, an evaluation shall be made of the following governmental activities or units and the statutes and regulations that relate to the governmental activities or units:

(13) Collection Agency Licensing Board, State (§ 7–201 of the Business Regulation Article: July 1, **[**2011**] 2021**);

(24) Financial Regulation, Office of the Commissioner of (§ 2–101 of the Financial Institutions Article: July 1, **[**2011**] 2021**);

SECTION 5. AND BE IT FURTHER ENACTED, That Section(s) 8–403(b)(8) of Article – State Government of the Annotated Code of Maryland be repealed.

SECTION 6. AND BE IT FURTHER ENACTED, That Section(s) 8–403(b)(9) through (68), respectively, of Article – State Government of the Annotated Code of Maryland be renumbered to be Section(s) 8–403(b)(8) through (67), respectively.

SECTION 7. AND BE IT FURTHER ENACTED, That the Commissioner of Financial Regulation shall:

(1) implement a risk–based mortgage lender licensee examination schedule to supplement the existing calendar–based examination schedule by January 1, 2012; and

(2) report to the Senate Finance Committee and the House Economic Matters Committee on or before October 1, 2012, in accordance with § 2–1246 of the

State Government Article, on the implementation of the risk–based mortgage lender licensee examination schedule.

SECTION 8. AND BE IT FURTHER ENACTED, That ~~the Maryland Judiciary, in consultation with~~ the State Collection Agency Licensing Board and the Attorney General's Office~~,~~ shall:

(1) ~~examine~~ *monitor* whether *the Maryland Judiciary has determined if* the Maryland Rules should be amended to strengthen protections for defendants in consumer debt collection cases; and

(2) report to the Senate Finance Committee, the Senate Judicial Proceedings Committee, the House Economic Matters Committee, and the House Judiciary Committee on or before October 1, 2011, in accordance with § 2–1246 of the State Government Article, on ~~its~~ *any* findings and recommendations *made by the Maryland Judiciary*.

SECTION 9. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 333

(House Bill 362)

AN ACT concerning

Maryland Home Improvement Commission – Sunset Extension and Program Evaluation

FOR the purpose of continuing the Maryland Home Improvement Commission in accordance with the provisions of the Maryland Program Evaluation Act (sunset law) by extending to a certain date the termination provisions relating to the statutory and regulatory authority of the Commission; continuing the Maryland Mold Remediation Services Act in accordance with the provisions of the sunset law by extending to a certain date the termination provisions relating to the statutory and regulatory authority of the Commission under the Maryland Mold Remediation Services Act; requiring that an evaluation of the Commission and the statutes and regulations that relate to the Commission and the Maryland Mold Remediation Services Act be performed on or before a certain date; requiring the Commission to submit certain reports about a certain fund to certain committees of the General Assembly under certain circumstances; requiring the Commission to publish certain consumer education materials on

its Web site; requiring the Commission to develop a certain searchable Web site that includes certain information; altering certain fees; requiring a home improvement contract to contain the telephone number of the contractor; expanding the notice requirements for home improvement contracts; altering certain criminal penalties for certain individuals; authorizing the Commission to issue certain civil citations under certain circumstances; authorizing a certain hearing for civil citations; authorizing the Commission to establish certain violations and fines by regulation; creating a certain separate account within the Home Improvement Guaranty Fund for collection of certain money; specifying the disposition of the money collected as a civil citation; extending the date by which certain companies or firms providing mold remediation must be licensed by the Commission; requiring the Commission to submit a certain report to certain committees of the General Assembly on or before a certain date; and generally relating to the Maryland Home Improvement Commission.

BY repealing and reenacting, without amendments,
Article – Business Regulation
Section 8–101(a), (b), and (e) and 8–707(a)
Annotated Code of Maryland
(2010 Replacement Volume and 2010 Supplement)

BY adding to
Article – Business Regulation
Section 8–215 and 8–216
Annotated Code of Maryland
(2010 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,
Article – Business Regulation
Section 8–303(a), 8–308(d), 8–312(a), 8–403, 8–501, 8–601(d), 8–620, 8–718, and 8–802
Annotated Code of Maryland
(2010 Replacement Volume and 2010 Supplement)

~~BY repealing and reenacting, without amendments,~~
~~Article – Business Regulation~~
~~Section 8–707(a)~~
~~Annotated Code of Maryland~~
~~(2010 Replacement Volume and 2010 Supplement)~~

BY repealing and reenacting, without amendments,
Article – State Government
Section 8–403(a)
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,

Article – State Government
Section 8–403(b)(29) and (39)
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,
Chapter 537 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 – Business Regulation

8–101.

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

(b) "Commission" means the Maryland Home Improvement Commission.

(e) "Fund" means the Home Improvement Guaranty Fund.

8–215.

THE COMMISSION SHALL PUBLISH ON ITS WEB SITE CONSUMER EDUCATION MATERIALS THAT SPECIFY THE PROTECTIONS AVAILABLE TO CONSUMERS THROUGH THE COMMISSION, INCLUDING THE AVAILABILITY OF COMPENSATION FROM THE GUARANTY FUND.

8–216.

THE COMMISSION SHALL DEVELOP A SEARCHABLE WEB SITE THAT INCLUDES A LISTING OF LICENSED CONTRACTORS AND INFORMATION RELATING TO ANY FINAL DISCIPLINARY ACTION TAKEN BY THE COMMISSION AGAINST A LICENSEE IN EACH LICENSEE'S PROFILE.

8–303.

(a) (1) An applicant for a license shall:

(i) submit to the Commission an application on the form that the Commission provides;

(ii) submit to the Commission with the license application proof of compliance with the insurance requirement of § 8–302.1 of this subtitle, if the applicant is applying for a contractor license;

(iii) pay into the Fund the fee required under § 8–404(a) of this title, if the applicant is applying for a contractor license; and

(iv) pay to the Commission an application fee.

(2) The application fee:

(i) for a contractor license is **[**$225**] $250** for each place of business of the contractor;

(ii) for a subcontractor license is **[**$125**] $150**; or

(iii) for a salesperson license is **[**$75**] $100**.

(3) **[**To cover the cost of**] THE FEE FOR** processing an application**[**, $15 of the application fee is nonrefundable**] IS $20**.

8–308.

(d) (1) Before a license expires, the licensee periodically may renew it for an additional 2–year term, if the licensee:

(i) otherwise is entitled to be licensed;

(ii) submits to the Commission a renewal application on the form that the Commission provides;

(iii) submits to the Commission proof of compliance with the insurance requirement of § 8–302.1 of this subtitle, if the licensee is renewing a contractor license;

(iv) submits to the Commission the Department of the Environment lead paint abatement accreditation number and accreditation expiration date, if the licensee provides lead paint abatement services; and

(v) pays to the Commission a renewal fee.

(2) The renewal fee:

(i) for a contractor license is **[**$225**] $250** for each place of business of the contractor;

(ii) for a subcontractor license is **[**$125**] $150**; or

(iii) for a salesperson license is **[**$75**] $100**.

(3) Notwithstanding paragraph (2) of this subsection, a licensee that is incorporated or has its principal office in another state shall pay to the Commission the fee imposed in that state on a similar nonresident business if that fee is higher than the renewal fee under paragraph (2) of this subsection.

8–312.

(a) Except as otherwise provided in § 10–226 of the State Government Article, before the Commission takes any final action under § 8–311 of this subtitle, **OR IF REQUESTED UNDER § 8–620(C) OF THIS TITLE,** it shall give the person against whom the action is contemplated an opportunity for a hearing before the Commission or, as provided under § 8–313 of this subtitle, a hearing board.

8–403.

(a) The Commission shall:

(1) establish a Home Improvement Guaranty Fund; **[**and**]**

(2) keep the Fund at a level of at least $250,000**; AND**

(3) SUBMIT A REPORT DETAILING ACTIONS BEING TAKEN TO RESTORE THE BALANCE OF THE FUND TO A SUSTAINABLE LEVEL TO THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE AND THE HOUSE ECONOMIC MATTERS COMMITTEE WITHIN 30 DAYS OF PROJECTING THAT THE FUND BALANCE WILL BE LESS THAN $250,000.

(b) (1) **[**The**] EXCEPT AS OTHERWISE PROVIDED BY LAW, THE** Commission shall deposit all money collected to the credit of the Fund with the State Treasurer for placement in a special account.

(2) (I) THE COMMISSION SHALL ESTABLISH AND MAINTAIN WITHIN THE FUND A SEPARATE ACCOUNT TO BE HELD WITH THE STATE TREASURER FOR THE PAYMENT OF NECESSARY EXPENSES FOR EXPERT WITNESSES USED TO RESOLVE CLAIMS AGAINST THE FUND.

(II) ONE–HALF OF THE MONEY COLLECTED UNDER § 8–620(C) OF THIS TITLE SHALL BE CREDITED TO THE ACCOUNT ESTABLISHED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH.

(III) ONE–HALF OF THE MONEY COLLECTED UNDER § 8–620(C) OF THIS TITLE SHALL BE CREDITED TO THE GENERAL FUND OF THE STATE.

[(2)**] (3)** (i) The State Treasurer shall invest the money in the Fund in the same way that money in the State Retirement and Pension System is invested.

(ii) Investment earnings shall be credited to the Fund.

(c) The Commission shall administer the Fund in accordance with this subtitle.

8–501.

(a) A home improvement contract that does not comply with this section is not invalid merely because of noncompliance.

(b) Each home improvement contract shall:

(1) be in writing and legible;

(2) describe clearly each document that it incorporates; and

(3) be signed by each party to the home improvement contract.

(c) (1) In addition to any other matters on which the parties lawfully agree, each home improvement contract shall contain:

(i) the name, address, **TELEPHONE NUMBER,** and license number of the contractor;

(ii) the name and license number of each salesperson who solicited the home improvement contract or sold the home improvement;

(iii) the approximate dates when the performance of the home improvement will begin and when it will be substantially completed;

(iv) a description of the home improvement to be performed and the materials to be used;

(v) the agreed consideration;

(vi) the number of monthly payments and the amount of each payment, including any finance charge;

(vii) a description of any collateral security for the obligation of the owner under the home improvement contract; **[**and**]**

(viii) a notice that gives the telephone number **AND WEB SITE** of the Commission and states that:

1. each contractor and each subcontractor must be licensed by the Commission; and

2. anyone may ask the Commission about a contractor or subcontractor**; AND**

(IX) A NOTICE SET BY THE COMMISSION BY REGULATION THAT:

1. SPECIFIES THE PROTECTIONS AVAILABLE TO CONSUMERS THROUGH THE COMMISSION; AND

2. ADVISES THE CONSUMER OF THE RIGHT TO PURCHASE A PERFORMANCE BOND FOR ADDITIONAL PROTECTION AGAINST LOSS.

(2) If payment for work performed under the home improvement contract will be secured by an interest in residential real estate, a written notice in not smaller than 10 point bold type that is on the first page of the contract shall state in substantially the following form: "This contract creates a mortgage or lien against your property to secure payment and may cause a loss of your property if you fail to pay the amount agreed upon. You have the right to consult an attorney. You have the right to rescind this contract within 3 business days after the date you sign it by notifying the contractor in writing that you are rescinding the contract."

(3) The notice under paragraph (2) of this subsection shall be independently initialed by the homeowner.

(d) Before the performance of a home improvement begins, the owner shall be given a copy of the home improvement contract signed by the contractor.

(e) A salesperson or other agent or employee of a contractor may not make a change in a home improvement contract for an owner.

8–601.

(d) A person who violates this section is guilty of a misdemeanor and, on first conviction, is subject to a fine not exceeding $1,000 or imprisonment not exceeding **[**30 days**] 6 MONTHS** or both and, on a second or subsequent conviction, is subject to a fine not exceeding $5,000 or imprisonment not exceeding 2 years or both.

8–620.

(a) The Commission may impose on a person who violates this title, including § 8–607(4) of this subtitle, a civil penalty not exceeding $5,000 for each violation, whether or not the person is licensed under this title.

(b) In setting the amount of a civil penalty, the Commission shall consider:

(1) the seriousness of the violation;

(2) the good faith of the violator;

(3) any previous violations;

(4) the harmful effect of the violation on the complainant, the public, and the business of home improvement;

(5) the assets of the violator; and

(6) any other relevant factors.

(C) (1) THE COMMISSION MAY ESTABLISH BY REGULATION A SCHEDULE OF VIOLATIONS AND FINES TO BE USED FOR CIVIL CITATIONS ISSUED UNDER THIS TITLE.

(2) A CITATION ISSUED BY THE COMMISSION SHALL INCLUDE:

(I) THE NAME AND ADDRESS OF THE PERSON CHARGED;

(II) THE NATURE OF THE VIOLATION;

(III) THE LOCATION AND TIME OF THE VIOLATION;

(IV) THE AMOUNT OF THE FINE;

(V) THE MANNER, LOCATION, AND TIME IN WHICH THE FINE MAY BE PAID;

(VI) THE CITED PERSON'S RIGHT TO A HEARING FOR THE VIOLATION; AND

(VII) A WARNING THAT FAILURE TO PAY THE FINE OR TO CONTEST LIABILITY IN A TIMELY MANNER IN ACCORDANCE WITH THE CITATION:

1. IS AN ADMISSION OF LIABILITY; AND

2. MAY RESULT IN AN ENTRY OF A DEFAULT JUDGMENT THAT MAY INCLUDE THE FINE, COURT COSTS, AND ADMINISTRATIVE EXPENSES.

(3) THE COMMISSION SHALL RETAIN A COPY OF THE CITATION.

(4) ALL MONEY COLLECTED UNDER THIS SUBSECTION SHALL BE PAID IN ACCORDANCE WITH § 8–403(B) OF THIS TITLE.

8–707.

(a) Except as otherwise provided in this subtitle, a company or firm shall be licensed by the Commission before the company or firm provides mold remediation services in the State.

8–718.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this subtitle and all regulations adopted under this subtitle shall terminate and be of no effect after July 1, **[**2016**] 2019**.

8–802.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this title and all regulations adopted under this title shall terminate on **[**October 1, 2012**] JULY 1, 2022.**

Article – State Government

8–403.

(a) On or before December 15 of the 2nd year before the evaluation date of a governmental activity or unit, the Legislative Policy Committee, based on a preliminary evaluation, may waive as unnecessary the evaluation required under this section.

(b) Except as otherwise provided in subsection (a) of this section, on or before the evaluation date for the following governmental activities or units, an evaluation shall be made of the following governmental activities or units and the statutes and regulations that relate to the governmental activities or units:

(29) Home Improvement Commission, Maryland (§ 8–201 of the Business Regulation Article: July 1, **[**2011**] 2021**);

(39) mold remediation services, licensing and regulation of (§ 8–701 of the Business Regulation Article: July 1, **[**2015**] 2018**);

Chapter 537 of the Acts of 2008

SECTION 3. AND BE IT FURTHER ENACTED, That on or before **[**June 1, 2010**]** **JULY 1, 2013**, a company or firm providing mold remediation services shall be licensed by the Maryland Home Improvement Commission, subject to the qualification and application requirements of this Act.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before October 1, 2012, the Maryland Home Improvement Commission shall submit a report to the Senate Education, Health, and Environmental Affairs Committee and the House Economic Matters Committee, in accordance with § 2–1246 of the State Government Article, on the implementation of nonstatutory recommendations contained in the Sunset Review: Evaluation of the Maryland Home Improvement Commission conducted by the Department of Legislative Services, specifically:

(1) the implementation of multiple licensing levels, in order to:

(i) encourage ease of access into the industry;

(ii) facilitate upward mobility for licensees to accept larger projects based on experience and capital;

(iii) limit the size of projects that inexperienced contractors may accept;

(iv) reserve use of the Home Improvement Guaranty Fund for claims against new entry–level licensees; and

(v) require surety bonds for licensees in the upper tiers;

(2) a summary of efforts taken to reduce the investigation and processing times for claims referred to the Office of Administrative Hearings;

(3) the advisability of a requirement for the posting of a performance bond for all licensees, and if advisable, in what amounts, and triggered by what price contracts;

(4) a plan for facilitating better communication between licensees and consumers relating to contract performance completion dates;

~~(3)~~ *(5)* data regarding the number of Fund claims settled through mediation; and

~~(4)~~ *(6)* any changes in the number of Fund claims filed and whether or not the average time to resolve Fund claims decreased after implementing certain measures.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 334

(House Bill 363)

AN ACT concerning

Criminal Law – Manslaughter by Vehicle or Vessel – Criminal Negligence

FOR the purpose of making it a misdemeanor for a person to cause the death of another as a result of the person's driving, operating, or controlling a vehicle or vessel in a criminally negligent manner; establishing the circumstances under which a person is considered to act in a criminally negligent manner for purposes of this Act; establishing that it is not an offense under this Act for a person to cause the death of another as a result of the person's driving, operating, or controlling a vehicle or vessel in a negligent manner; establishing certain penalties; stating the intent of the General Assembly with respect to the interpretation of a certain term; defining a certain term; and generally relating to criminally negligent manslaughter by vehicle or vessel.

BY adding to
Article – Criminal Law
Section 2–210
Annotated Code of Maryland
(2002 Volume and 2010 Supplement)

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

Article – Criminal Law

2–210.

(A) IN THIS SECTION, "VEHICLE" INCLUDES A MOTOR VEHICLE, STREETCAR, LOCOMOTIVE, ENGINE, AND TRAIN.

(B) A PERSON MAY NOT CAUSE THE DEATH OF ANOTHER AS THE RESULT OF THE PERSON'S DRIVING, OPERATING, OR CONTROLLING A VEHICLE OR VESSEL IN A CRIMINALLY NEGLIGENT MANNER.

(C) FOR PURPOSES OF THIS SECTION, A PERSON ACTS IN A CRIMINALLY NEGLIGENT MANNER WITH RESPECT TO A RESULT OR A CIRCUMSTANCE WHEN:

(1) THE PERSON SHOULD BE AWARE, BUT FAILS TO PERCEIVE, THAT THE PERSON'S CONDUCT CREATES A SUBSTANTIAL AND UNJUSTIFIABLE RISK THAT SUCH A RESULT WILL OCCUR; AND

(2) THE FAILURE TO PERCEIVE CONSTITUTES A ~~SUBSTANTIAL~~ *GROSS* DEVIATION FROM THE STANDARD OF CARE THAT WOULD BE EXERCISED BY A REASONABLE PERSON.

(D) IT IS NOT A VIOLATION OF THIS SECTION FOR A PERSON TO CAUSE THE DEATH OF ANOTHER AS THE RESULT OF THE PERSON'S DRIVING, OPERATING, OR CONTROLLING A VEHICLE OR VESSEL IN A NEGLIGENT MANNER.

(E) A VIOLATION OF THIS SECTION IS CRIMINALLY NEGLIGENT MANSLAUGHTER BY VEHICLE OR VESSEL.

(F) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 3 YEARS OR A FINE NOT EXCEEDING $5,000 OR BOTH.

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the term "~~substantial~~ *gross* deviation from the standard of care" in § 2–210(c)(2) of the Criminal Law Article, as enacted by Section 1 of this ~~Act,~~ *Act:*

(1) be interpreted synonymously with the term "gross deviation from the standard of care" under § 2.02(2)(d) of the Model Penal Code of the American Law Institute*; and*

(2) is a separate and distinct standard from the "gross negligence" standard that is used by and interpreted under § 2–209 of the Criminal Law Article.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 335

(House Bill 364)

AN ACT concerning

Student Participation in High School Sports – *Minimum* Academic Requirements – *Proposed Standards*

FOR the purpose of requiring the State Board of Education, *in consultation with county boards of education,* to ~~adopt regulations to establish~~ *report to certain committees of the General Assembly on or before a certain date regarding* certain academic performance standards that students in public high schools in the State ~~must~~ *should* meet in order to participate in certain high school athletic competitions; requiring the ~~regulations~~ *report* to include certain ~~provisions~~ *recommendations*; ~~requiring county boards of education to allow certain students to participate in certain high school athletic competitions only in accordance with the regulations of the State Board;~~ and generally relating to academic requirements for student participation in high school sports.

~~BY adding to~~
~~Article – Education~~
~~Section 7–205.1~~
~~Annotated Code of Maryland~~
~~(2008 Replacement Volume and 2010 Supplement)~~

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

~~**Article – Education**~~

~~**7–205.1.**~~

~~**(A) (1) THE STATE BOARD SHALL ADOPT REGULATIONS TO ESTABLISH ACADEMIC PERFORMANCE STANDARDS THAT STUDENTS IN PUBLIC HIGH SCHOOLS IN THE STATE MUST MEET IN ORDER TO PARTICIPATE IN ATHLETIC COMPETITIONS SANCTIONED BY A COUNTY BOARD.**~~

~~**(2) THE REGULATIONS SHALL INCLUDE PROVISIONS THAT SPECIFY THE CURRICULUM CONTENT, MINIMUM GRADE POINT AVERAGE, AND GRADE PROGRESS THAT PUBLIC HIGH SCHOOL STUDENTS MUST SATISFY TO BE ELIGIBLE TO PARTICIPATE IN ATHLETIC COMPETITIONS SANCTIONED BY THE COUNTY BOARD.**~~

~~**(B) A COUNTY BOARD SHALL ALLOW STUDENTS IN PUBLIC HIGH SCHOOLS IN THE COUNTY TO PARTICIPATE IN ATHLETIC COMPETITIONS SANCTIONED BY THE COUNTY BOARD ONLY IN ACCORDANCE WITH THE REGULATIONS OF THE STATE BOARD.**~~ *on or before December 31, 2011, the State Board of Education, in consultation with the county boards of education, shall report, in accordance with § 2–1246 of the State Government Article, to the Senate Education,*

Health, and Environmental Affairs Committee and the House Committee on Ways and Means, regarding the minimum academic performance standards that students in public high schools in the State should meet in order to participate in athletic competitions sanctioned by a county board of education. The report shall include recommendations regarding the curriculum content, minimum grade point average, and grade progress that public high school students should satisfy to be eligible to participate in athletic competitions sanctioned by the county board.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ *June* 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 336

(House Bill 404)

AN ACT concerning

Washington County – Alcoholic Beverages – Micro–Breweries

FOR the purpose of adding Washington County to the list of counties in which a Class 7 micro–brewery license may be issued; authorizing the Comptroller to issue the license in the county to holders of certain retail alcoholic beverages licenses; adding the county to the list of counties in which a Class 7 micro–brewery licensee may sell at retail beer for consumption off the premises under certain circumstances; providing for the hours and days for consumer sales under the license; prohibiting the Comptroller from issuing a Class 7 micro–brewery license for a premises on property in Washington County that has been leased unless the landlord of the property presents to the Comptroller a receipt or certificate showing certain information relating to the payment of taxes; and generally relating to alcoholic beverages in Washington County.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 2–208(a), (c), and (e)
Annotated Code of Maryland
(2005 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 2–208(b), (d), and (f)
Annotated Code of Maryland
(2005 Replacement Volume and 2010 Supplement)

BY adding to
Article 2B – Alcoholic Beverages
Section 2–208(j)
Annotated Code of Maryland
(2005 Replacement Volume and 2010 Supplement)

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

Article 2B – Alcoholic Beverages

2–208.

(a) There is a Class 7 micro–brewery (on– and off–sale) license.

(b) The license shall be issued:

(1) By the State Comptroller;

(2) Only in the following jurisdictions:

(i) Allegany County;

(ii) Baltimore City;

(iii) Baltimore County;

(iv) The City of Annapolis;

(v) Anne Arundel County;

(vi) Calvert County;

(vii) Carroll County;

(viii) Charles County;

(ix) Dorchester County;

(x) Frederick County;

(xi) Garrett County;

(xii) Harford County;

(xiii) Howard County;

(xiv) Montgomery County;

(xv) Prince George's County;

(xvi) Talbot County;

(xvii) **WASHINGTON COUNTY;**

(XVIII) Wicomico County; and

[(xviii)**] (XIX)** Worcester County;

(3) (i) Only to a holder of a Class B beer, wine and liquor (on–sale) license that is issued for use on the premises of a restaurant located in a jurisdiction listed in paragraph (2) of this subsection; or

(ii) To a holder of a Class D alcoholic beverages license that is issued for use on the premises of the existing Class D license if the premises are located in **[**the**]:**

1. THE 22nd Alcoholic Beverages District of Prince George's County; **OR**

2. WASHINGTON COUNTY; and

(4) In addition to item (3) of this subsection, in Montgomery County only to a holder of a Class H beer and light wine license that is issued for use on the premises of a restaurant located in the County.

(c) (1) A holder of a Class 7 micro–brewery license:

(i) May brew and bottle malt beverages at the license location;

(ii) May obtain a Class 2 rectifying license for a premises located within 1 mile of the existing Class 7 micro–brewery location to bottle malt beverages brewed at the micro–brewery location only;

(iii) May contract with the holder of a Class 5 brewery license, a Class 7 micro–brewery license, or a Class 2 rectifying license held under § 2–203 of this subtitle or the holder of a nonresident dealer's permit to brew and bottle malt beverages on their behalf;

(iv) May store the finished product under an individual storage permit or at a licensed public storage facility for subsequent sale and delivery to a licensed wholesaler, an authorized person outside this State, and for shipment back to the micro–brewery location for sale on the retail premises;

(v) May not collectively brew, bottle, or contract for more than 22,500 barrels of malt beverages each calendar year; and

(vi) May enter into a temporary delivery agreement with a distributor only for delivery of beer to a beer festival or wine and beer festival and the return of any unused beer if:

1. The beer festival or wine and beer festival is in a sales territory for which the holder does not have a franchise with a distributor under the Beer Franchise Fair Dealing Act; and

2. The temporary delivery agreement is in writing.

(2) A Class 7 licensee who wishes to produce more than the barrelage authorized under paragraph (1)(v) of this subsection shall divest of any Class B, D, or any other retail license and obtain a Class 5 manufacturer's license.

(3) For the purposes of determining the barrelage limitation under paragraph (1)(v) of this subsection, any salable beer produced under contractual arrangements accrues only to the Class 7 micro–brewery licensee who is the brand owner.

(4) In Allegany County only, the holder of a Class 7 license:

(i) May brew in one location and may contract for the bottling of the malt beverage in another location; and

(ii) Need not meet the hotel/motel requirements for a Class B beer, wine and liquor licensee but shall meet the requirements for those Class B restaurants.

(d) (1) The on–sale privilege authorizes the holder, each calendar year, to sell at retail up to 4,000 barrels of beer brewed under this license to customers for consumption on the licensed premises.

(2) The off–sale privilege authorizes the holder to sell and deliver beer brewed under this license to:

(i) Any wholesaler licensed under this article to sell beer in this State; or

(ii) Any person who is located in a state other than Maryland who is authorized under the laws of that state to receive brewed beverages.

(3) (i) This paragraph applies only in:

1. Allegany County;

2. The City of Annapolis;

3. Anne Arundel County;

4. Baltimore City;

5. Baltimore County;

6. Calvert County;

7. Carroll County;

8. Charles County;

9. Dorchester County;

10. Frederick County;

11. Garrett County;

12. Harford County;

13. Howard County;

14. Montgomery County;

15. Prince George's County;

16. Talbot County;

17. **WASHINGTON COUNTY;**

18. Wicomico County; and

[18.**] 19.** Worcester County.

(ii) The holder may sell at retail beer brewed under this license to customers for consumption off the licensed premises in refillable containers that are sealed by the micro–brewery licensee at the time of each refill.

(e) A holder of a Class 7 micro–brewery license:

(1) May not own, operate or be affiliated with any other manufacturer of beer except for a Class 2 rectifying license authorized by subsection (c)(1)(ii) of this section; and

(2) Notwithstanding § 2–201(b) of this subtitle, may not be granted a wholesale alcoholic beverages license.

(f) (1) The hours and days for consumer sales under this license are as established for a Class B license in the respective jurisdictions listed in subsection (b)(2) of this section.

(2) For Class D licensees in the 22nd Alcoholic Beverages District in Prince George's County only, the hours and days for consumer sales under this license are as established for a Class D license in Prince George's County.

(3) FOR CLASS D LICENSEES IN WASHINGTON COUNTY, THE HOURS AND DAYS FOR CONSUMER SALES UNDER THIS LICENSE ARE AS ESTABLISHED FOR A CLASS D LICENSE IN WASHINGTON COUNTY.

(J) (1) THIS SUBSECTION APPLIES ONLY IN WASHINGTON COUNTY.

(2) THE COMPTROLLER MAY NOT ISSUE A CLASS 7 MICRO–BREWERY LICENSE FOR A PREMISES ON PROPERTY THAT HAS BEEN LEASED UNLESS THE LANDLORD OF THE PROPERTY PRESENTS TO THE COMPTROLLER A RECEIPT OR CERTIFICATE SHOWING THAT THERE ARE NO UNPAID TAXES DUE TO THE STATE, A COUNTY, OR ANY LOCAL GOVERNMENT FROM THE LANDLORD OR ANY ENTITY IN WHICH THE LANDLORD HAS A DIRECT OR INDIRECT INTEREST THAT:

(I) IS PROPRIETARY; OR

(II) HAS BEEN OBTAINED BY A LOAN, MORTGAGE, OR LIEN, OR IN ANY OTHER MANNER.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 337

(House Bill 435)

AN ACT concerning

Optional Retirement Program – Supplemental Retirement Plans – Employee Contributions

FOR the purpose of altering the methods available to certain members of the Optional Retirement Program for making employee contributions to certain supplemental retirement accounts; and generally relating to methods for making employee contributions to supplemental retirement accounts available to members of the Optional Retirement Program.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 30–401(c)
Annotated Code of Maryland
(2009 Replacement Volume and 2010 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

30–401.

(c) Contributions authorized under this section to a supplemental retirement account on behalf of an employee may be made by payroll deduction, a reduction in salary, **[**or**]** deferral in compensation in accordance with § 403(b), § 457, or § 414(h) of the Internal Revenue Code**, OR AS OTHERWISE PERMITTED BY THE INTERNAL REVENUE CODE AND AUTHORIZED BY THE EMPLOYING INSTITUTION**.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2011.

Approved by the Governor, May 10, 2011.

Chapter 338

(House Bill 437)

AN ACT concerning

Real Property – Sales of New Homes – Minimum Visitability Features

FOR the purpose of requiring a ~~developer of new homes in a subdivision~~ home builder at the time of offering new homes in a subdivision for sale to ~~make available for inspection a model home that contains minimum visitability features and to~~ offer minimum visitability features as an option for purchase under certain circumstances; requiring a certain offer of minimum visitability features to be accompanied by a certain document and a certain drawing or photograph;

defining certain terms; providing for the application of this Act; providing for a delayed effective date; and generally relating to minimum visitability features in the sale of new homes.

BY adding to
Article – Real Property
Section 10–801 to be under the new subtitle "Subtitle 8. Miscellaneous Provisions"
Annotated Code of Maryland
(2010 Replacement Volume and 2010 Supplement)

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

Article – Real Property

SUBTITLE 8. MISCELLANEOUS PROVISIONS.

10–801.

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

(2) ~~(I) "DEVELOPER" MEANS A PERSON WHO IS RESPONSIBLE FOR THE DEVELOPMENT AND SALE OF RESIDENTIAL LOTS IN A SUBDIVISION.~~

~~(II) "DEVELOPER" INCLUDES A PERSON WHO ENGAGES IN THE BUSINESS OF CONSTRUCTING AND SELLING NEW HOMES IN A SUBDIVISION~~ "HOME BUILDER" MEANS A PERSON THAT UNDERTAKES TO ERECT OR OTHERWISE CONSTRUCT A NEW HOME.

(3) "MINIMUM VISITABILITY FEATURES" MEANS:

(I) A GROUND LEVEL ENTRANCE:

1. THAT HAS A WIDTH OF 36 OR MORE INCHES;

2. THAT IS ACCESSIBLE FROM THE OUTSIDE OF THE NEW HOME OR AN ATTACHED GARAGE; AND

3. IN WHICH THE THRESHOLD OF THE ENTRANCE IS NO MORE THAN 1.5 INCHES HIGHER THAN THE INTERIOR FLOOR AND THE EXTERIOR LANDING; AND

(II) A CIRCULATION ROUTE FROM THE GROUND LEVEL ENTRANCE TO AN UNATTACHED GARAGE, PARKING SPACE, OR PUBLIC RIGHT–OF–WAY THAT IS FREE OF ANY CURBS, STEPS, LANDINGS, OBSTACLES, OR OTHER VERTICAL CHANGES IN LEVEL THAT ARE MORE THAN 1.5 INCHES.

~~(4) "MODEL HOME" MEANS A NEW HOME IN A SUBDIVISION THAT IS MADE AVAILABLE FOR INSPECTION BY A PROSPECTIVE PURCHASER OF A NEW HOME IN THE SUBDIVISION SO AS TO ILLUSTRATE THE AVAILABLE FEATURES THAT CAN BE BUILT IN A NEW HOME IN THE SUBDIVISION.~~

~~(5)~~ (4) (I) "NEW HOME" MEANS A NEWLY CONSTRUCTED SINGLE–FAMILY DWELLING UNIT.

(II) "NEW HOME" DOES NOT INCLUDE:

1. A CUSTOM HOME AS DEFINED IN § 10–501 OF THIS TITLE; OR

2. A MOBILE HOME AS DEFINED IN § 8A–101 OF THIS ~~TITLE~~ ARTICLE.

(B) THIS SECTION DOES NOT APPLY TO:

(1) A NEW HOME THAT IS LOCATED ABOVE ANOTHER NEW HOME;

(2) AN ATTACHED NEW HOME~~:~~;

~~(I) WITH A WIDTH OF LESS THAN 18 FEET; OR~~

~~(II) THAT DOES NOT HAVE ON THE GROUND FLOOR EITHER A BATHROOM OR A KITCHEN;~~

(3) A NEW HOME:

(I) THAT DOES NOT HAVE A GARAGE; AND

(II) IN WHICH THE SLOPE BETWEEN THE FINISHED GROUND LEVEL AT ALL UNIT ENTRANCES TO THE NEAREST POINT ALONG A PROPERTY LINE THAT BORDERS A PUBLIC RIGHT–OF–WAY IS GREATER THAN 10%; OR

(4) A NEW HOME IN WHICH COMPLIANCE WITH THE DESIGN FLOOD ELEVATION RESTRICTIONS WILL CAUSE:

(I) THE FINISHED FLOOR TO BE MORE THAN 30 INCHES ABOVE THE FINISHED GROUND LEVEL AT ALL UNIT ENTRANCES; OR

(II) THE SLOPE BETWEEN THE FINISHED FLOOR AT ALL UNIT ENTRANCES TO THE NEAREST POINT ALONG A PROPERTY LINE THAT BORDERS A PUBLIC RIGHT–OF–WAY TO BE GREATER THAN 10%.

(C) THIS SECTION APPLIES ONLY TO A HOME BUILDER THAT CONSTRUCTS 11 OR MORE NEW HOMES IN A SUBDIVISION THAT CONTAINS:

~~(1)~~ 11 OR MORE NEW HOMES~~; AND~~

~~(2) 3 OR MORE MODEL HOMES~~.

(D) (1) ~~AT~~ SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AT THE TIME OF OFFERING NEW HOMES IN A SUBDIVISION FOR SALE, A ~~DEVELOPER~~ HOME BUILDER SHALL:

~~(1) MAKE AVAILABLE FOR INSPECTION A MODEL HOME THAT CONTAINS MINIMUM VISITABILITY FEATURES; AND~~

~~(2) OFFER~~ OFFER MINIMUM VISITABILITY FEATURES AS AN OPTION FOR PURCHASE.

(2) THE OFFER OF MINIMUM VISITABILITY FEATURES SHALL BE ACCOMPANIED BY:

(I) A POINT OF SALE DOCUMENT THAT DESCRIBES THE MINIMUM VISITABILITY FEATURES; AND

(II) A GENERIC DRAWING OR PHOTOGRAPH THAT SHOWS THE MINIMUM VISITABILITY FEATURES AND THE LOTS AND NEW HOME TYPES THAT ARE CONDUCIVE TO THE MINIMUM VISITABILITY FEATURES THAT COULD BE CONSTRUCTED.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to any subdivision that receives preliminary plan approval on or after October 1, 2012.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 10, 2011.